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MATT BLUNT

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SECRETARY OF STATE

MAT T BLUNT

Administrative Rules Division

James C. Kirkpatrick State Information Center
600 W. Main
Jefferson City, MO 65101
(573) 751-4015

DIRECTOR

LYNNE C. ANGLE

ADMINISTRATIVE STAFF

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Documents will be accepted for filing on all regular workdays from 8:00 a.m. until 5:00 p.m. We encourage early filings to facilitate the timely publication of the *Missouri Register*. Orders of Rulemaking appearing in the *Missouri Register* will be published in the *Code of State Regulations* and become effective as listed in the chart above. Advance notice of large volume filings will facilitate their timely publication. We reserve the right to change the schedule due to special circumstances. Please check the latest publication to verify that no changes have been made in this schedule. To review the entire year's schedule, please check out the web site at <http://mosl.sos.state.us/moreg/pubschedule.htm>.

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Maryville University Library 13550 Conway Road St. Louis, MO 63141-7232 (314) 529-9494	Law Library University of Missouri-Kansas City 5100 Rockhill Road Kansas City, MO 64110-2499 (816) 235-2438	Library State Historical Society of Missouri 1020 Lowry St. Columbia, MO 65201-7298 (573) 882-7083	Springfield-Greene County Library PO Box 737, 397 E. Central Springfield, MO 65801-0760 (417) 869-4621
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HOW TO CITE RULES AND RSMo

RULES—Cite material in the *Missouri Register* by volume and page number, for example, Vol. 26, *Missouri Register*, page 27. The approved short form of citation is 26 MoReg 27.

The rules are divided in the *Code of State Regulations* in this system—

Title	Code of State Regulations	Division	Chapter	Rule
1	CSR	10-	1.	010
Department		Agency, Division	General area regulated	Specific area regulated

They are properly cited by using the full citation, i.e., 1 CSR 10-1.010.

Each department of state government is assigned a title. Each agency or division in the department is assigned a division number. The agency then groups its rules into general subject matter areas called chapters and specific areas called rules. Within a rule, the first breakdown is called a section and is designated as (1). Subsection is (A) with further breakdown into paragraph 1., subparagraph A., part (I), subpart (a), item I. and subitem a.

RSMo—Cite material in the RSMo by date of legislative action. The note in parentheses gives the original and amended legislative history. The Office of the Revisor of Statutes recognizes that this practice gives users a concise legislative history.

Under this heading will appear the text of proposed rules and changes. The notice of proposed rulemaking is required to contain an explanation of any new rule or any change in an existing rule and the reasons therefor. This is set out in the Purpose section with each rule. Also required is a citation to the legal authority to make rules. This appears following the text of the rule, after the word "Authority."

Entirely new rules are printed without any special symbology under the heading of the proposed rule. If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission. Rules which are proposed to be amended will have new matter printed in boldface type and matter to be deleted placed in brackets.

An important function of the *Missouri Register* is to solicit and encourage public participation in the rule-making process. The law provides that for every proposed rule, amendment or rescission there must be a notice that anyone may comment on the proposed action. This comment may take different forms.

If an agency is required by statute to hold a public hearing before making any new rules, then a Notice of Public Hearing will appear following the text of the rule. Hearing dates must be at least thirty (30) days after publication of the notice in the *Missouri Register*. If no hearing is planned or required, the agency must give a Notice to Submit Comments. This allows anyone to file statements in support of or in opposition to the proposed action with the agency within a specified time, no less than thirty (30) days after publication of the notice in the *Missouri Register*.

An agency may hold a public hearing on a rule even though not required by law to hold one. If an agency allows comments to be received following the hearing date, the close of comments date will be used as the beginning day in the ninety (90)-day-count necessary for the filing of the order of rulemaking.

If an agency decides to hold a public hearing after planning not to, it must withdraw the earlier notice and file a new notice of proposed rulemaking and schedule a hearing for a date not less than thirty (30) days from the date of publication of the new notice.

Proposed Amendment Text Reminder:

Boldface text indicates new matter.

[Bracketed text indicates matter being deleted.]

**Title 2—DEPARTMENT OF AGRICULTURE
Division 10—Market Development
Chapter 5—Price Reporting**

PROPOSED RULE

**2 CSR 10-5.015 Public Complaint Handling and Disposition
Procedure for Missouri Livestock Marketing Law**

PURPOSE: This rule establishes a procedure for the receipt, handling, and disposition of public complaints pursuant to the mandate of the Missouri Livestock Marketing Law, section 277.200-277.215 RSMo, Supp. 2001.

(1) The director of the Market Development Division of the Department of Agriculture shall receive and process each com-

plaint made against any packer with respect to livestock, meats, meat food products, or livestock products in unmanufactured form, which complaint alleges violations of sections 277.200 to 277.215, RSMo.

(2) Complaints should be mailed or delivered to the following address: Director, Market Development Division, Missouri Department of Agriculture, 1616 Missouri Boulevard, PO Box 630, Jefferson City, MO 65109. However, actual receipt of a complaint by the director of the Market Development Division at the division's administrative office in any manner shall be sufficient. Complaints may be made based upon personal knowledge or upon information and belief, reciting information received from other sources.

(3) The director of the Market Development Division shall appoint a Missouri Livestock Law Violation Review Committee of individuals knowledgeable with the livestock and packing industries. Members of the committee may be employees of the Department of Agriculture. The committee shall elect a chairman to receive, acknowledge and investigate all complaints on behalf of the director of the Market Development Division. The committee chairman shall call a meeting of the committee as often as necessary to process all complaints received.

(4) All complaints shall be made in writing and shall fully identify the complainant by name and address. Complaints may be made on forms provided by the Market Development Division, included herein. Such forms shall be made available upon request. The forms shall allow for, but not be limited to, the complainant's name and address; the name and address of the subject(s) of the complaint; the date the alleged violation occurred; and a thorough description of the alleged violation(s). The complainant should include any and all available pertinent information. Oral or telephone requests will not be considered or processed as complaints, but each person making such communication will be provided with a complaint form and will be requested to complete the form and return it to the Market Development Division.

(5) Upon receipt by the committee, each complaint shall be acknowledged in writing and investigated by the committee. When the investigation is completed, the committee shall determine if the complaint should be forwarded to the Missouri Attorney General, or if the complaint should be dismissed. Upon that determination, the committee shall inform the complainant, in writing, of the committee's decision.

(6) This rule exists for the benefit of those members of the public who submit complaints to the Missouri Livestock Law Violations Review Committee. This rule is not deemed to protect or inure to the benefit of those persons or entities against whom enforcement actions may be instituted concerning possible violations of the provisions of the Missouri Livestock Marketing Law.



Missouri Department of Agriculture Missouri Livestock Law Violation Report Form

Revised 10-29-01

This form is to be used report possible violations of Section 277.200-277.215 RSMo 2001, *Missouri Livestock Marketing Law*. Please fill out all information as accurately as possible. To file a complaint this form should be mailed or otherwise delivered to:

Director, Market Development Division
Missouri Department of Agriculture
PO Box 630
Jefferson City, MO 65102
Physical Address: 1616 Missouri Boulevard, 65109

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Home Phone: _____ Business Phone: _____

E-Mail: _____

Livestock

Species: _____ Breed: _____ Sex: _____

Weight: _____ Number Sold: _____

Buyer

Company Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Buyer Name: _____

Terms

Date and Time of Sale: _____

Date and Time of Delivery: _____

Date and Time of Slaughter: _____

Price Offered or Paid: _____

Other Terms: (Include any factors affecting price, i.e., freight, special delivery time, etc.)

Complaint

Please provide an explanation of why you believe this law has been violated. (Attach additional information if needed)

Documentation

Please provide any relevant documentation, including but not limited to the following:

- Receipts issued by the buyer**
- Scale tickets from the buyer**
- Records of any communication relating to the sale**
- Contracts**
- Current carcass data**
- Historical carcass data**
- Comparable data for the same day and time of sale**
- Any other documentation to support your claim**

AUTHORITY: section 277.200–277.215, RSMo 2000 and Supp. 2001. Emergency rule filed Oct. 16, 2001, effective Oct. 26, 2001, expires April 23, 2002. Original rule filed Feb. 13, 2002.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Agriculture, Market Development Division, S. Wayne Yokley, Director, PO Box 630, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. A public hearing is scheduled for 1:00 p.m., April 15, 2002, in the third floor boardroom of the Missouri Department of Agriculture office building, 1616 Missouri Boulevard, Jefferson City, Missouri.

Title 2—DEPARTMENT OF AGRICULTURE Division 90—Weights and Measures Chapter 20—Methods of Sale for Products

PROPOSED AMENDMENT

2 CSR 90-20.040 NIST Handbook 130, “Uniform Regulation for the Method of Sale of Commodities.” The director is amending section (1).

PURPOSE: This amendment incorporates by reference the provisions of the 2002 Edition of *NIST Handbook 130* relating to method of sale of commodities.

PUBLISHER’S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. Therefore, the material which is so incorporated is on file with the agency who filed this rule, and with the Office of the Secretary of State. Any interested person may view this material at either agency’s headquarters or the same will be made available at the Office of the Secretary of State at a cost not to exceed actual cost of copy reproduction. The entire text of the rule is printed here. This note refers only to the incorporated by reference material. **This handbook can be accessed at the NIST website at www.nist.gov/owm.**

(1) The rule for the Division of Weights and Measures for method of sale of commodities shall incorporate by reference the section of the *NIST Handbook 130*, [2000] 2002 edition, entitled “Regulation for the Method of Sale of Commodities.”

AUTHORITY: section 413.065, RSMo [Supp. 1999] 2000. Original rule filed May 9, 1984, effective Aug. 11, 1984. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Feb. 15, 2002.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Agriculture, Weights and Measures Division, Ron

Hooker, Division Director, PO Box 630, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 2—DEPARTMENT OF AGRICULTURE Division 90—Weights and Measures Chapter 22—Packaging and Labeling

PROPOSED AMENDMENT

2 CSR 90-22.140 NIST Handbook 130, “Uniform Packaging and Labeling Regulation.” The director is amending section (1).

PURPOSE: This proposed amendment incorporates by reference the provisions of the 2002 edition of *NIST Handbook 130* relating to packaging and labeling.

PUBLISHER’S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. Therefore, the material which is so incorporated is on file with the agency who filed this rule, and with the Office of the Secretary of State. Any interested person may view this material at either agency’s headquarters or the same will be made available at the Office of the Secretary of State at a cost not to exceed actual cost of copy reproduction. The entire text of the rule is printed here. This note refers only to the incorporated by reference material. **This publication can be accessed at the NIST website at www.nist.gov/owm.**

(1) The rule for the Division of Weights and Measures for packaging and labeling shall incorporate by reference the section of the [2000] 2002 edition of *NIST Handbook 130*, entitled “Uniform Packaging and Labeling Regulation.”

AUTHORITY: section 413.065, RSMo [Supp. 1999] 2000. Original rule filed May 9, 1984, effective Sept. 14, 1984. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Feb. 15, 2002.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Agriculture, Weights and Measures Division, Ron Hooker, Division Director, PO Box 630, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 2—DEPARTMENT OF AGRICULTURE Division 90—Weights and Measures Chapter 23—Inspection of Packaged Commodities

PROPOSED AMENDMENT

2 CSR 90-23.010 [NBS] NIST Handbook 133, Technical Procedures and Methods for Measuring and Inspecting Packages or Amounts of Commodities. The director is amending section (1).

PURPOSE: This amendment adopts the most recent edition of *NIST Handbook 133* and updates references from National

Bureau of Standards (NBS) to National Institute of Standards and Technology (NIST).

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. Therefore, the material which is so incorporated is on file with the agency who filed this rule, and with the Office of the Secretary of State. Any interested person may view this material at either agency's headquarters or the same will be made available at the Office of the Secretary of State at a cost not to exceed actual cost of copy reproduction. The entire text of the rule is printed here. This note refers only to the incorporated by reference material. *NIST Handbook 133 may be accessed through the NIST website at www.nist.gov/own.*

SUMMARY: [NBS] *NIST Handbook 133* provides procedures to test (by using statistical sampling techniques) individual lots of packages for conformance with legal requirements. Anything that is put into a container, wrapped, or banded and labeled as to quantity may be inspected. The labeled quantity may be of weight, volume, linear, square or cubic measure, count or combination. The examination of packaged commodities may be to determine conformance with federal, state or local net contents labeling regulations. Most often, compliance testing of packaged goods is carried out to protect the consumer/purchaser against buying packages with less in them than the labeled quantity and to advise the manufacturer to improve delivered product quantities when necessary. Inspection for compliance with other labeling requirements (such as size of lettering or units of measurement) also may accompany package quantity compliance testing, but is not covered in this document.

(1) The technical procedures and methods used by the Division of Weights and Measures for measuring and inspecting packages or amounts of commodities kept, offered, exposed for sale, sold or in the process of delivery, shall be those procedures and methods described and specified in the [National Bureau of Standards] *National Institute of Standards and Technology (NIST) Handbook 133, Checking the Net Contents of Packaged Goods, Fourth Edition (January 2002)* as incorporated by reference in this rule.

AUTHORITY: section 413.065, RSMo [1986] 2000. Original rule filed Sept. 14, 1981, effective Dec. 15, 1981. Amended: Filed: Feb. 15, 2002.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Agriculture, Weights and Measures Division, Ron Hooker, Division Director, PO Box 630, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 90—Weights and Measures
Chapter 25—Price Verification**

PROPOSED AMENDMENT

2 CSR 90-25.010 Price Verification Procedures. The director proposes to amend section (1).

PURPOSE: This proposed amendment incorporates by reference the 2002 edition of *NIST Handbook 130* relating to price verification procedures.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. Therefore, the material which is so incorporated is on file with the agency who filed this rule, and with the Office of the Secretary of State. Any interested person may view this material at either agency's headquarters or the same will be made available at the Office of the Secretary of State at a cost not to exceed actual cost of copy reproduction. The entire text of the rule is printed here. This note refers only to the incorporated by reference material. *NIST Handbook 130 may be accessed at the NIST website at www.nist.gov/own.*

(1) The Division of Weights and Measures shall follow the examination procedure for price verification incorporated by reference in the section of *NIST Handbook 130, [2000] 2002* edition, entitled "Examination Procedure for Price Verification."

AUTHORITY: section 413.065, RSMo [Supp. 1999] 2000. Original rule filed Aug. 13, 1996, effective Feb. 28, 1997. Amended: Filed April 9, 1998, effective Oct. 30, 1998. Amended: Filed Feb. 25, 2000, effective Sept. 30, 2000. Amended: Filed Feb. 15, 2002.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Agriculture, Weights and Measures Division, Ron Hooker, Division Director, PO Box 630, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 5—Wildlife Code: Permits**

PROPOSED AMENDMENT

3 CSR 10-5.550 Nonresident Firearms Deer Hunting Permit. The department proposes to amend provisions of this rule.

PURPOSE: This amendment changes the fee for nonresident deer hunting permits for residents of bordering states whose fee for nonresident deer hunting permits is in excess of one hundred twenty-five percent (125%) of what Missouri charges nonresidents.

To pursue, take, possess and transport an antlered deer statewide during the firearms deer hunting seasons. Fee: one hundred forty-five dollars (\$145); **except that for residents of states bordering Missouri where the total cost for a nonresident to hunt deer is in excess of one hundred twenty-five percent (125%) of Missouri's deer hunting permit cost, the fee for those states' residents hunting in Missouri shall be one hundred seventy**

dollars (\$170). These states include: Iowa, Illinois, Kansas and Oklahoma.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. This rule was previously filed as 3 CSR 10-5.280. This version of rule filed July 22, 1974, effective Dec. 31, 1974. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Feb. 4, 2002.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with John W. Smith, Deputy Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 5—Wildlife Code: Permits**

PROPOSED AMENDMENT

3 CSR 10-5.551 Nonresident Firearms Any-Deer Hunting Permit. The department proposes to amend provisions of this rule.

PURPOSE: This amendment changes the fee for nonresident any-deer hunting permits to residents of bordering states whose fee for nonresident any-deer hunting permits is in excess of one hundred twenty-five percent (125%) of what Missouri charges nonresidents.

To pursue, take, possess and transport an antlered deer statewide or a deer of either sex in a specified deer management unit during the firearms deer hunting seasons. Fee: one hundred forty five dollars (\$145); except that for residents of states bordering Missouri where the total cost for a nonresident to hunt deer is in excess of one hundred twenty-five percent (125%) of Missouri's deer hunting permit cost, the fee for those states' residents hunting in Missouri shall be one hundred seventy dollars (\$170). These states include: Iowa, Illinois, Kansas and Oklahoma.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. Original rule filed July 11, 1997, effective March 1, 1998. Amended: Filed July 8, 1998, effective March 1, 1999. Amended: Filed Aug. 30, 2001, effective March 30, 2002. Amended: Filed Feb. 4, 2002.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with John W. Smith, Deputy Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 140—Division of Finance
Chapter 1—Organization and Description of Division**

PROPOSED AMENDMENT

4 CSR 140-1.010 General Organization. The Missouri Division of Finance proposes to amend sections (1)–(3), (5)–(9) and (11), add new sections (3), (11) and (12) and renumber remaining sections.

PURPOSE: This amendment is necessary to make the regulation consistent with the statutes as they have evolved.

(1) The Division of Finance is solely responsible for the regulation, at the state level, of state-chartered banks and trust companies, **state-chartered savings and loans**, consumer credit lenders or small loan companies, financing institutions subject to the Financing Institution Licensing Law, sales finance companies subject to the Motor Vehicle Time Sales Law, **sale of checks (money order) companies, mortgage broker/banker companies, title loan companies, payday loan companies**, and *[the]* any development finance corporation/s/ organized under Chapter 371, RSMo.

(2) The Division of Finance is responsible for the incorporation, regulation, supervision and liquidation of state-chartered banks and trust companies. The primary responsibility of the Division of Finance with respect to banks and trust companies is to assure that the banks and trust companies remain safe and solvent places of deposit for the public's money while operating in a healthy and competitive banking market. To this end, most of the employees of the Division of Finance are commercial bank examiners located throughout the state whose job it is to examine each state-chartered bank and trust company at least once *[each year]* **every eighteen (18) months**. In addition, the Division of Finance employs a number of trust examiners who have the legal education or background to examine the trust departments of those banks which provide fiduciary services to the public.

(3) **The Division of Finance is responsible for the regulation, supervision and liquidation of state-chartered savings and loan companies. The primary responsibility of the Division of Finance with respect to such companies is to assure that they remain safe and solvent places of deposit for the public's money while operating in a healthy and competitive market. To this end, the Division of Finance has examiners located throughout the state whose job it is to examine each of such companies at least once every eighteen (18) months.**

[[3]] (4) Each person, corporation, partnership or other entity who engages in the business of making loans to consumer borrowers is required to obtain a license or certificate of registration from the Division of Finance. A certificate of registration must be obtained for each office operated by the lender. These lenders or small loan companies are examined regularly by the division's consumer credit examiners and the primary purpose of these examinations is to assure that the *[rates and]* terms of loans made under the Small Loan Act and other applicable laws are not violated by the lenders.

[[4]] (5) Persons, corporations, partnerships or other entities who engage in the business of purchasing installment contracts entered into under the Retail Credit Sales Act are required to obtain a license from the Division of Finance. Those companies are examined by the division's consumer credit examiners and the primary purpose of this examination is to assure that the rights of buyers under the Retail Credit Sales Law have not been violated.

[(5)] (6) Persons, corporations, partnerships or other entities who engage in the business of purchasing installment contracts entered into under the Motor Vehicle Time Sales Law are required to obtain a license from the Division of Finance. These sales finance companies are examined regularly by the division's consumer credit examiners and the purpose of this examination is to assure that the rights of buyers who enter into contracts under the Motor Vehicle Time Sales Law are not violated.

[(6)] (7) Persons, corporations, partnerships or other entities which engage in the business of premium financing, *[or]* the business of making *[small, small]* payday loans, **and the business of making title loans** are required to obtain a license from the Division of Finance per section 364.100, *[or]* 408.500, **or 367.500, RSMo, respectively.** These companies are examined by the division's consumer credit examiners and the primary purpose of this examination is to assure that the *[rates and]* terms of these extensions of credit do not violate the applicable laws.

[(7)] (8) Persons, corporations, partnerships or other entities which engage in the sale of checks (money order/travelers' check) business or the credit services (credit repair) business are subject to registration with the Division of Finance per section 361.700 or 407.635, RSMo, **respectively.** Sale of checks companies register annually, post bonds, file proof of solvency reports at least three (3) times annually and file financial statements. Credit services companies register annually and, in some cases, post bonds.

[(8)] (9) Mortgage bankers **and mortgage brokers** are subject to **licensing per sections 443.800-443.893, RSMo and to the antidiscrimination provisions of sections 408.570-408.600, RSMo [and] which require them to file certain documents with the Division of Finance on an annual basis.**

[(9)] (10) There is a State Banking Board which is a bipartisan board of five (5) nonsalaried individuals *[who]* **which meets, as necessary, to handle appeals from certain decisions of the commissioner of finance and must approve all rules and regulations of the Division of Finance.** The board considers appeals of the commissioner's decisions about certificates of incorporation for new banks and trust companies, relocations of banks and trust companies to other communities and bank branches.

(11) **There is a bipartisan State Savings and Loan Commission consisting of five (5) nonsalaried individuals which meets, as necessary, to handle appeals from certain decisions of the commissioner and to approve or disapprove each regulation proposed by the commissioner of finance pertaining to savings and loan associations. The commission considers appeals of the commissioner's orders or decisions about incorporation, relocation or branching of savings and loan associations.**

(12) **There is a bipartisan Residential Mortgage Board consisting of five (5) nonsalaried individuals which meets, as necessary, to handle appeals from certain decisions of the commissioner and to approve or disapprove each regulation proposed by the commissioner of finance pertaining to mortgage brokers. The board considers appeals of the commissioner's denial or revocation of a mortgage broker license and decisions pertaining to mortgage brokering.**

[(10)] (13) The chief officer of the Division of Finance is the commissioner of finance who is also referred to as the director of the Division of Finance. The commissioner of finance is appointed by the governor and confirmed by the senate and serves at the pleasure of the governor.

[(11)] (14) Anyone may obtain information or make requests of the Division of Finance by directing correspondence to the Division of

Finance, 301 West High Street, *Pl./Ol./* Box 716, Jefferson City, MO 65102. The Division of Finance's phone number is *[(314)]* (573) 751-3242.

AUTHORITY: sections 361.105 and 536.023, RSMo [1986] 2000. Original rule filed April 14, 1976, effective Oct. 15, 1976. Amended: Filed March 16, 1977, effective Aug. 15, 1977. Amended: Filed Aug. 18, 1987, effective Nov. 12, 1987. Amended: Filed Aug. 7, 1992, effective Feb. 26, 1993. Amended: Filed Feb. 15, 2002.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Economic Development, Division of Finance, Steven M. Geary, Senior Counsel, PO Box 716, Jefferson City, MO 65102-0716. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. A public hearing is scheduled for 10:00 a.m., April 22, 2002, at the Harry S Truman State Office Building, Room 494, 301 West High Street, Jefferson City, Missouri.

**Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 140—Division of Finance
Chapter 2—Banks and Trust Companies**

PROPOSED AMENDMENT

4 CSR 140-2.067 Community Development Corporations. The Missouri Division of Finance proposes to amend this regulation by deleting subsection (2)(C).

PURPOSE: This amendment is necessary to make it possible for community investment corporations to be accounted for in a manner which more accurately reflects the nature of the asset.

(2) A bank may carry an investment as is described in section (1) as an asset on its books; provided—

(A) The total amount invested by the bank in any one (1) community development corporation project does not exceed two percent (2%) of the bank's unimpaired capital and the aggregate amount invested by the bank's unimpaired capital and the aggregate amount invested by the bank in all these projects does not exceed five percent (5%) of the bank's unimpaired capital; **and**

(B) The project must be of civic, community or public nature and should not be exclusively private or entrepreneurial; *and*

(C) *The bank shall account for these investments as other assets].*

AUTHORITY: sections 361.105, RSMo [1986] 2000 and 362.105.1, RSMo [Supp. 1992] Supp. 2001. Emergency rule filed May 20, 1992, effective June 1, 1992, expired Sept. 29, 1992. Emergency rule filed Sept. 10, 1992, effective Sept. 29, 1992, expired Jan. 26, 1993. Emergency rule filed Jan. 15, 1993, effective Jan. 27, 1993, expired May 8, 1993. Original rule filed July 30, 1992, effective Feb. 26, 1993. Amended: Filed Feb. 15, 2002.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Economic Development, Division of Finance, Steven M. Geary, Senior Counsel, PO Box 716, Jefferson City, MO 65102-0716. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. A public hearing is scheduled for 10:00 a.m., April 22, 2002, at the Harry S Truman State Office Building, Room 494, 301 West High Street, Jefferson City, Missouri.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 140—Division of Finance
Chapter 2—Banks and Trust Companies**

PROPOSED AMENDMENT

4 CSR 140-2.070 Accounting for Other Real Estate. The Missouri Division of Finance is proposing to amend section (3) of this regulation.

PURPOSE: This amendment is necessary to change the appraisal requirement to a more workable number and to provide for evaluations where appraisals are not needed.

(3) At the time real property is transferred to the other real estate category, if the recorded value of the real estate exceeds *[the lesser of five percent (5%) of the bank's unimpaired capital or] two hundred fifty thousand dollars [(\$50,000)] (\$250,000)*, the bank shall obtain a current appraisal prepared by an independent qualified appraiser to substantiate the fair market value of the real property; **provided that if such property has a recorded value of two hundred fifty thousand dollars (\$250,000) or less, an evaluation shall be performed and placed in file. For purposes of this section, the evaluation must:** a) be in writing; b) be dated; c) describe the real estate, its condition, and both current and projected use; d) list the sources of information; e) describe analysis and supporting information; f) give an estimate of market value based, as appropriate, on cost and income, and any limiting conditions; and g) provide the name, address, and signature of preparer, who must have real estate training or experience, knowledge of the market and have been independent of the loan decision. For the purpose of this section, the bank will be considered to be in compliance if—a) the bank has obtained an appraisal or evaluation, as appropriate, within six (6) months prior to acquisition or b) within thirty (30) days after foreclosure, the bank has documented an agreement with an individual or company to perform the appraisal or evaluation, as appropriate; however, the appraisal or evaluation, as appropriate, shall be completed and in the bank's files within ninety (90) days of foreclosure.

AUTHORITY: sections 361.105 and 362.165, RSMo 2000 and 362.105, RSMo Supp. 2001. Original rule filed Dec. 10, 1981, effective April 1, 1982. Amended: Filed May 17, 1988, effective Aug. 26, 1988. Amended: Filed Jan. 12, 1993, effective June 7, 1993. Amended: Filed Dec. 29, 2000, effective Aug. 30, 2001. Amended: Filed Feb. 15, 2002.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Economic Development, Division of Finance, Steven M. Geary, Senior Counsel, PO Box 716, Jefferson City, MO 65102-0716. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. A public hearing is scheduled for 10:00 a.m., April 22, 2002, at the Harry S Truman State Office Building, Room 494, 301 West High Street, Jefferson City, Missouri.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 140—Division of Finance
Chapter 10—Bank Holding Companies**

PROPOSED RESCISSION

4 CSR 140-10.010 Regional Interstate Banking. The Missouri Division of Finance proposes to rescind this regulation. This regulation established the procedures and conditions under which foreign bank holding companies could acquire and operate banks and trust companies in Missouri. However, the enactment of the federal law commonly known as Reigle-Neal has changed interstate banking rules completely.

PURPOSE: The Division of Finance rescinds this regulation as unnecessary and obsolete.

AUTHORITY: sections 361.105, 362.925 and 362.910, RSMo 1986. Original rule filed June 3, 1986, effective Aug. 15, 1986. Rescinded: Filed Feb. 15, 2002.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Economic Development, Division of Finance, Steven M. Geary, Senior Counsel, PO Box 716, Jefferson City, MO 65102-0716. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. A public hearing is scheduled for 10:00 a.m., April 22, 2002, at the Harry S Truman State Office Building, Room 494, 301 West High Street, Jefferson City, Missouri.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 140—Division of Finance
Chapter 10—Bank Holding Companies**

PROPOSED RULE

4 CSR 140-10.030 Acquisition of Missouri-Based Banks by Holding Companies

PURPOSE: The purpose of this rule is to state the obligations under section 362.920, RSMo of a holding company wishing to acquire a Missouri-based bank.

Section 362.915, RSMo sets a maximum size to which a holding company may grow through acquisition. Section 362.920, RSMo charges the director of finance with the responsibility of determining that the proposed acquisition is permitted under section 362.915, RSMo and to state the findings in the form of an order within thirty (30) days of receipt of the necessary information. All holding companies seeking to acquire a Missouri-based bank shall provide the director with the information necessary to make such a finding in a timely fashion whether or not an application is required by the Board of Governors of the Federal Reserve System. The director, in accordance with section 362.920.2, RSMo will also consider the impact of the proposed acquisition on the soundness of the banking system and the soundness of the holding company involved. The director will file objections, if any, with the Board of Governors of the Federal Reserve System within thirty (30) days of receipt of the information.

AUTHORITY: sections 361.105, 362.915 and 362.920, RSMo 2000 and 362.105.1, RSMo Supp. 2001. Original rule filed Feb. 15, 2002.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: *Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Economic Development, Division of Finance, Steven M. Geary, Senior Counsel, PO Box 716, Jefferson City, MO 65102-0716. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. A public hearing is scheduled for 10:00 a.m., April 22, 2002, at the Harry S Truman State Office Building, Room 494, 301 West High Street, Jefferson City, Missouri.*

**Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 140—Division of Finance
Chapter 11—Small, Small Loan Companies**

PROPOSED RESCISSION

4 CSR 140-11.010 Small, Small Loan Companies—Licensing and General Provisions. The Missouri Division of Finance proposes to rescind this regulation. This regulation established guidelines concerning obtaining licenses, which locations required a license, and other general provisions.

PURPOSE: The Division of Finance rescinds this regulation as unnecessary and obsolete.

AUTHORITY: section 408.500, RSMo 1990. Emergency rule filed Dec. 11, 1990, effective Jan. 1, 1991, expired April 30, 1991. Emergency rule filed April 8, 1991, effective April 30, 1991, expired Aug. 27, 1991. Original rule filed Dec. 11, 1990, effective July 8, 1991. Rescinded: Filed Feb. 15, 2002.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: *Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Economic Development, Division of Finance, Steven M. Geary, Senior Counsel, PO Box 716, Jefferson City, MO 65102-0716. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. A public hearing is scheduled for 10:00 a.m., April 22, 2002, at the Harry S Truman State Office Building, Room 494, 301 West High Street, Jefferson City, Missouri.*

**Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 140—Division of Finance
Chapter 11—Small, Small Loan Companies**

PROPOSED RESCISSION

4 CSR 140-11.020 Small, Small Loan Companies—Recordkeeping. The Missouri Division of Finance proposes to rescind this regulation. This regulation established minimum recordkeeping requirements to facilitate examination and regulation.

PURPOSE: The Division of Finance rescinds this regulation as unnecessary and obsolete.

AUTHORITY: section 408.500, RSMo Supp. 1990. Emergency rule filed Dec. 11, 1990, effective Jan. 1, 1991, expired April 30, 1991. Emergency rule filed April 8, 1991, effective April 30, 1991, expired Aug. 27, 1991. Original rule filed Dec. 11, 1990, effective July 8, 1991. Rescinded: Filed Feb. 15, 2002.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: *Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Economic Development, Division of Finance, Steven M. Geary, Senior Counsel, PO Box 716, Jefferson City, MO 65102-0716. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. A public hearing is scheduled for 10:00 a.m., April 22, 2002, at the Harry S Truman State Office Building, Room 494, 301 West High Street, Jefferson City, Missouri.*

**Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 140—Division of Finance
Chapter 11—Section 500 Companies**

PROPOSED RULE

4 CSR 140-11.030 Licensing and General Provisions

PURPOSE: Section 500 companies are required by section 408.500.1 to 408.500.10, RSMo, to obtain a license from the director of finance. This rule establishes guidelines concerning licenses, which locations will require a license and other general provisions.

(1) License. The license issued by the Division of Finance shall specify the location of the section 500 company and shall be prominently displayed therein. The license shall not be transferable or assignable except that the company named in any original license may obtain a change of address without charge, upon approval of the director.

(2) Display of Notice. The notice required by section 408.500.4, RSMo shall be prominently displayed in the section 500 company office. The notice shall be clearly readable from any place in the office where loans are closed and shall include the name, address, and telephone number of the Division of Finance.

(3) Locations. The conduct of other business on the premises will not bar the issuance of a section 500 company license but the records of the company must be kept strictly separate from those of any other enterprise. Further, there should be enough of a distinction, through the use of signage or other means, that the customer can determine that s/he is dealing with a separate company. Under no circumstances will more than one (1) section 500 company license be issued to the same address.

(4) Additional Locations. Any location at which a section 500 company permits the acceptance or execution of any forms or documents relating to section 500 company business shall be deemed to be a place of business of the company and shall require a separate license.

(5) Contract Copies. A section 500 company shall provide the borrower with a copy of the signed contract at the time the loan is made and at each renewal. The company shall also retain a copy for the borrower's file. Each contract shall contain the name and address of the lender and of the borrower.

(6) Multiple Loans. It is recognized that a customer of a section 500 company might require a *bona fide* second (or subsequent) loan. However, the aggregate of outstanding loans to any borrower may not exceed five hundred dollars (\$500). For the purposes of this rule, section 500 companies affiliated by ownership, or control shall be treated as one (1) company.

(7) Term. Loans made by section 500 companies, and any renewals thereof, shall have a minimum term of fourteen (14) days. All loans, and renewals thereof, with terms exceeding thirty (30) days shall be payable at monthly intervals. No loan or renewal may have a term exceeding ten (10) months.

(8) Interest—Loan Origination Fee—When Earned. Section 408.500.5, RSMo provides that a loan repaid by the close of the section 500 company's next full business day shall be at no cost to the borrower. Section 500 loans which are not so repaid shall bear daily interest to be determined by applying the contract rate of interest to the principal balance and dividing that result by the number of days in the year. The loan origination fee, if permitted by section 408.140.1(1), RSMo is earned at the time the loan is made, unless the borrower returns the full principal balance by the end of the section 500 company's next full business day. The fee is only available on loans with terms of thirty (30) days or longer.

(9) Fees. A section 500 company shall not charge, contract for or receive, either directly or indirectly, fees not expressly permitted by section 408.140.1, RSMo.

(10) Post-Dated Check. A post-dated check shall not be considered security or collateral; provided, however, that no post-dated check may bear any date earlier than the due date of the loan. A section 500 company shall not accept undated checks, checks that have been altered in any manner, or checks that do not bear the signature of the borrower. Should any such check be accepted, or should

any post-dated check be deposited prior to its stated date, the section 500 company shall be barred from recovery of any interest or fees on the loan. A section 500 company shall not accept more than one (1) post-dated check per loan or renewal. A check left with a section 500 company shall be returned to the maker immediately upon payment, or renewal, of the loan.

(11) Renewals.

(A) The General Assembly has clearly indicated its intention that no borrower is to be indebted to a section 500 company for any great period of time. This is evidenced by language that prohibits the debt being renewed by payment of interest no more than four (4) times after which the minimum payment must be the interest due plus at least ten percent (10%) of the original principal. This would accomplish a payoff at a specific time. In determining whether a renewal or something else which does not count as a renewal has occurred, the Division of Finance will insist upon absolute good faith from its licensees and will look to substance rather than form. Generally, if the customer enters the office indebted and leaves the office indebted, a renewal will be assumed to have taken place. A new loan, rather than a renewal, will be recognized where the customer's debt ceases to exist for at least the interval from the end of the business day the loan was paid in full to the beginning of the next business day. Advances of money in any amount to an existing loan shall not constitute a new loan.

(B) A section 500 company is required by section 408.500.7, RSMo to consider, at the inception of the loan, the borrower's ability to repay. This requires the section 500 company to consider the borrower's ability to make the required principal reductions when necessary. Exceptions to this requirement may result in enforcement as provided in section 408.500.9, RSMo and section 408.500.10, RSMo which may include fines and/or revocation or suspension of the license.

(C) If a loan is renewed for a fifth or subsequent time without the required principal reduction, the section 500 company shall reduce the principal of the loan to an amount that is consistent with the requirements of section 408.500.6, RSMo.

(D) It is recognized that on rare occasions a borrower may be unable to pay the entire amount necessary to renew the loan. In this event, a section 500 company may 1) demand payment in full, 2) do nothing, 3) waive a portion of the interest due in order for the loan to be renewed, or 4) on a very limited basis, accept the payment of accrued interest without renewing the loan. The acceptance of accrued, interest-only payments by a section 500 company is forbidden by section 408.500.6, RSMo to become a pattern or practice.

(12) Collection by Automated Clearing House (ACH). Checks may be presented for collection using an automated clearing house; however, a section 500 company shall not use a series of ACH transactions to collect a single check. Fees for dishonored ACH transactions shall be the same as for refused instruments.

(13) Receipt for Payments. A receipt shall be given for the amount of each payment made in currency.

(14) Penalties. Violations of this rule shall be regarded as a violation of sections 408.500.1 to 408.500.8, RSMo and subject to the same penalties as provided in sections 408.500.9 and 408.500.10, RSMo.

AUTHORITY: section 408.500, RSMo Supp. 2001. Original rule filed Feb. 15, 2002.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Economic Development, Division of Finance, Steven M. Geary, Senior Counsel, PO Box 716, Jefferson City, MO 65102-0716. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. A public hearing is scheduled for 10:00 a.m., April 22, 2002, at the Harry S Truman State Office Building, Room 494, 301 West High Street, Jefferson City, Missouri.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 140—Division of Finance
Chapter 11—Section 500 Companies**

PROPOSED RULE

4 CSR 140-11.040 Record Keeping

PURPOSE: Section 500 companies are subject to regulation and examination by the Division of Finance, pursuant to sections 408.500.1 to 408.500.10, RSMo, for the purpose of assuring compliance with all applicable laws. This rule establishes minimum record keeping requirements to facilitate examination and regulation.

(1) Books and Records. No special system of records is required by the commissioner of finance. The records of a section 500 company will be considered sufficient if they include a cash journal, double entry general ledger or a comparable record, and an individual account ledger. The records of the business of each registered office shall be maintained so that the assets, liabilities, income, and expenses may be readily ascertained.

(2) Cash Journal. A cash book or cash journal shall contain a chronological record of the receipt and disbursement of all funds including all items of receipt or expenditures incidental to the granting or collection of section 500 company loans. Entries in the cash journal shall be separate from all other business activities.

(3) General Ledger. The general ledger shall be posted at least monthly. A trial balance sheet and profit and loss statement shall be available to the examiner. When the general ledger is kept at a central office other than the location of the registered office, the central office shall provide information required by this section.

(4) Account Ledger. An individual record shall be kept for each borrower. The ledger card or sheet shall include at least the following items:

- (A) Account number;
- (B) Name and address of the borrower;
- (C) Date the original loan was made;
- (D) The original loan amount;
- (E) The interest rate;
- (F) The loan origination fee, if any;
- (G) Number of payments;
- (H) Amount of payments;
- (I) Date payments received;
- (J) Amount of each payment received;
- (K) Amount of each payment applied to interest;
- (L) Amount of each payment, if any, applied to late charges;
- (M) Amount of each payment, if any, applied to returned check charges;
- (N) Amount of each payment, if any, applied to principal; and
- (O) The principal balance.

(5) Records Available. All books, records and papers, including the contracts and applications, shall be kept in the office of the section 500 company and made available to the Division of Finance for examination at any time without previous notice. When contracts are hypothecated or deposited with a financial institution or other party in connection with credit, access must be provided for the examiner pursuant to agreement between the section 500 company and the other financial institution(s).

(6) Handling of Errors. When an error is made on the individual ledger or general ledger of a manual operation, a single thin line, preferably in red, shall be drawn through the improper entry and the correct entry made on the following line. No erasures whatsoever shall be made in any record.

(7) Records to be Maintained by Company. A section 500 company shall preserve all records of section 500 company transactions, including cards used in a card system, if any, for at least two (2) years after making the final entry with respect to any section 500 company agreement. The preservation of records in photographic, microfilm or microfiche form constitutes compliance with this section.

(8) Contracts Paid in Full. When a section 500 note is paid in full, the original contract or a copy thereof, shall be marked "paid" and returned to the borrower.

(9) Penalties. Violations of this rule shall be regarded as violations of 408.500.1 to 408.500.8, RSMo and subject to the same penalties as provided in 408.500.9 and 408.500.10, RSMo.

AUTHORITY: section 408.500, RSMo Supp. 2001. Original rule filed Feb. 15, 2002.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Economic Development, Division of Finance, Steven M. Geary, Senior Counsel, PO Box 716, Jefferson City, MO 65102-0716. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. A public hearing is scheduled for 10:00 a.m., April 22, 2002, at the Harry S Truman State Office Building, Room 494, 301 West High Street, Jefferson City, Missouri.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 140—Division of Finance
Chapter 12—Sale of Checks (Money Order) Licensees**

PROPOSED AMENDMENT

4 CSR 140-12.010 Sale of Checks (Money Order) Bonds. The Missouri Division of Finance proposes to amend this regulation.

PURPOSE: This amendment is necessary to clarify language in the regulation related to the basis for the amount of required money order bonds.

No sale of checks license will be issued or renewed without the posting of a corporate surety bond or irrevocable letter of credit in the amount of one (1) million dollars; provided, however, that a

lesser bond or letter of credit in an amount equal to five (5) times the high outstanding balance of checks sold in Missouri by the applicant and its agents during the previous calendar year rounded to the nearest one thousand dollars (\$1,000) will be acceptable upon a verification of the high outstanding balance and provided further that in no event may the bond or letter of credit be less than twenty-five thousand dollars (\$25,000). Verification shall be a sworn statement, on a form provided by the director, of the high outstanding balance; documents and records to prove such sworn statement must be maintained at the principal office of the licensee and be available for examination by the Division of Finance at all reasonable times and failure to maintain such records will subject the licensee to revocation per sections 361.700/150/361.727, RSMo. Money order accounts must be dedicated and no funds commingled with other funds of the agent. For purposes of this rule, the high outstanding balance of checks shall mean the highest dollar amount [representing the amount] of checks sold but not yet paid on any day. The bond or irrevocable letter of credit shall be in a form satisfactory to the director and, if a bond, shall be issued by a bonding company or insurance company authorized to do business in Missouri or, if an irrevocable letter of credit, be issued by a federally insured financial institution, to secure the faithful performance of the obligations of the applicant and the receipt, transmission and payment of the money in connection with the sale or issuance of checks. At the time an application is forwarded to an initial applicant and at the renewal of any existing license, the applicant/renewal applicant must provide an affidavit declaring the high outstanding balance of checks sold within Missouri during the previous calendar year and must provide a bond or irrevocable letter of credit sufficient to cover all those liabilities within the limits stated here. In consideration of the tasks necessary to complete the process, compliance with the verification procedures for the licensing year which began April 15, 1995, will be considered timely if completed by July 17, 1995.

AUTHORITY: section 361.727, RSMo [1994] 2000. Original rule filed Dec. 11, 1990, effective April 29, 1991. Emergency amendment filed March 27, 1995, effective April 14, 1995, terminated May 1, 1995. Emergency amendment filed May 1, 1995, effective May 11, 1995, expired Sept. 11, 1995. Amended: Filed March 27, 1995, effective Sept. 30, 1995. Amended: Filed Feb. 15, 2002.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Economic Development, Division of Finance, Steven M. Geary, Senior Counsel, PO Box 716, Jefferson City, MO 65102-0716. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. A public hearing is scheduled for 10:00 a.m., April 22, 2002, at the Harry S Truman State Office Building, Room 494, 301 West High Street, Jefferson City, Missouri.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 140—Division of Finance

Chapter 13—Section 408.510 Companies

PROPOSED RULE

4 CSR 140-13.010 Licensing Requirements and General Provisions

PURPOSE: Section 408.510 companies (consumer installment lenders) are required by section 408.510, RSMo, to obtain a license from the director of finance. In addition, consumer installment lenders are subject to examination by the Division of Finance for the purpose of determining that these companies are complying with the provisions of Chapter 367 and section 408.510, RSMo, and the laws relating to consumer installment lending. This rule sets out minimum record keeping requirements to facilitate examinations by the Division of Finance, which locations will require a license and other general provisions.

(1) Applicability of Other Regulations. Section 408.510 licensees are a special category of sections 367.100–367.215 lenders and, accordingly, are subject to the regulations generally applicable to licensees under those sections, i.e., 4 CSR 140-5.010 and 4 CSR 140-5.020 which, in the interest of brevity, are not restated here.

(2) Contract Copies. A consumer installment lender shall provide the borrower with a copy of the signed contract at the time the loan is made and at each renewal. The company shall also retain a copy for the borrower's file. Each contract shall contain the name and address of the lender and of the borrower.

(3) Amount of Loan. Consumer installment lenders are permitted to make loans of any amount, whether or not secured, and all loans made by such lenders must be payable in no fewer than four (4) substantially equal installments which must run for a minimum of one hundred twenty (120) days.

(4) Interest—Loan Origination Fee—When Earned. Consumer installment loans shall bear daily interest to be determined by applying the contract rate of interest to the principal balance and dividing that result by the number of days in the year. Loans may not have an amount of interest added to the principal of the loan or be subject to the “Rule of 78s” or “Sum of the Digits” method of refunding. The loan origination fee is earned at the time the loan is made.

(5) Fees. A consumer installment lender shall not charge, contract for or receive, either directly or indirectly, any fee not expressly permitted by section 408.140.1, RSMo.

(6) Contracts Paid in Full. When a consumer installment note is paid in full, the original contract or a copy thereof, shall be marked “paid” and returned to the borrower. Any security interest that no longer secures a loan shall be restored, cancelled, or released.

AUTHORITY: section 408.510, RSMo Supp 2001. Original rule filed Feb. 15, 2002.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Economic Development, Division of Finance, Steven M. Geary, Senior Counsel, PO Box 716, Jefferson City, MO 65102-0716. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. A public hearing is scheduled for 10:00 a.m., April 22, 2002, at the Harry S Truman State Office Building, Room 494, 301 West High Street, Jefferson City, Missouri.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 140—Division of Finance
Chapter 29—Title Loan Companies**

PROPOSED RULE

4 CSR 140-29.010 Licensing, Record Keeping and General Provisions

PURPOSE: Title loan companies (title lenders) are subject to examination by the Division of Finance for the purpose of determining that these companies are complying with the provisions of sections 367.500 to 367.533, RSMo, and the laws relating to title lending. This rule establishes minimum record keeping requirements to facilitate examination and regulation and other general provisions.

(1) Display of Notice. The notice required by section 367.525.3, RSMo shall be prominently displayed at a place in the title lending office. The notice shall be clearly readable from any place in the title lending office where loans are closed and shall include the name, address, and telephone number of the Division of Finance.

(2) Locations. The conduct of other business on the premises will not bar the issuance of a title loan license, but the records of the title lender must be kept strictly separate from those of any other enterprise. Further, there should be enough of a distinction, through the use of signage or other means, that the customer can determine that s/he is dealing with a separate company. Under no circumstances will more than one (1) title loan license be issued to the same address.

(3) Contract Copies. A title lender shall provide the borrower with a copy of the signed title loan agreement at the time the loan is made and at each renewal. The title lender shall also retain a copy for the borrower's file.

(4) Interest—Loan Origination Fee—When Earned. Section 367.518.1(5), RSMo provides that a loan repaid by the close of the title lender's next full business day shall be at no cost to the borrower. Title loans which are not so repaid shall bear daily interest to be determined by applying the contract rate of interest to the principal balance and dividing that result by the number of days in the year. The loan origination fee permitted by 408.140.1(1), RSMo is earned in full at the close of the lender's next full business day.

(5) Fees. A title lender shall not charge, contract for or receive, either directly or indirectly, fees not expressly permitted by section 408.140.1, RSMo

(6) Jointly Owned Titled Personal Property. Whenever a certificate of title evidences more than one (1) owner of the titled personal property being used to secure a title loan agreement or renewal, the title lender shall obtain signatures authorizing the pledge of the titled personal property from each owner, whether or not obligated on the title loan agreement or renewal.

(7) Renewals.

(A) The General Assembly has clearly indicated that no borrower is to be indebted to a title lender for any great period of time. This is evidenced by use of language that prohibits the debt being renewed by payment of interest no more than two (2) times after which the minimum payment must be the interest due plus at least ten percent (10%) of the original principal. This would, of course, accomplish a payoff at a specific time. In determining whether a renewal or something else which does not count as a renewal has occurred, the Division of Finance will insist upon

absolute good faith from its licensees and will look to substance rather than form. Generally, if the customer enters the office indebted and leaves the office indebted, a renewal will be assumed to have taken place. A new loan, rather than a renewal, will be recognized where the customer's debt ceases to exist for at least the interval from the end of the business day the loan was paid in full to the beginning of the next business day.

(B) A title lender is required by section 367.525.4, RSMo to consider at the inception of the loan the borrower's ability to repay. This requires the title lender to consider the borrower's ability to make the required principal reductions when necessary. Exceptions to this requirement may result in enforcement as provided in section 367.532, RSMo which may include fines and/or revocation or suspension of the license.

(C) If a loan is renewed for a third or subsequent time without the required principal reduction, the title lender shall reduce the principal of the loan to an amount that is consistent with the requirements of section 367.512.1(4), RSMo.

(D) It is recognized that on rare occasions a borrower may be unable to pay the entire amount necessary to renew a loan. In this event, a title lender may 1) demand payment in full, 2) do nothing, 3) waive a portion of the interest due in order for the loan to be renewed, or 4) on a very limited basis, accept the payment of accrued interest without renewing the loan. The acceptance of accrued interest-only payments by a title lender is forbidden, by section 367.512.1(4), RSMo to become a pattern or practice.

(8) Books and Records. No special system of records is required by the commissioner of finance. The records of a title lender will be considered sufficient if they include a cash journal, double entry general ledger or a comparable record and an individual account ledger. The records of the business of each registered office shall be maintained so that the assets, liabilities, income and expenses may be readily ascertained.

(9) Cash Journal. A cash book or cash journal shall contain a chronological record of the receipt and disbursement of all funds including title transfer fees, filing fees and all other items or receipts or expenditures incidental to the granting or collection of a loan and replevin, repossession or sale of collateral.

(10) General Ledger. The general ledger shall be posted at least monthly. A trial balance sheet and profit and loss statement shall be available to the examiner. When the general ledger is kept at a central office other than the location of the registered office, the central office shall provide information required by this section.

(11) Account Ledger. An individual record shall be kept for each borrower. The ledger card or sheet shall include at least the following items:

- (A) Account number;
- (B) Name and address of the borrower;
- (C) Description of the titled personal property;
- (D) Date the original loan was made;
- (E) The original loan amount;
- (F) The amount of any fees assessed;
- (G) The interest rate;
- (H) Number of payments;
- (I) Amount of payments;
- (J) Date payments received;
- (K) Amount of each payment received;
- (L) Amount of each payment applied to interest;
- (M) Amount of each payment, if any, applied to late charges;
- (N) Amount of each payment, if any, applied to returned check charges;
- (O) Amount of each payment, if any, applied to principal; and
- (P) The principal balance.

(12) Records Available. All books, records and papers, including the contracts and applications, shall be kept in the office of the title lender and made available to the Division of Finance for examination at any time without previous notice. When contracts are hypothecated or deposited with a financial institution or other party in connection with credit, access must be provided for the examiner pursuant to agreement between the title lender and the other financial institution(s).

(13) Handling of Errors. When an error is made on the individual ledger or general ledger of a manual operation, a single thin line, preferably in red, shall be drawn through the improper entry and the correct entry made on the following line. No erasures whatsoever shall be made in any record.

(14) Contracts Paid in Full. When a title loan is paid in full, the original note or a copy thereof, shall be marked "paid" and returned to the borrower. Any security interest that no longer secures a loan shall be restored, canceled or released.

(15) Receipt for Payments. A receipt shall be given for the amount of each payment made in currency.

AUTHORITY: section 367.503.4, RSMo Supp. 2001. Original rule filed Feb. 15, 2002.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Economic Development, Division of Finance, Steven M. Geary, Senior Counsel, PO Box 716, Jefferson City, MO 65102-0716. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. A public hearing is scheduled for 10:00 a.m., April 22, 2002, at the Harry S Truman State Office Building, Room 494, 301 West High Street, Jefferson City, Missouri.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 43—Investment of Nonstate Funds**

PROPOSED AMENDMENT

12 CSR 10-43.030 Collateral Requirements for Nonstate Funds. The director proposes to amended subparagraphs (3)(A)1.E. and F., and paragraphs (3)(A)2. and (3)(D)1.

PURPOSE: This amendment clarifies the collateral requirements for nonstate funds.

(3) Any depository investing nonstate funds as an investment agent of the director of revenue must adhere to the following rules governing collateral:

(A) Before the investment agent places deposits with time depository institutions, the investment agent must require that the institutions pledge collateral security. The following general procedures will be used:

1. Only securities listed as follows are acceptable to secure nonstate funds:

A. Marketable Treasury securities of the United States, excluding coupons under book entry (CUBES);

B. General obligation debt securities issued by Missouri;

C. General obligation bonds of any city in this state having a population of not less than two thousand (2,000);

D. General obligation bonds of any county in this state;

E. General obligation bonds *[approved and registered of]* issued by any school district situated in this state;

F. General obligation bonds *[approved and registered of]* issued by any special road district situated in this state;

G. General obligation state bonds of any of the fifty (50) states;

H. Debt securities of the Federal Farm Credit System or any of the Banks of Cooperative, Federal Intermediate Credit Banks or Federal Land Banks;

I. Debt securities of the Federal Home Loan Banks (FHLBs), excluding zero-coupon bonds (ZEROS);

J. Debt securities of the Federal National Mortgage Association (FNMA), including mortgage-backed securities, but excluding real estate mortgage investment conduits (REMICs), separate trading of registered interest and principal securities (STRIPS) and ZEROS (All mortgage-backed securities shall be valued at ninety percent (90%) of market value. Collateralized Mortgage Obligations (CMO) shall be Planned Amortization Class (PAC) CMOs, valued at seventy-five percent (75%) of market value, have a weighted average life not to exceed three (3) years and pass the Federal Financial Institutions Examination Council (FFIEC) High Risk Test.);

K. Debt securities of the Student Loan Marketing Association (SLMA), excluding STRIPS and ZEROS;

L. Debt securities of the Government National Mortgage Association (GNMA), including mortgage-backed securities, but excluding REMICs, STRIPS and ZEROS. Nonbook-entry registered securities must be in nominee name (All mortgage-backed securities shall be valued at ninety percent (90%) of market value. CMOs shall be PAC CMOs valued at seventy-five percent (75%) of market value, have a weighted average life not to exceed three (3) years and pass the FFIEC High Risk Test.);

M. Farmers Home Administration insured notes (CBOs);

N. Bonds of any political subdivision established under the provisions of Section 30, Article VI of the *Constitution of Missouri*;

O. Tax anticipation notes issued by any county of class one in Missouri;

P. Public housing notes and bonds (projects notes and bonds) issued by public housing agencies, guaranteed as to the payment of principal and interest by the government of the United States or any agency or instrumentality of the United States;

Q. Revenue bonds issued by the Missouri Board of Public Buildings or Department of Natural Resources;

R. Revenue bonds of the Missouri Housing Development Commission, Missouri Health and Education Facilities Authority, Missouri Higher Educational Loan Authority, Missouri Environmental Improvement and Energy Resource Authorities, Missouri Agricultural and Small Business Development Authority, Missouri Industrial Development Board or state-owned education institutions so long as any of the mentioned are rated A or better by Moodys or Standard and Poors (M1 on notes), or are secured by a federal agency guarantee (directly or through guaranteed loans);

S. Debt securities of the Federal Home Loan Mortgage Corporation (FHLMC), including mortgage-backed securities, but excluding mortgage cash flow obligations, REMICs, STRIPS and ZEROS (All mortgage-backed securities shall be valued at ninety percent (90%) of market value. CMOs shall be PAC CMOs valued at seventy-five percent (75%) of market value, have a weighted average life not to exceed three (3) years and pass the FFIEC High Risk Test.);

T. Guaranteed loan pool certificates of the Small Business Administration (SBA). Nonbook-entry registered securities must

be in nominee's name (SBA pool certificates shall be valued at seventy-five percent (75%) of market value.);

U. Debt securities of the Resolution Funding Corporation (REFCORP), excluding STRIPS and ZEROS; and

V. Revenue bonds are accepted only under items listed in subparagraphs (3)(A)1.B., Q. and R.;

2. Accrued interest for time deposits must be covered by the market. **The entire value of the nonstate funds on deposit with the depository**, including value of securities pledged less applicable FDIC or other like insurance;

3. The investment agent may not disburse funds for investment until it is assured that adequate and proper collateral has been pledged. Telephone confirmation of securities pledged from a third-party custodian is acceptable pending receipt of the actual safekeeping document;

4. Securities may not be released until time deposit funds, including accrued interest, are received from the time depository institution;

5. The investment agency may allow substitution of acceptable collateral securities with equal or greater market value if the substitution occurs on a simultaneous basis. That is, the new collateral must be received before or at the same time the old collateral is released;

6. Excess collateral may be released if it is reasonable as determined by the investment agent. The investment agent will determine the market value of all collateral every two (2) weeks and compare that to the amount of time deposits at each time deposit institution. When the value of collateral falls below the amount of time deposits, the investment agent must immediately demand additional collateral. If the time depository institution fails to post the additional collateral within two (2) days of the day requested, the investment agent will request withdrawal of all time deposits at that institution; and

7. The director of revenue, upon the recommendation of the Department of Revenue Investment Group, may require an institution pledging collateral to use a different third-party custodian which will be acceptable to the director;

(D) The investment agent's collateral system must be subject to on-line electronic access by the department's employees. This system must include the following features:

1. The investment agent will price all securities *[before]* as they are placed on the system. The investment agent will ensure that securities are acceptable and marketable and will periodically review securities for these features;

2. On a daily basis, the investment agent will compare collateral security to all deposited funds;

3. The investment agent will generate appropriate exception reports. These will include, at a minimum, identifying those securities for which the safekeeping receipt has not yet been received. The investment agent will immediately follow-up on any deposit for which the safekeeping receipt is not received within five (5) working days; and

4. The investment agent will produce a report identifying deficiencies in collateral. This report will be produced daily and the investment agent will follow-up on a same-day basis to ensure that adequate collateral is pledged.

AUTHORITY: section 136.120, RSMo [1994] 2000. Original rule filed May 2, 1986, effective Aug. 11, 1986. Amended: Filed April 21, 1987, effective July 23, 1987. Amended: Filed June 14, 1988, effective Oct. 27, 1988. Amended: Filed Jan. 18, 1989, effective June 11, 1989. Amended: Filed Aug. 28, 1990, effective Dec. 31, 1990. Amended: Filed Jan. 14, 1992, effective May 14, 1992. Amended: Filed Aug. 12, 1999, effective Feb. 29, 2000. Amended: Filed Feb. 8, 2002.

PUBLIC COST: This proposed amendment will not cost the state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105-0629. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 16—RETIREMENT SYSTEMS
Division 10—The Public School Retirement System of Missouri
Chapter 4—Membership and Creditable Service

PROPOSED AMENDMENT

16 CSR 10-4.014 Reinstatement and Credit Purchases. The division is amending section (5).

PURPOSE: This amendment sets forth provisions relating to the purchase of membership service credit for sick leave pursuant to section 169.595, RSMo.

(5) Any credit earned for a period of leave under section 169.595, RSMo shall be secured only if the necessary contributions are remitted *[during]* by the employing district by **June 30 of the school year that occurs two (2) years after** the school year in which the leave period occurred and are accompanied by a statement from the employing district certifying the name of the member for whom the contributions are being remitted and that the member was either on sick leave in accordance with the sick leave provisions of the employer or was under Workers' Compensation during the period of leave.

AUTHORITY: section 169.020, RSMo [(Supp. 1999)] 2000. Original rule filed June 23, 1998, effective Jan. 30, 1999. Amended: Filed Oct. 25, 1999, effective April 30, 2000. Amended: Filed Aug. 21, 2000, effective Feb. 28, 2001. Amended: Filed Feb. 14, 2002.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Public School and Non-Teacher School Employee Retirement Systems of Missouri, Steve Yoakum, Executive Director, PO Box 268, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 16—RETIREMENT SYSTEMS
Division 10—The Public School Retirement System of Missouri
Chapter 6—The Non-Teacher School Employee Retirement System of Missouri

PROPOSED AMENDMENT

16 CSR 10-6.040 Membership Service Credit. The division is amending section (4).

PURPOSE: This amendment sets forth provisions relating to the purchase of membership service credit for sick leave pursuant to section 169.595, RSMo.

(4) *[Remittance of contributions due under section 169.595, RSMo shall be made only by the employer and no such remittance shall be accepted unless it includes both the employee and employer contributions. The contributions shall be remitted in the same manner as are regular contributions and shall be accompanied by a statement on a form provided by the retirement system] Any credit earned for a period of leave under section 169.595, RSMo shall be secured only if the necessary contributions are remitted by the employing district by June 30 of the school year that occurs two (2) years after the school year in which the leave period occurred and are accompanied by a statement from the employing district certifying the name of the member for whom the contributions are being remitted and that the member was either on sick leave in accordance with the sick leave provisions of the employer or was under Workers' Compensation during the period of leave.*

AUTHORITY: section 169.610, RSMo [(1994)] 2000. Original rule filed Dec. 19, 1975, effective Jan. 1, 1976. For intervening history, please consult the Code of State Regulations. Amended: Filed Feb. 14, 2002.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Public School and Non-Teacher School Employee Retirement Systems of Missouri, Steve Yoakum, Executive Director, PO Box 268, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 17—BOARDS OF POLICE COMMISSIONERS

Division 20—St. Louis Board of Police Commissioners

Chapter 2—Private Security Officers

PROPOSED AMENDMENT

17 CSR 20-2.015 Administration and Command of the Private Security Section. The board is amending sections (1)–(3).

PURPOSE: This rule is being amended in order to update and more clearly reflect the rules and policies of the board of police commissioners relating to licensed security officers.

(1) Board of Police Commissioners. The St. Louis Board of Police Commissioners (referred to as the board) is established by state statute and consists of five (5) members, four (4) of whom are appointed by the governor. The mayor of the City of St. Louis serves as *ex officio* member. The board has sole charge and control of the metropolitan police department of the City of St. Louis and of the licensing, regulation and discipline of all **corporate security advisors**, private security officers, private watchmen and couriers in the City of St. Louis. Private detectives are licensed by the license collector's office of the City of St. Louis, not by the board of police commissioners. The board relegated that responsibility to the city license collector's office.

(2) Private Security Section. The private security section is responsible for the interviewing, investigating, processing, licensing, inspection and supervision of all persons working or acting as licensed security officers or any other variety of titles in the City of St. Louis. The private security section is further responsible for issuing and transferring all such licenses, for reinstatements, for periodic inspection of license holders, for liaison with all suppliers of security personnel in the city, for maintenance of a personnel file on all applicants in the City of St. Louis and for publishing, within the department, information of all terminations of employment of security personnel. The private security section also conducts background investigations on private detective/investigator applicants as requested by the license collector's office. **A processing fee for these background investigations will be charged by the private security section to all applicants for a private investigator's license.** The decision to issue a license is made by the license collector's office.

(3) Private Security Personnel. The St. Louis Metropolitan Police Department Private Security Program has *[three (3)] four (4)* distinct classifications of personnel. A definition of each classification is listed as follows:

(A) Corporate security advisor. A person employed to provide all services rendered by a private security officer, as well as other specialized corporate security services related to the protection of his/her employer's/principal's resources and personnel. A licensed corporate security advisor may carry a firearm and protective devices in accordance with the guidelines established in these rules. S/he shall be authorized to exercise the same police powers granted to private security officers while on his/her employer's/principal's property. However, the corporate security advisor's power and authority shall not be restricted to that property, but shall be coextensive with the geographic limits of the City of St. Louis (as defined in 17 CSR 20-5.055);

[(A)] (B) Private security officer. A person employed with certain police powers (as defined in 17 CSR 20-2.065) to protect life or property on or in designated premises. Generally, [T]he private security officer's powers exist only within the established property owned or leased by the contracting employer and to incidents occurring on the premises. The private security officer may carry a firearm providing this individual is qualified (as defined in 17 CSR 20-2.055). Authorization to carry a firearm is designated on the badge/identification [(ID)] card. The private security officer, whether armed or unarmed, may carry a [slapper,] baton, nightstick, [aerosol tear gas] pepper mace and handcuffs after training requirements have been satisfied;

[(B)] (C) Courier. A person employed to carry out the assignment of protecting and transporting property from one designated area to another. The person shall be in an approved military style uniform. The courier has no power of arrest. The courier may carry a firearm provided this individual is qualified (as defined in 17 CSR 20-2.055). Authorization to carry a firearm is designated on the badge/[(ID)] identification card; and

[(C)] (D) Private watchman. A person employed without police powers and without authorization to carry weapons or protective devices. This individual will perform the tasks of observation and reporting on or in a licensed premises or designated area. This may include patrolling the public street. The private watchman has a distinctive grey, military style uniform. The private watchman has no power of arrest. Note: Only the private security officer and private courier classifications will be permitted to hold two (2) licenses. Each classification is licensed separately and functions as a distinct entity. (This licensing does not include the private watchmen classification.)

AUTHORITY: section 84.340, RSMo [1986] 2000. Original rule filed April 8, 1988, effective July 11, 1988. Amended: Filed Feb. 13, 2002.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Board of Police Commissioners of the City of St. Louis, Attention: Sgt. Michael Frederick, Private Security Section, Tower G, Room 330, 7600 Oakland Avenue, St. Louis, MO 63110. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 17—BOARDS OF POLICE COMMISSIONERS
Division 20—St. Louis Board of Police Commissioners
Chapter 2—Private Security Officers**

PROPOSED AMENDMENT

17 CSR 20-2.025 Definitions. The board is amending sections (3), (5), (7) and (8); adding new sections (9) and (11); and renumbering and amending sections (10), (12), (13), (14) and (15).

PURPOSE: This rule is being amended in order to update and more clearly reflect the rules and policies of the board of police commissioners relating to licensed security officers.

(3) Badge/[*ID*] **identification card**—A card that is issued to security personnel bearing a picture of, and information about, the person to whom the card is issued.

(5) Designated area—The established property owned or leased to which a licensed security person is assigned by his/her employer or contracting company. **Generally, [T]he authority of a private security [person] officer exists only within this designated area and applies only to incidents occurring within that area. This includes the term “licensed premises.”**

(7) Hot pursuit—[*The*] **Non-vehicular** pursuit of suspects for on-view felonies only. **Vehicular pursuits are not permitted.**

(8) License—The document which is issued to [*each of the*] licensed security personnel by the board of police commissioners authorizing the holder to perform specific security duties in the City of St. Louis as designated by [*his/her*] **their** license. **The “Metro” license currently issued allows the holder to perform security duties in St. Louis County as well as in the City of St. Louis.**

(9) Licensed premises—Refer to definition of “designated area.”

[*(9)*] (10) Protective devices—[*The only approved instruments used for personal protection are slapper,*] **Instruments approved for personal protection**—baton, nightstick, [*aerosol tear gas*] **pepper mace** and handcuffs. **Training is required before these items may be carried on duty.**

(11) Resignation—The voluntary inactivation of a security license by the individual holding that license.

[*(10)*] (12) Revocation—The [*inactivating*] **inactivation** of a license by the board of police commissioners [*for just cause*] **in accordance with the rules and procedures set out herein.**

[*(11)*] (13) Suspension—The temporary [*suspension*] **inactivation** of a license pending an administrative investigation [*determined*] **and review** by the board of police commissioners.

[*(12)*] (14) Termination—The [*inactivating*] **inactivation** of a license through resignation, cancellation, expiration or revocation.

[*(13)*] (15) Weapons—Instruments used as protective devices, as listed in section [*(9)*] (10), including a firearm, [*slapper,*] baton, nightstick, [*aerosol tear gas*] **pepper mace** and handcuffs.

AUTHORITY: section 84.340, RSMo [1986] 2000. Original rule filed April 8, 1988, effective July 11, 1988. Amended: Filed Feb. 13, 2002.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Board of Police Commissioners of the City of St. Louis, Attention: Sgt. Michael Frederick, Private Security Section, Tower G, Room 330, 7600 Oakland Avenue, St. Louis, MO 63110. To be considered comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 17—BOARDS OF POLICE COMMISSIONERS
Division 20—St. Louis Board of Police Commissioners
Chapter 2—Private Security Officers**

PROPOSED AMENDMENT

17 CSR 20-2.035 Licensing. The board is amending sections (2)–(4) and (6)–(9), and deleting the form that follows this rule in the *Code of State Regulations*.

PURPOSE: This rule is being amended in order to update and more clearly reflect the rules and policies of the board of police commissioners relating to licensed security officers.

(2) Standards. Each applicant for a license to work as a private security officer in the City of St. Louis shall meet the standards set by the board of police commissioners, which require that an applicant—

(E) Not be licensed as a private security officer and [*a private detective at the same time*] **private detective or a process server in any state at the time of application for a license;**

(G) [*Who has served time on active or reserve duty in any of the Armed Forces of the United States must be in possession of an Honorable Discharge or a General Discharge Under Honorable Conditions. An Undesirable Discharge, a Discharge Under Dishonorable Conditions or a Discharge Other than Honorable Conditions will disqualify the applicant;*] **Has received an Honorable Discharge or a General Discharge Under Honorable Conditions, when applicable. An Undesirable Discharge, a Discharge Under Dishonorable Conditions or a Discharge Under Other Than Honorable Conditions will disqualify the applicant;**

(J) Be able to pass a character investigation by this department **as indicated through criminal record check;**

(M) Never have had a security license revoked or **denied** by another jurisdiction for a criminal law violation;

(3) Issuance/Denial of License. When an applicant has successfully completed the requirements set by the board of police commissioners, the board will issue a license. An applicant may be denied a license for any of the following reasons:

(B) Falsifying information on any of the forms provided by the private security section to establish eligibility. Applicants who falsify *[those]* **such** documents shall be ineligible to receive a private security officer license and cannot reapply for at least six (6) months from the date the false *[information]* **application** was submitted;

(D) The references *[,]* **and/or** employment background records *[, or both,]* indicate a poor or unsatisfactory character or work record;

(E) Any facts or actions which make the applicant unsuitable or ineligible for licensing; *[and]*

(F) Resigned under investigation, resigned under charges or was discharged *[from the police force of the City of St. Louis.]* **from any police force; and**

(G) **Has been denied a security license by any agency.**

(4) Notification of License Denial. Applicants and their employers **will**, in event of license denial, *[will]* be given a written notification **of the denial**. Specific reasons will be given to an applicant who appears in person at the office of the private security section. Applicants may appeal, in writing, to the board of police commissioners within thirty (30) days of denial notification. The appeal should contain a brief rebuttal of the reasons for denial. The board of police commissioners will then notify the applicant, in writing, of its final decision in the matter.

(6) Temporary License. If an applicant appears to meet the standards for licensing, the commander of the private security section may issue a temporary license. This permits the applicant to work until a formal license is issued by the board.

(B) A holder of a temporary badge *[/ID]* **identification** card must wear the card at the breast of the outermost garment while on duty and must be attired in an approved military style uniform.

(C) A holder of a temporary license who transfers employment to another agency must return his/her temporary badge *[/ID]* **identification** card to the private security section for issuance of a new badge *[/ID]* **identification** card.

(D) A holder of a temporary license must return the temporary badge *[/ID]* **identification** card to the private security section at the time the formal license is issued.

(7) Secondary Employment License. *[A second license]* **Additional licenses** may be approved by the board of police commissioners and issued by the private security section to a private security officer who *[—]* **wishes to work for more than one (1) employer.**

(A) *[Works for a private entity (employer) and wants to take a second job working for a second private entity (employer); or]* **A private security officer desiring a second license must present a letter of intent-to-hire from the secondary employer.**

[[B] Is licensed to a security agency and also desires to work in a secondary job for a private employer.

1. *A second license will not be issued to allow a security officer to work at two (2) security agencies.*

2. *A private security officer desiring a second license must present a letter of permission from the first (primary) employer and a letter of intent to hire from the (secondary) employer; and]*

[[C]] (B) A St. Louis Police Department computer inquiry will be made on each private security officer applying for a secondary license. If this inquiry reveals an open arrest record within the previous year, s/he will be required to obtain a certified copy of the final court disposition or a report from the circuit or prosecuting attorney. If the case is still open, the secondary license process will not be completed until final disposition is obtained.

(8) License Renewals. A private security officer's license is valid for one (1) year from date of issue and it must be renewed in the month it expires.

(B) A private security officer wishing to renew his/her license must report to the private security section in the month the license expires, bringing—

[1. The license which is about to expire;]

[2.] 1. A letter from his/her employer requesting renewal;

[3.] 2. Badge *[/ID]* **identification** card; and

[4.] 3. The fee for the renewal.

(C) If firearms-qualified, the private security officer wishing to renew a license must *[schedule for]* **provide proof of** requalification through an approved firearms course. **The private security officer must also submit a urine specimen for drug testing according to the provisions of these rules and regulations.**

(D) A license not renewed during the month it was issued automatically expires **on the last day of the month** unless the holder has applied to the commander of the private security section and received an extension of time. **Such extension will be noted with a sticker on the license. This sticker will indicate the adjusted expiration date of the license.**

(E) **Applicants for license renewal will be required to annually attend a renewal training program consisting of seven (7) hours training in selected security subjects and departmental regulations.**

(9) License Transfer. A license holder may work only for the company, agency or business entity named on the license. A license holder who changes employers *[must make sure that the new employer is named on the license]* **must transfer his/her license to the new employer before he/she begins working for the new employer.** In order to transfer a license from one *[[1]]* employer to another, the license holder must appear in person at the private security section and—

(A) Bring a current dated letter **issued** (no more than ten (10) days prior to application) from the new employer, addressed to the board of police commissioners, outlining the duties of the new job and requesting the transfer of license;

(B) Bring in license and badge *[/ID]* **identification** card;

(D) Will receive a new badge *[/ID]* **identification** card and license to the new company; and

AUTHORITY: section 84.340, RSMo [1986] 2000. Original rule filed April 8, 1988, effective July 11, 1988. Amended: Filed Feb. 13, 2002.

PUBLIC COST. This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Board of Police Commissioners of the City of St. Louis, Attention: Sgt. Michael Frederick, Private Security Section, Tower G, Room 330, 7600 Oakland Avenue, St. Louis, MO 63110. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 17—BOARDS OF POLICE COMMISSIONERS
Division 20—St. Louis Board of Police Commissioners
Chapter 2—Private Security Officers**

PROPOSED AMENDMENT

17 CSR 20-2.045 Personnel Records and Fees. The board is amending sections (1) and (2).

PURPOSE: This rule is being amended in order to update and more clearly reflect the rules and policies of the board of police commissioners relating to licensed security officers.

(1) Personnel Records. The private security section will maintain the *[personal]* personnel records of each license holder. *[This]* Such record, and all information pertaining to the individual, shall be the property of the private security section. Applicants and license holders are personally responsible for immediately notifying the private security section of any change in name, address, telephone number or employer.

(2) Fees. The board of police commissioners will establish, from time-to-time, a set of fees for various services provided by the private security section. The schedule of fees is posted in the private security section office. *[Fees are not returnable, except on the day they are paid.]* No fees will be refunded for any reason after the date of application and must be paid in full at the time of application.

AUTHORITY: section 84.340, RSMo [1986] 2000. Original rule filed April 1, 1988, effective July 11, 1988. Amended: Filed Feb. 13, 2002.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Board of Police Commissioners of the City of St. Louis, Attention: Sgt. Michael Frederick, Private Security Section, Tower G, Room 330, 7600 Oakland Avenue, St. Louis, MO 63110. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 17—BOARDS OF POLICE COMMISSIONERS
Division 20—St. Louis Board of Police Commissioners
Chapter 2—Private Security Officers**

PROPOSED AMENDMENT

17 CSR 20-2.055 Training. The board is amending sections (1), (2) and (4)-(8).

PURPOSE: This rule is being amended in order to update and more clearly reflect the rules and policies of the board of police commissioners relating to licensed security officers.

(1) Exemptions. Applicants with prior law enforcement experience or accepted training shall be required to successfully complete only the firearms qualification. **Full-time state certified police officers and retired St. Louis City police officers will be exempt from the basic classroom training. They must still complete the firearms training.**

(2) Length and Content. The **classroom** training period consists of *[three (3)] two (2)* days. *[Within that period, seven (7) hours are devoted to firearms training, responsibility and liability.]* **The length and subject matter of the class is to be determined by the board.** Classroom activities consist of selected *[police]* security subjects and departmental regulations.

(4) Final Test. Each applicant must take a written test on the subject matter presented in class and must attain a passing score of at least seventy percent (70%).

(B) A second failure will cause the applicant to be *[disqualified]* **ineligible** for licensing. *[for a one (1)-year period from the date of the second examination. After this period, the applicant may reapply for licensing.]* **The applicant will be supplied with all training materials and allowed to take the basic class in thirty (30) days at his/her expense. Upon successful completion of the subsequent training and test, the applicant will be issued a license.**

(5) Firearms Qualification. On the firing range~~,~~ an applicant must display the ability to safely and properly handle his/her revolver and must achieve a score at or above the standards established by the board of police commissioners.

(A) An applicant who displays an inability to handle a revolver safely and properly will be disqualified from carrying a *[sidearm]* **firearm.**

(B) An applicant who does not attain the minimum score on the firing range will *[be given two (2) additional opportunities to qualify. The retest time will be determined by the department armorer]* **not be issued an armed license.**

(6) Unarmed Private Security Officer License. An applicant who does not wish to have an armed license or, who cannot attain the minimum required score on the firing range, may be issued a restricted license allowing him/her to work as *[an unarmed licensed]* a private security officer **without a firearm.**

(7) Training Fee. A *[nonrefundable]* training fee established by the board of police commissioners must be paid *[before an applicant is enrolled in a training session]* **at the time of application.**

(8) Oath or Affirmation. Prior to issuance of his/her license, the applicant must swear *[to uphold]* or **affirm** the following:

I DO SOLEMNLY SWEAR OR AFFIRM I that I am a citizen of the United States, or a legal resident alien, that I will faithfully support the Constitution of the United States, the Constitution and Laws of the State of Missouri, and the Charter and City Ordinances of the City of St. Louis; that I have never been discharged from the police force of the City of St. Louis; that I have never been convicted of a felony; that I have no physical or mental disability or habit that disqualifies me from performing the duties of a Private Security Officer; that I will wear such dress, badge/[ID] identification card or emblem as the Board of Police Commissioners may from time-to-time [may] designate; that I will, to the best of my skill and ability, diligently and faithfully, without partiality or prejudice, discharge my duties according to the Constitution and Laws of the State of Missouri and Charter and Ordinances of the City of St. Louis; that I will strictly obey all lawful orders and regulations of the Board of Police Commissioners of the City of St. Louis, the Chief of Police, or any officer placed by them over me; that I will not cease to perform my duties until my resignation is accepted by the Board of Police Commissioners; that I will not become a member of or affiliate myself with, any organization of any kind or character whatsoever, membership in which will or may impose upon me obligations inconsistent with the full performance of my duties as a Private Security Officer, or inconsistent with the oath herein taken to carry out the orders of the

Board of Police Commissioners and to comply with its lawful orders, rules and regulations, or which will or may, in any degree interfere with the performance of my duties as a licensed security officer.

AUTHORITY: section 84.340, RSMo [1986] 2000. Original rule filed April 8, 1988, effective July 11, 1988. Amended: Filed April 16, 1990, effective June 28, 1990. Amended: Filed Feb. 13, 2002.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Board of Police Commissioners of the City of St. Louis, Attention: Sgt. Michael Frederick, Private Security Section, Tower G, Room 330, 7600 Oakland Avenue, St. Louis, MO 63110. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 17—BOARDS OF POLICE COMMISSIONERS Division 20—St. Louis Board of Police Commissioners Chapter 2—Private Security Officers

PROPOSED AMENDMENT

17 CSR 20-2.065 Authority. The board is amending sections (1) and (2).

PURPOSE: This rule is being amended in order to update and more clearly reflect the rules and policies of the board of police commissioners relating to licensed security officers.

(1) Authority. Private security officers have the authority to make an arrest and to search for and seize evidence in connection with the arrest, at the location, and during the time of their assignments, under the same conditions as members of the police force of the City of St. Louis—**as outlined below:**

(C) For an offense not committed in the presence or view of the security officer, when s/he has probable cause to believe that the offense was committed by the person s/he is arresting; *[and,]*

(D) Off his/her licensed premises when in hot pursuit for an on-view felony *[is involved]*. (An on-view felony offense is *[an]* a **felony** offense the security officer sees committed*./.*);

(E) Off his/her licensed premises, but only within a two (2) block radius of said premises, unless expressly approved by the private security section, and while escorting employer's employees and visitors from said premises to their parked vehicles or other means of transportation;

(F) Off his/her licensed premises but only while escorting employer or employer's designee, by the most direct route, to and/or from a bank or other financial institution for the purpose of making a cash deposit or withdrawal; and

[[E]] (G) The authority granted private security officers herein is limited *[to designated areas only, and does not include such services]* and said limitations shall be strictly construed. **It does not permit private security officers to serve as bodyguards, *[escort,]* process servers or *[investigative service for lawyers engaged in criminal or civil activity]* investigators for attorneys.** Operators of security agencies *[engaged in security service]* should be aware of these restrictions *[and the consequences of a violation.]* and should also be aware that violation thereof *[Involvement in those activities]* could result in

the suspension or revocation of a private security officer's license by the board of police commissioners.

(2) Arrests. An arrest is made by the actual restraint of the defendant or by his/her submission to the authority of the private security officer.

(A) *[No more force is to be used than necessary for overcoming resistance and only the minimum force necessary to effect an arrest is permissible.]* In making an arrest a private security officer should use only as much force as is reasonably required to achieve his/her lawful objective. Deadly force may never be used in defense of property only.

(C) Police officers from other jurisdictions, including St. Louis City marshals and St. Louis deputy sheriffs, who are serving or acting as private security officers do not possess police powers at the location of their assignments in the City of St. Louis unless licensed by the Board of Police Commissioners of the City of St. Louis.

AUTHORITY: section 84.340, RSMo [1986] 2000. Original rule filed April 8, 1988, effective July 11, 1988. Amended: Filed Feb. 13, 2002.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Board of Police Commissioners of the City of St. Louis, Attention: Sgt. Michael Frederick, Private Security Section, Tower G, Room 330, 7600 Oakland Avenue, St. Louis, MO 63110. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 17—BOARDS OF POLICE COMMISSIONERS Division 20—St. Louis Board of Police Commissioners Chapter 2—Private Security Officers

PROPOSED AMENDMENT

17 CSR 20-2.075 Duties. The board is amending section (1).

PURPOSE: This rule is being amended in order to update and more clearly reflect the rules and policies of the board of police commissioners relating to licensed security officers.

(1) Duties. It is the duty of every licensed security officer *[to—]:*

(A) **To** *[O]*observe and obey these regulations and to obey all lawful orders of any commissioned St. Louis police officer in all matters involving the need for police services;

(B) **To** *[A]*assist St. Louis police officers in preserving the peace or in taking **such** other action as may be necessary to effect an arrest at the location, and during the time, of his/her assignment;

(C) **To** *[C]*cooperate with St. Louis police officers in the performance of their duties.

1. Participation by licensed private security officers, on duty or off duty, in police action where police officers are on the scene, shall be limited to identifying themselves to the officer(s) and offering assistance.

2. The judgement of the officer(s) shall prevail in any situation where police are present. They are responsible for the proper

handling and reporting of the incident in accordance with departmental policies.

3. Failure to cooperate with a St. Louis police officer may be cause for disciplinary action against a licensed private security officer.

4. Failure to assist a law enforcement agency or to aid in prosecution of a crime may be cause for disciplinary action against a licensed private security officer; and

(D) **To** ~~/N/~~notify the St. Louis Police Department when an arrest has been made by the private security officer, to furnish all pertinent facts and evidence to any police officer(s), and to surrender to ~~[the]~~ such officer(s) custody of any prisoner **and any evidence related to the arrest**. A report of the incident will then be made by the police in the same manner as in other arrests.

AUTHORITY: section 84.340, RSMo [1986] 2000. Original rule filed April 8, 1988, effective July 11, 1988. Amended: Filed Feb. 13, 2002.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Board of Police Commissioners of the City of St. Louis, Attention: Sgt. Michael Frederick, Private Security Section, Tower G, Room 330, 7600 Oakland Avenue, St. Louis, MO 63110. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 17—BOARDS OF POLICE COMMISSIONERS Division 20—St. Louis Board of Police Commissioners Chapter 2—Private Security Officers

PROPOSED AMENDMENT

17 CSR 20-2.085 Uniforms. The board is amending sections (1)–(4).

PURPOSE: This rule is being amended in order to update and more clearly reflect the rules and policies of the board of police commissioners relating to licensed security officers.

(1) *[The Board of Police Commissioners ruled that by January 1, 1990 no private security uniforms will resemble those of the St. Louis police officers.] No private security uniforms may resemble those of St. Louis police officers.* The light blue shirt with dark blue jacket and trousers will not be duplicated. In addition, a company shoulder patch will be mandatory on all shirts, coats and jackets of private security personnel, **clearly identifying them as employees of that agency.**

(2) All private security officers should be aware of the following guidelines:

(A) All private security officers are required to wear a uniform, which, at a minimum, shall consist of trousers or skirt, **and shirt or blouse**, *and uniform cap*. **The word “police” will not be displayed anywhere on the private security officer’s uniform. This extends to police officers from other jurisdictions while working as security officers in the City of St. Louis;**

(B) All couriers wearing blue uniform trousers, skirts, shirts and jackets similar to those worn by the St. Louis Police Department must have their company shoulder patch affixed to

either the left or right sleeve, approximately one inch (1”) below the shoulder seam, clearly distinguishing them from *[a]* St. Louis police officers;

(C) The badge/identification *[[ID]]* card issued by the private security section of the St. Louis Metropolitan Police Department will be worn on the breast of the outermost garment, **in plain view**, while on duty and performing a *bona fide* security function for an employer;

(D) Security personnel may wear a company badge or emblem as devised by their employer. These badges and emblems bear the name of the employer and identify the individual as a private security officer. The *[name]* word “police” will not be used on the badge or emblem;

(G) The use of company vehicles for security purposes must conform with the established rules governed under city ordinance. The *[name]* word “police” will not be displayed on the vehicles.

(3) Exemption from Wearing Uniform. *[In rare instances, the board of police commissioners may exempt a licensed private security officer, upon written application by his/her employer, from the wearing of a uniform, the insignia, or both, provided by the board. This exemption may be granted upon a showing in writing by the employer that the wearing of the uniform or insignia hinders the efficient performance of security duties by the employee.]* **The board of police commissioners may exempt a licensed private security officer from wearing a uniform and/or displaying the department-issued badge/identification card while on duty. Such exemption must be requested by the employer in writing. Each licensed private security officer receiving exemption from the requirement of wearing a uniform may, during the period of the exemption, perform his/her duties as specified on the identification card. The identification card showing that the security officer has a uniform exemption must be carried while the security officer is on duty.**

(A) All letters requesting exemption from the wearing of a uniform or insignia, including proof of need, shall be addressed to the commander~~,~~ of the private security section by *[his/her]* the employer of the security officer.

(B) A uniform exemption identification will expire on the same date *[as]* the holder’s license expires. To renew the exemption, a new letter of request shall be submitted to the commander of the private security section by *[his/her]* the employer of the security officer.

(4) *[Uniform Exemption Conduct. Each licensed private security officer receiving exemption from the requirement of wearing a uniform, during the period of the exemption, may perform his/her duties, armed or unarmed, as specified in the ID card. If armed, s/he possesses the privilege granted uniformed private security officers of carrying an authorized loaded firearm on his/her person while traveling in either direction between place of residence and place of assignment by the most direct route. The same time limitation of one (1) hour is to be observed. The ID card granting the exemption must be carried by security personnel while on duty.]* **Armed Uniform Exemption. In rare instances the board of police commissioners may exempt an armed licensed private security officer, upon written application from his/her employer, from wearing a uniform and/or insignia provided by the board. The employer must show, in writing, that the wearing of a uniform or insignia hinders the efficient performance of security duties by the employee. These requests will be reviewed by the board of police commissioners. Note: A security officer receiving this exemption may perform his/her duties as specified on the identification card and may carry an authorized, loaded firearm on his/her person while performing security duties for the employer subject to the rules and regulations established by the board of police commissioners. A**

security officer licensed under these conditions is not authorized to carry the weapon on his/her person while traveling in either direction between place of residence and place of assignment and must unload the weapon and transport it according to existing laws and ordinances. Violation of any of these provisions renders the offender subject to penalties which can include license revocation.

AUTHORITY: section 84.340, RSMo [1986] 2000. Original rule filed April 8, 1988, effective July 11, 1988. Amended: Filed Feb. 13, 2002.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Board of Police Commissioners of the City of St. Louis, Attention: Sgt. Michael Frederick, Private Security Section, Tower G, Room 330, 7600 Oakland Avenue, St. Louis, MO 63110. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 17—BOARDS OF POLICE COMMISSIONERS Division 20—St. Louis Board of Police Commissioners Chapter 2—Private Security Officers

PROPOSED AMENDMENT

17 CSR 20-2.095 Equipment. The board is amending sections (1)–(3).

PURPOSE: This rule is being amended in order to update and more clearly reflect the rules and policies of the board of police commissioners relating to licensed security officers.

(1) Equipment Issue. At the conclusion of the training period and upon final approval by the board of police commissioners, each private security officer shall receive from the private security section one (1) badge/identification [(ID)] card, [one (1) license] and one (1) security officer's manual. These items are, and remain, departmental property. They must be returned to the private security section by any private security officer who resigns, is suspended, or has his/her license revoked.

(2) Equipment Responsibility. [Each licensee deposits a fee for the department-issued badge/ID card and license. The fee is refundable to any security officer when his/her period of service ends, provided that the license is not revoked. During employment it is the responsibility of the security officer to care for and safeguard this departmental property.] **During their employment it is the responsibility of security officers to care for and safeguard departmental property issued to them.**

(A) [After the cost has been determined, all issued items of departmental property lost, stolen, damaged or destroyed must be replaced by the licensee.] **All issued items of departmental property lost, stolen, damaged or destroyed must be replaced by the licensee.**

(B) The loss of any item must be immediately reported to the private security section. No formal police report is required. The private security officer then becomes responsible for appearing at

the private security section [to obtain and pay] and paying for a replacement.

(C) Careless handling of [departmental] **St. Louis Police Department property by a security officer may be [subject to] grounds for disciplinary action.**

(3) Badge/[ID] **Identification Card.** The badge/[ID] **identification card** which is issued by the private security section to a licensed private security officer is an easily recognized symbol of authority and responsibility.

(A) The badge/[ID] **identification card**, which is stamped with an issue date and an expiration date, [also] will **also** state whether the holder may be armed or must work unarmed. **The card will also indicate if the private security officer is authorized to carry a baton or nightstick.**

(B) This badge/[ID] **identification card** must be worn over the breast on the outermost garment in **plain view**. It must be returned to the private security section upon resignation, suspension, **cancellation** or revocation of the license.

AUTHORITY: section 84.340, RSMo [1986] 2000. Original rule filed April 8, 1988, effective July 11, 1988. Amended: Filed Feb. 13, 2002.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Board of Police Commissioners of the City of St. Louis, Attention: Sgt. Michael Frederick, Private Security Section, Tower G, Room 330, 7600 Oakland Avenue, St. Louis, MO 63110. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 17—BOARDS OF POLICE COMMISSIONERS Division 20—St. Louis Board of Police Commissioners Chapter 2—Private Security Officers

PROPOSED AMENDMENT

17 CSR 20-2.105 Weapons. The board is amending sections (1), (2), (4)–(8) and adding a new section (5).

PURPOSE: This rule is being amended in order to update and more clearly reflect the rules and policies of the board of police commissioners relating to licensed security officers.

(1) Limitations [On] on Carrying Weapon. [A] **An armed** private security officer licensed by the St. Louis Board of Police Commissioners may be permitted to carry on his/her person an authorized firearm, while traveling in either direction by the most direct route (without deviation and/or not to exceed one (1) hour) between his/her residence and place of assignment provided s/he is—

(2) Private security officers who are authorized to carry their firearms to and from their place of residence have no authority to use their firearms during that travel period.

(A) **Except as provided above, a firearm and protective devices may only be carried by a security officer while on his/her licensed premises.**

(B) A firearm and protective devices may not be carried off assigned premises for any nonduty related activities (lunch, fueling cars, personal relief, etc.).

(4) Inspection and Registration. All firearms used by private security officers must be inspected by the department armorer or his/her designee and must be registered and on file in the private security section. **Armed security officers may only use a duty weapon which is personally owned by them, or owned by their agency.**

(B) Private security officers must carry double action .38 Special caliber revolvers. The carrying of any other caliber weapon, including automatics, derringers, .357 Magnums and shotguns is prohibited. **Only factory loaded, commercially available ammunition may be carried.**

(C) **For armed, uniformed security officers, [T]the firearm shall be exposed and worn on a belt at the waist.** No other methods, such as a shoulder holster, ankle holster, etc., shall be permitted in uniform.

(D) **[The firearm shall be worn on a belt at the waist.] For armed security officers on uniform-exempt status the firearm shall be worn on a belt at the waist.** No other methods, such as a shoulder holster, ankle holster, etc., shall be permitted for uniform-exempt status.

(E) Private security officers are required to annually requalify with their firearms during the month of license renewal, **and at six (6)-month intervals.**

(5) Requirements for Police Officers from Other Jurisdictions Carrying Duty Weapons. Police officers from other jurisdictions working as security officers in the City of St. Louis may be permitted to carry their department duty weapon upon satisfying the following requirements:

(A) **The officer must be a full-time employee of his/her agency and must submit a letter to the private security section from his/her department indicating that the officer is a full-time commissioned officer;**

(B) **The officer must be certified by his/her respective state with a minimum of six hundred (600) hours training at a state approved academy. A copy of the certification must be presented to the private security section at the time of application for the security license;**

(C) **The officer must present a letter from his/her department indicating the make, model and serial number of the weapon that they are allowed to carry while working for their department;**

(D) **The officer must present a letter from his/her department indicating a policy that requires the officer to requalify with the duty weapon a minimum of twice each year;**

(E) **The firearm must be approved by our department armorer and the armorer must indicate that the weapon has been approved and prepare a letter indicating approval of the weapon; and**

(F) **All other part-time police officers and reserve officers from other jurisdictions are required to carry a .38 caliber revolver while working security within the City of St. Louis and are required to successfully complete the firearms training program mandated by the board of police commissioners.**

[[5]] (6) Discharge of Firearms. A private security officer may not discharge a firearm in the performance of his/her duties (other than for practice or training at a firing range or similar authorized location) except when—

(A) Reasonably necessary to protect him/herself or another from death or serious bodily harm; or. **Note: Security officers are not permitted to discharge their weapons to destroy any injured or dangerous animal unless their safety or the safety of a third party is directly threatened.**

[[B] A suspect resists to a degree that poses a threat to the life or body safety of the private security officer or others.]

[[6]] (7) Shots Fired Report. *[Upon firing his/her weapon, a]A private security officer, upon firing his/her weapon and/or using force to make an arrest, shall notify the nearest police district and have an official police report prepared. The reporting officer will see that a copy of the police report is forwarded to the commander of the private security section.*

[[7]] (8) Safety First Rules for Gun Handling. The licensed private security officer is responsible at all times for his/her weapon whether in or out of his/her possession. The following rules must be learned and obeyed:

(A) All weapons must be treated with the caution and respect due a loaded gun. Most accidents occur with a weapon thought to be unloaded;

(B) The weapon should be checked for ammunition each time it is handled;

(C) The barrel and action must be clear of obstruction before using the weapon;

(D) The weapon must be kept in good working condition;

(E) The weapon should not be drawn or pointed at any person unless the situation justifies *[that]* such action;

(F) When the weapon is unattended, it must be safe from children and curious people; and

(G) Ammunition carried on duty must be new factory-service ammunition. No reloads or wad cutter ammunition is permitted.

[[8]](9) Nonlethal Weapons. Private security officers may only carry the following nonlethal defensive weapons or equipment:

(A) *[Leather pocket baton or slapper]* **Pepper mace (o.c. spray), after completion of approved training;**

(B) *[Aerosol tear gas dispenser]* **Handcuffs, after completion of approved training;**

(C) *[Baton or night stick]* **Metal baton not more than twenty-six inches (26") long when fully extended and not weighing more than twenty-one (21) ounces, after completion of approved training; and**

(D) *[Handcuffs]* **Wooden nightstick not more than twenty-six inches (26") long and not weighing more than twenty-one (21) ounces, after completion of approved training. Note: Private security officers and corporate security advisors will only be authorized to carry an impact weapon after they have received training by board approved instructor. It is the responsibility of the employer to provide board approved training in the proper use of this equipment. An agency has the right to determine which of these items may be carried by its licensed security employees.**

AUTHORITY: section 84.340, RSMo [1986] 2000. Original rule filed April 8, 1988, effective July 11, 1988. Amended: Filed Feb. 13, 2002.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Board of Police Commissioners of the City of St. Louis, Attention: Sgt. Michael Frederick, Private Security Section, Tower G, Room 330, 7600 Oakland Avenue, St. Louis, MO 63110. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 17—BOARDS OF POLICE COMMISSIONERS
Division 20—St. Louis Board of Police Commissioners
Chapter 2—Private Security Officers

PROPOSED AMENDMENT

17 CSR 20-2.115 Field Inspection. The board is amending sections (2), (3), and (4).

PURPOSE: This rule is being amended in order to update and more clearly reflect the rules and policies of the board of police commissioners relating to licensed security officers.

(2) Field Inspections. All private security officers are subject to inspection by officers from the St. Louis Metropolitan Police Department. The purpose of *[this] such* inspection is to insure that the license holder is in compliance with the provisions of this rule. *[This] Such an* inspection will determine that *[the license holder—]*:

(A) **The license holder** *[H]* has in his/her possession a proper badge/identification *[ID]* card issued by the St. Louis Board of Police Commissioners;

(B) **The license holder** *[H]* is wearing a full uniform when carrying an exposed firearm; and *;*

(C) **The license holder** *[H]* has not disregarded or deviated from the manual.

(3) Failure to Cooperate. Failure by any license holder to cooperate with a commissioned member of the St. Louis Police Department, *[in the inspection procedures]* or with personnel assigned to the private security section in the performance of their official duties, will constitute grounds for disciplinary action.

(4) Arrest of License Holder. During an inspection, if a license holder has been arrested for a felony, a misdemeanor or an infraction involving moral turpitude or license violation, the holder's badge/*[ID]* identification card will be seized and forwarded to the private security section of the St. Louis Police Department with a copy of the arrest report. The license holder is to be informed that s/he is suspended and not to continue to work until the matter is resolved by the private security section. If arrested for a felony violation, a formal suspension number will be obtained in the normal manner. The private security section will conduct any necessary investigation or make notification to the jurisdictional agency.

AUTHORITY: section 84.340, RSMo [1986] 2000. Original rule filed April 8, 1988, effective July 11, 1988. Amended: Filed Feb. 13, 2002.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Board of Police Commissioners of the City of St. Louis, Attention: Sgt. Michael Frederick, Private Security Section, Tower G, Room 330, 7600 Oakland Avenue, St. Louis, MO 63110. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 17—BOARDS OF POLICE COMMISSIONERS
Division 20—St. Louis Board of Police Commissioners
Chapter 2—Private Security Officers

PROPOSED AMENDMENT

17 CSR 20-2.125 Complaint/Disciplinary Procedures. The board is amending sections (3), (5) and (6), deleting section (8) and renumbering section (9).

PURPOSE: This rule is being amended in order to update and more clearly reflect the rules and policies of the board of police commissioners relating to licensed security officers.

(3) Suspension. In instances where a private security officer is arrested for a felony or a serious misdemeanor, the commander or watch commander of the district or any officer acting in that capacity will **administratively** suspend the private security officer.

(A) In instances where a private security officer is arrested for a crime or ordinance violation, not a felony, and depending on the situation, the commander or watch commander of the district or any officers acting in that capacity has the choice of **administratively** suspending the private security officer or contacting the commander of the private security section, who will determine whether or not the private security officer is to be suspended. If unable to contact the commander of the private security section, the report of the incident will be forwarded to the private security section at the earliest opportunity.

(B) Whenever a licensed private security officer is **administratively** suspended *;* it will be required that the private security officer surrender his/her badge/*[ID]* identification card until a decision is made for its return by the commander of the private security section or a disposition is rendered by the board of police commissioners.

(C) Where no warrant is issued **and/or** no cause for discipline is apparent, *[or both,]* the private security officer's return to duty is to be determined by the commander of the private security section.

(5) Notification/Appeal. Whenever the license of a private security officer is suspended or revoked by the board of police commissioners, the private security section shall notify the licensee in writing of the action. **This notice will be mailed to his/her last address of record.** The licensee shall have ten (10) days from the date of *[posting notice]* mailing notice at his/her last address of record to request a review of the disciplinary action. The request shall be directed in writing to the commander of the private security section. The request shall state additional supporting facts in his/her defense, **and/or** rebuttal of the board of police commissioner's decision *[, or both]*.

(A) The commander of the private security section may meet with the licensee and discuss his/her request for review *;* **and/or** shall conduct a further investigation of the disciplinary case *[, or both]*.

(B) The commander of the private security section, within thirty (30) days of appeal, *[shall render a decision affirming or reversing the original disciplinary action. The commander shall then send his/her decision and report to the board of police commissioners for final action.]* shall submit the appeal in a report to the board of police commissioners for final action.

(C) Judgments and decisions of the board concerning appeals in disciplinary matters are final **and once the board has ruled, the matter is permanently closed.**

(6) Disciplinary Action *;* **and/or** Punishment *[, or both]*.

(B) Licensed security personnel, whether on or off duty, are subject to disciplinary action for violations of these rules. Offenses may include, but not be limited to, the following:

1. Conviction of a felony, misdemeanor or city ordinance;
2. Intoxication or drinking on duty;
3. Possession or illegal use of narcotic or potent drugs (controlled substance);
4. Assumption of police authority when not on duty;
5. Conduct contrary to the public peace and welfare;
6. Interference with any police officer engaged in the performance of his/her duties;
7. Overbearing or oppressive conduct during the performance of duty;
8. Failure to obey a reasonable order by an officer of the St. Louis Metropolitan Police Department;
9. Any conduct or actions which might jeopardize the reputation or integrity of the St. Louis Metropolitan Police Department or its members;
10. Failure to comply with the **firearm** restrictions [of a firearm], while traveling in either direction, without deviation between their residences and places of assignment by the most direct route (not to exceed one (1) hour);
11. Carrying any weapon other than a .38 Special caliber revolver while performing the duties of a private security officer;
12. Failure to have a weapon inspected by the department armorer [or] and/or his/her designee, not having a record of this weapon on file with the private security section [or both];
13. Carrying more than one (1) authorized revolver on duty;
14. Failure to wear a valid badge//ID/identification card issued by this department on the breast of the outermost garment of security uniform, while on duty;
15. Failure to have in possession a badge//ID/identification card [or] authorizing uniform exemption [letter] while working in civilian attire;
16. Serving or acting as a licensed private security officer for any agency or [other] business entity other than the one listed on his/her badge//ID/identification card;
17. Failure to conform to uniform requirements;
18. Working as a licensed security person while under suspension;
19. Carrying a firearm concealed or otherwise in civilian attire [without a uniform exemption letter or] and/or not actually engaged in providing a *bona fide* security function at the time[, or both];
20. Carrying or using a firearm while performing the duties of a licensed private security officer when not firearms qualified;
21. Any conduct constituting a breach of security or confidence;
22. Neglect of duty;
23. Failure to notify the private security section when and if arrested on any charge;
24. Failure to aid in prosecution;
25. Defacing or altering the badge//ID/identification card; [and]
26. Carrying unauthorized non-lethal weapons and/or protective devices[, or both.];
27. Using unnecessary force in effecting an arrest or discourteous treatment or verbal abuse of any person;
28. Submitting a urine specimen which tests positive for controlled substances;
29. Failure to maintain on file at the private security section a current address and telephone number;
30. Failed to surrender badge/identification card to the private security section when license has been suspended;
31. Failure to cooperate in an investigation conducted by the private security section;
32. Identifying himself/herself as a police officer; and
33. Engaging in a vehicular pursuit.

[(8)] When a license is ordered revoked by the board of police commissioners, the badge/ID deposit fee will be forfeited to the board. Licensed private security officers who are under investigation by this department for any alleged violations of any rules will be allowed the discretionary resignation of their commission and in these instances will have the badge/ID deposit fee refunded, provided all department-issued equipment is surrendered in the private security section.]

[(9)](8) Individuals who resign while under investigation will not be considered for a license in the future.

AUTHORITY: section 84.340, RSMo [1986] 2000. Original rule filed April 8, 1988, effective July 11, 1988. Amended: Filed Feb. 13, 2002.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Board of Police Commissioners of the City of St. Louis, Attention: Sgt. Michael Frederick, Private Security Section, Tower G, Room 330, 7600 Oakland Avenue, St. Louis, MO 63110. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 17—BOARDS OF POLICE COMMISSIONERS Division 20—St. Louis Board of Police Commissioners Chapter 2—Private Security Officers

PROPOSED AMENDMENT

17 CSR 20-2.135 Drug Testing. The board is amending sections (1) and (2).

PURPOSE: This rule is being amended in order to update and more clearly reflect the rules and policies of the board of police commissioners relating to licensed security officers.

(1) Applicability. The following shall apply to all individuals seeking certification in any **security** category [of armed], including **corporate security advisor**, security officer, **courier**, as well as to all individuals seeking renewal or reinstatement of certification:

(A) Any individual seeking certification as an armed security officer or any individual seeking reinstatement of certification, shall submit to urinalysis testing before certification is granted, renewed or reinstated. This testing shall be for the purpose of determining the presence or absence of illegal drugs. Refusal to comply with this requirement shall result in the denial of certification, renewal of certification [of] or reinstatement of certification as an armed security officer, **corporate security advisor or courier**;

(B) If the results of an individual's urinalysis test are positive, that is, indicative of the presence of illegal drugs in the sample, the following penalties shall apply:

1. If the individual is an applicant for initial [certification] **licensing**, s/he shall be denied [certification] a license and shall not be permitted to reapply for a period of one (1) year;

2. If the individual is an applicant for renewal of [certification] a license, his/her [certification] license shall be suspended and [shall not be renewed for a period of one (1) year; and]

an investigation conducted. The results of the investigation will be forwarded to the board of police commissioners. The board may revoke a license for one (1) year based on a positive drug screen;

3. If the individual is an applicant for reinstatement of *[certification]* license, reinstatement shall be denied for a period of one (1) year; and

4. A second positive drug test will permanently exclude the applicant from holding a security license;

(D) The confirmatory testing method to be used shall be Gas Chromatography Mass Spectroscopy (GCMS). No applicant shall be denied *[certification]* a license, renewal of *[certification]* a license or reinstatement of *[certification]* a license on the basis of a positive result on the EMIT test, unless that result is first confirmed by GCMS;

(F) The expense of the drug test shall be borne by the individual requesting an armed *[certification]* license or renewal as an armed security officer. All expenses associated with urinalysis testing shall be borne by the individual seeking *[certification]* the license, or reinstatement of *[certification]* a license as an armed security officer;

(G) A portion of each sample taken pursuant to this rule shall be preserved and, upon request, be made available to the applicant from whom it was taken for the purpose of contesting the results of the analysis performed pursuant to subsections (1)(C)–(E) of this rule. The expense/s of any analysis *[made by an applicant]* for the purpose of contesting the results shall be borne entirely by the applicant. **Procedures for contesting the results of a drug analysis shall be determined by the private security section and made available on request;** and

(H) Any request made by an applicant for the preserved portion of a sample must be made within thirty (30) days of the applicant's receipt of notification of denial of *[certification]* a license, renewal or reinstatement because of failure to pass urinalysis testing.

(2) Laboratory and Testing Procedures. *[The] Security officers and couriers [may employ] will use the laboratory under contract with the Board of Police Commissioners for collections and analyses of specimens. The testing laboratory will comply with all the provisions of this regulation including the following: [of his/her choice for analysis of specimens; provided, that the laboratory is reputable and is operating within the statutes, laws, ordinances or guidelines established by Missouri and any county or municipality of this state to govern or control those facilities; and further that the laboratory complies with all of the provisions of this regulation as follows:]*

(C) The collection process must include procedures to adequately insure:

1. That the specimen is correctly identified as coming from the donor/examinee;

2. That the specimen cannot be altered or tampered with after it has been collected;

3. That there is a documented chain of custody with respect to the sample;

4. That laboratory results are accurately identified with the particular specimen on which the analysis has been performed;

5. That procedures are instituted to rule out a positive analysis based upon the presence of over-the-counter or prescription drugs in the urine of the examinee;

6. That procedures are instituted to rule out positive analysis based upon the presence of contraband drugs in the urine which presence could have been derived in a manner other than by direct ingestion or intravenous injection; and

7. That procedures are instituted to insure the confidentiality of laboratory results and that positive results are made known only

to those individuals, institutions, corporations, governmental agencies or other entities or their agents who have been granted the privilege of disclosure under the terms and conditions of *[this agreement]* these rules only for the purpose of carrying out the sole intent of this regulation;

(E) Laboratory results must be delivered via the *[United States mail, postage prepaid, to the] collection agency's computer and the printer housed at the Metropolitan Police Department, Private Security Section.*

AUTHORITY: section 84.340, RSMo [1986] 2000. Original rule filed April 16, 1990, effective June 28, 1990. Amended: Filed June 30, 1992, effective Feb. 26, 1993. Amended: Filed Feb. 13, 2002.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Board of Police Commissioners of the City of St. Louis, Attention Sgt. Michael Frederick, Private Security Section, Tower G, Room 330, 7600 Oakland Avenue, St. Louis, MO 63110. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 18—PUBLIC DEFENDER COMMISSION Division 10—Office of State Public Defender Chapter 1—Organization of Agency

PROPOSED AMENDMENT

18 CSR 10-1.010 Organization of the Agency. The public defender is amending sections (1) and (3).

PURPOSE: This amendment updates the mailing address of the organization.

(1) The Public Defender Commission, the Office of State Public Defender and the State Public Defender System are established by provision of Missouri statute as found in Chapter 600, RSMo *[Supp. 1982] 2000.*

(3) The method and procedure for contacting or obtaining information concerning the Public Defender Commission, the Office of State Public Defender or the State Public Defender System, or for making submission or requests for information shall be through contact with the State Public Defender Director as follows: State Public Defender Director, Office of State Public Defender, *[209B East Green Meadows Road, Columbia, MO 65203-3698] 231 E. Capitol Avenue, Jefferson City, MO 65101.*

AUTHORITY: sections 536.023 and 600.017, RSMo [1978] 2000. Original rule filed Jan. 9, 1985, effective April 11, 1985. Amended: Filed Feb. 14, 2002.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri State Public Defender System, Office of the Director, Attn: Lisa Martin, 231 E. Capitol, Jefferson City, MO 65101, phone (573) 526-5210. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 18—PUBLIC DEFENDER COMMISSION
Division 10—Office of State Public Defender
Chapter 2—Definition of Eligible Cases**

PROPOSED AMENDMENT

18 CSR 10-2.010 Definition of Eligible Cases. The public defender is amending sections (1), (2) and (3).

PURPOSE: This amendment defining the types of cases handled, is updated to reflect statutory changes made since the previous version of the rule was published.

(1) The director and defenders shall provide legal services to an eligible person—

(D) Who has been taken into custody pursuant to section 632.489, RSMo, including appeals from a determination that the person is a sexually violent predator;

[(D)] (E) For whom the federal constitution or the state constitution requires the appointment of counsel; and

[(E)] (F) For whom, in a case in which s/he faces a loss or deprivation of liberty, any law of this state requires the appointment of counsel; however, the director and the defenders shall not be required to provide legal services to persons charged with violations of county or municipal ordinances.

(2) *[Any person filing a motion pursuant to Supreme Court Rule 27.26 shall not be represented by a defender of the State Public Defender System.] The State Public Defender System shall not represent a person who faces a loss or deprivation of liberty pursuant to section 632.415, RSMo.*

[(3) The State Public Defender Director shall not assign, refer or appoint counsel for the movant in a motion filed pursuant to Supreme Court Rule 27.26, but shall refer all cases to the appropriate court.]

AUTHORITY: sections 600.017(10), 600.042.1.(8), [and] 600.042.[2]3 and 600.043, RSMo [1982] 2000. Original rule filed Jan. 9, 1985, effective April 11, 1985. Amended: Filed Feb. 14, 2002.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri State Public Defender System, Office of the Director, Attn: Lisa Martin, 231 E. Capitol, Jefferson City, MO 65101, phone (573) 526-5210. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 18—PUBLIC DEFENDER COMMISSION
Division 10—Office of State Public Defender
Chapter 3—Guidelines for the Determination of
Indigency**

PROPOSED AMENDMENT

18 CSR 10-3.010 Guidelines for the Determination of Indigency. The public defender is amending sections (2) and (3).

PURPOSE: This amendment relating to qualification for services, updates the guidelines to more accurately reflect today's poverty rate.

(2) Maximum Qualifying Income Scale.

(A) A defendant may be considered indigent if his/her *[take-home]* gross pay and other sources of income do not exceed *[one hundred dollars (\$100) plus twenty dollars (\$20) per week for each dependent the defendant is supporting. For example, a defendant who supports two (2) children and one (1) unemployed spouse would qualify if the net salary does not exceed one hundred sixty dollars (\$160)] the federal poverty guideline as issued in the Federal Register by the U.S. Department of Health and Human Services.*

(B) When making the financial determination, the following factors should be taken into consideration:

1. Debts—Debts should be taken into consideration to the *[extend]* extent that payments reduce the take home pay *[below the eligibility level] of the defendant.* Debts caused by hospital bills, taxes, fines, child support and alimony are allowable only if actual payments on debts are being made;

2. Bond—If the defendant has been released on bail on any case in the amount of five thousand dollars (\$5,000) or more, a presumption is created that the defendant is not indigent and the ability of the defendant to meet the bail must be given consideration;

3. Spouse's Income—The spouse's income should be considered if the spouse is employed and supports the defendant. The income shall also be considered if they share the household expenses;

4. Parent's Income—The parent's income should be considered if they support the defendant and the defendant is under eighteen (18) years of age. Defendants eighteen (18) years or older shall be considered independent from family income unless they are full-time students or are dependent upon their parents or when the parents or a relative post bond;

5. Mortgage—If the defendant owns or is buying a home, the defendant's equity must be determined. If defendant's equity exceeds ten thousand dollars (\$10,000), the defendant would not qualify for a public defender; and

6. Assets—Unless the defendant is charged with a Class A felony, cash in excess of *[five hundred dollars (\$500) is] one-thousand dollars (\$1,000) creates* a presumption of non-indigency. Bank accounts, stocks, bonds, jewelry, equity in insurance and any other financial assets must be considered. All vehicles are assets and must also be considered. If the total value of the asset(s) is more than *[one thousand dollars (\$1000)] two thousand dollars (\$2,000)*, the defendant is presumed not to be indigent.

(3) Discretionary Aspects of Determining Indigency.

(A) The previously mentioned financial criteria are to be applied in all cases and considered with the probable expense and burden of defending the case. *[When the presumption exists that a defendant is not indigent, the defendant may still qualify for public defense services by paying that portion of defense costs which s/he may be able to pay without substantial hardship to him/herself for his/her family] If a person is determined to be eligible for the services provided by the*

State Public Defender System and if, at the time such determination is made, s/he is able to provide a limited cash contribution toward the cost of representation without imposing a substantial hardship upon himself or his dependents, such contribution shall be required as a condition of his/her representation by the State Public Defender System. If at any time, either during or after the disposition of his/her case, such defendant becomes financially able to meet all or some part of the cost of services rendered to him/her, he shall be required to reimburse the commission in such amounts as s/he can reasonably pay, either by a single payment or by installments of reasonable amounts, in accordance with a schedule of charges for public defender services prepared by the commission;

AUTHORITY: sections 600.017(10), [and] 600.086 and 600.090, RSMo [1986] 2000. Original rule filed Nov. 12, 1985, effective Feb. 13, 1986. Amended: Filed Feb. 14, 2002.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri State Public Defender System, Office of the Director, Attn: Lisa Martin, 231 E. Capitol, Jefferson City, MO 65101, phone (573) 526-5210. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 19—DEPARTMENT OF HEALTH
Division 10—Office of the Director
Chapter 4—Coordinated Health Care Services**

PROPOSED RESCISSION

19 CSR 10-4.010 Primary Care Resource Initiative for Missouri (PRIMO) Program. This rule established the requirements for developing and implementing a system of coordinated health care services available and accessible to all Missourians. This system was referred to as the Primary Care Resource Initiative for Missouri Program.

PURPOSE: This rule is being rescinded because the authorizing statutory language and practice environment have necessitated major revisions in program operations.

AUTHORITY: section 191.411.1, RSMo 1994. This rule was previously filed as 19 CSR 50-4.010. Emergency rule filed Nov. 1, 1994, effective Nov. 11, 1994, expired March 10, 1995. Emergency rule filed Feb. 23, 1995, effective March 5, 1995, expired July 2, 1995. Original rule filed Nov. 1, 1994, effective June 30, 1995. Changed to 19 CSR 10-4.010 July 30, 1998. Rescinded: Filed Feb. 15, 2002.

PUBLIC COST: This proposed rescission will cost state agencies and political subdivisions less than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with Harold Kirbey, Chief, Health Systems Development Unit, 920 Wildwood, Jefferson City, MO 65109. To be considered, comments

must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 19—DEPARTMENT OF HEALTH AND SENIOR
SERVICES**

**Division 10—Office of the Director
Chapter 4—Coordinated Health Care Services**

PROPOSED RULE

19 CSR 10-4.010 Primary Care Resource Initiative for Missouri (PRIMO) Program

PURPOSE: This rule implements a system of incentives to develop coordinated health care services available and accessible to all persons under Primary Care Resource Initiative for Missouri (PRIMO).

(1) The following definitions shall be used in the interpretation and enforcement of this rule:

(A) Approved family practice residency program means a graduate medical education program designed to train family or general practice physicians and approved by the Accreditation Council for Graduate Medical Education for allopathic residencies or by the American Osteopathic Association for osteopathic residencies;

(B) Approved primary care residency program means a graduate medical education program designed to train family practice, general practice, general pediatric or general internal medicine physicians and approved by the Accreditation Council for Graduate Medical Education for allopathic residencies or by the American Osteopathic Association for osteopathic residencies;

(C) Area of defined need means a geographic area or population designated by the Missouri Department of Health and Senior Services as experiencing a shortage of accessible primary and preventive health care providers and adverse health outcomes;

(D) Department means the Missouri Department of Health and Senior Services;

(E) Director means the Director of the Missouri Department of Health and Senior Services;

(F) Forgivable loan means the financial assistance provided by the Department of Health and Senior Services for professional education that may be forgiven, fully or partially, in return for qualifying employment;

(G) Forgiveness means the monetary reduction of a recipient's PRIMO debt in exchange for qualifying employment in a defined area of need;

(H) Eligible student means a Missouri resident accepted or enrolled in a participating institution in a formal course of instruction leading to:

1. A bachelor of science degree leading to certification as a primary care advanced practice nurse, a doctor of dentistry or a doctor of allopathic or osteopathic medicine;

2. A master of science degree in nursing leading to a primary care advanced practice nursing degree;

3. A degree as a doctor of allopathic or osteopathic medicine;

4. A degree as a doctor of dentistry;

5. A degree leading to licensure as a registered dental hygienist; or

6. Based on documented need assessments utilizing a scientifically proven methodology, all other health profession students will be considered for funding pending resource availability;

(I) Participating institution means an institution in Missouri, which grants degrees as a doctor of allopathic or osteopathic medicine; as a doctor of dentistry; as a master of science in nursing leading to certification as a primary care advanced practice nurse; as a bachelor of science in a field leading to acceptance into a school of allopathic or osteopathic medicine, school of dentistry or

a master of science in nursing program; leading to licensure as a registered dental hygienist; or an institution, which offers an approved primary care residency program;

(J) Advanced practice nurse means a nurse who has received a graduate degree from a participating accredited college or university with a concentration in advanced practice nursing and who has received from the Missouri State Board of Nursing a "Document of Recognition" authorizing the nurse to practice as a certified nurse practitioner or a certified clinical specialist. Nursing specialties are limited to family, adult, women's health, gerontology and pediatric nurse practitioner;

(K) Primary health care provider means a generalist physician, advanced practice nurse, dentist or dental hygienist specializing in the provision of primary and preventive health care services;

(L) Qualified employment means employment at a minimum of thirty (30) hours per week in this state providing primary health care services in an area of defined need;

(M) Resident means an individual who has lived in this state for any purpose, other than attending an educational institution located within this state, for one (1) or more years before submitting an application for financial assistance from the department;

(N) Rural area means a town or community within this state, which is not an urbanized area. An urbanized area is defined as a central city(ies) and its contiguous, closely settled territory with a combined population of at least fifty thousand (50,000); and

(O) Primary health care services are defined as the actual, hands-on provision of primary and preventive health care services by a licensed physician specializing in family practice, general practice, general internal medicine or general pediatrics, or by an advanced practice nurse specialist certified in family, women's health, pediatric, gerontology, or adult health or a licensed general dentist or dental hygienist.

(2) The department in cooperation with appropriate public and nonprofit agencies, institutions and organizations, shall develop and implement a statewide, integrated primary and preventive health care delivery system including the education, recruitment and retention of health care professionals, extending from high school student identification and support systems to placement of professionals in areas of defined need.

(A) The department may contract with appropriate public and/or nonprofit agencies, institutions and organizations to develop and implement a statewide recruitment, education and support system for high school and undergraduate college students to enter into primary and preventive health care professional education.

1. The system shall assure appropriate and academically sound pre-college academic preparation.

2. The system shall provide experiential, hands-on learning opportunities.

3. The system shall emphasize recruitment of minority students and students from areas of defined need or rural areas.

(B) The department may provide financial assistance to eligible students and resident physicians.

1. Eligible students and resident physicians may apply for financial assistance from the Primary Care Resource Initiative for Missouri (PRIMO) Program, upon acceptance for admission into an approved Missouri institution or residency program.

2. To qualify for assistance the applicant shall have no other conflicting service obligation, with the exception of the National Guard or military reserves.

3. Recipients must apply for funding annually.

4. In return for an obligation to provide primary health care services in an area of defined need upon completion of their training eligible students may receive forgivable loans as follows:

A. Full-time undergraduate and dental hygienist students may receive five thousand dollars (\$5,000) per academic year not to exceed four (4) loans;

B. Full-time graduate nursing students may receive five thousand dollars (\$5,000) per academic year not to exceed two (2) loans;

C. Part-time undergraduate and dental hygienist students may receive three thousand dollars (\$3,000) per academic year not to exceed six (6) loans;

D. Part-time graduate nursing students may receive three thousand dollars (\$3,000) per academic year not to exceed four (4) loans;

E. Graduate nursing students engaged in a clinical experience with a preceptor may receive one (1) five thousand dollar (\$5,000) loan.

5. In return for an obligation to provide primary health care services in an area of defined need upon completion of their training eligible students at schools of allopathic and osteopathic medicine and dentistry may receive forgivable loans as follows:

A. Students enrolled in a six (6)-year program may receive ten thousand dollars (\$10,000) per academic year for year one (1) and year two (2) of the program.

B. Students enrolled in a six (6)-year program may receive from twenty thousand dollars (\$20,000) to twenty-five thousand dollars (\$25,000) based upon the participating institution's tuition, for academic years three (3) through six (6), not to exceed four (4) loans;

C. Students enrolled in a four (4)-year program may receive from twenty thousand dollars (\$20,000) to twenty-five thousand dollars (\$25,000) based upon the participating institution's tuition, not to exceed four (4) loans.

6. Selected primary care resident physicians may receive ten thousand dollars (\$10,000) per year in forgivable loans, not to exceed three (3) loans.

7. Interest at the rate of nine and one-half percent (9 1/2%) per year from the date of check issuance shall be charged on all PRIMO loans.

8. The department may grant a deferral of repayment of principal and interest when deferral is in the best interests of the state and the PRIMO program.

9. Interest accrued during a deferral period by a PRIMO scholar shall be forgiven on the same basis as the original principal and interest.

10. Forgiveness of interest and principal for financial assistance recipients engaged in qualified employment shall occur at the rate of twenty percent (20%) per calendar year of the total financial assistance provided through the PRIMO program. If a recipient receives assistance for less than five (5) years, forgiveness shall occur on a year-for-year basis.

11. Forgiveness and cash repayment periods shall begin no later than six (6) months following the completion of training.

12. Recipients found to be in default of their contracts shall be allowed a cash repayment period of up to sixty (60) months. The repayment period shall begin the first day of the calendar month following the month the recipient is found to be out of compliance.

13. Preference for financial assistance shall be given to:

A. Students previously participating in the PRIMO or PRIMO approved programs;

B. Minority students and students from areas of defined need or rural areas;

C. Students with an interest in providing primary health care services in areas of defined need.

(C) The department may provide support to participating institutions to facilitate development of programs to increase the number of primary health care professionals and clinical training sites in areas of defined need.

(D) The department may facilitate the development of community-based, comprehensive primary health care delivery systems throughout the state.

1. The department may contract with organizations to develop community-based, comprehensive primary health care delivery systems.

2. Participation will be prioritized according to community health care needs, extent of community support and a documented community strategic intervention plan.

3. Participants will be reviewed annually and may be approved for continued funding, not to exceed five (5) consecutive years, based on:

A. Availability of state funds;

B. Participant's documented accomplishments and adherence to project activities; and

C. Annual detailed record to the department of the expenditure of PRIMO funds.

(3) PRIMO program participants shall file with the department the following completed forms:

(A) All applicants for financial assistance shall file form MO 580-1968 (4-99);

(B) Applicants approved for financial assistance shall file the contract form MO 580-1966 (3-96).

AUTHORITY: section 191.411, RSMo Supp. 2001. This rule was previously filed as 19 CSR 50-4.010. Emergency rule filed Nov. 1, 1994, effective Nov. 11, 1994, expired March 10, 1995. Emergency rule filed Feb. 23, 1995, effective March 5, 1995, expired July 2, 1995. Original rule filed Nov. 1, 1994, effective June 30, 1995. Changed to 19 CSR 10-4.010, July 30, 1998. Rescinded and re-adopted: Filed Feb. 15, 2002.

PUBLIC COST: This proposed rule will cost state agencies and political subdivisions \$5,244,314 annually in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with Harold Kirby, Chief, Health Systems Development Unit, 920 Wildwood, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

FISCAL NOTE
PUBLIC ENTITY COST

I. RULE NUMBER

Title: Title 19 -- Missouri Department of Health and Senior Services
 Division: Division 10 -- Office of the Director
 Chapter: Chapter 4 -- Coordinated Health Care Services
 Type of Rule Making: Proposed Rule
 Rule Number and Name: 19 CSR 10-4.010 Primary Care Resource Initiative for Missouri (PRIMO) Program

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
DHSS	5,244,314 annually

III. WORKSHEET

Budget Object Class	GR	FED	Other	Total	Job Clas
100 Broad Band Manager II	0	0	25,828	25,828	
100 Health Program Representative III	0	0	39,048	39,048	
100 Clerk Typist III	0	0	17,388	17,388	
100	0	0	0	0	
100	0	0	0	0	
PS Subtotal	0	0	82,264	82,264	
FTE	0.00		2.00	2.00	
140 Travel, In-State	0	0	0	0	
160 Travel, Out-State	0	0	0	0	
190 Supplies	0	0	0	0	
320 Professional Development	0	0	0	0	
340 Communication Services and Supplies	0	0	0	0	
400 Professional Services	0	0	0	0	
480 Computer Equipment	0	0	0	0	
580 Office Equipment	0	0	0	0	
590 Other Equipment	0	0	0	0	
760 Rebillable Expenses	0	0	0	0	
800 Program Distributions	388,000	0	4,774,050	5,162,050	
E&E/PD Subtotal	388,000	0	4,774,050	5,162,050	
Decision Item Total	388,000	0	4,856,314	5,244,314	annually

IV. ASSUMPTIONS

The cost indicated in the worksheet are those currently appropriated by the General Assembly, less Governor's withhold, for the operations of the PRIMO program. The Other funds identified are the Health Access Incentive Funds (\$3,924,050) and Donated Funds (\$850,000).

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 10—Office of the Director
Chapter 4—Coordinated Health Care Services

PROPOSED RULE

19 CSR 10-4.050 Healthy Communities Incentive Program

PURPOSE: This rule establishes the requirements and the process for participation of a health professional in the Healthy Communities Incentive Program.

(1) The following definitions shall be used in interpretation and enforcement of this rule:

(A) Approved practice site means the practice location for which the department agreed to provide support;

(B) Area of defined need means a geographic area or population designated by the Missouri Department of Health and Senior Services as experiencing a shortage of accessible primary and preventive health care services;

(C) Dentist means an individual licensed and registered pursuant to section 332.071, RSMo;

(D) Department means the Missouri Department of Health and Senior Services;

(E) Director means the director of the Missouri Department of Health and Senior Services;

(F) Hospital means a facility licensed in the state of Missouri pursuant to Chapter 197, RSMo;

(G) Licensing board means the Board of Registration for the Healing Arts and the Missouri State Dental Board within the Missouri Department of Economic Development;

(H) Physician means an individual licensed and registered pursuant to Chapter 334, RSMo;

(I) Sliding scale fee means a fee structure that provides adjustment to charges for all individuals under two hundred percent (200%) of the federal poverty limit, based upon family income and size.

(2) The department may contract with selected primary care physicians and general dentists to provide health care services to populations in need within the state.

(3) Applicants must submit a written request that contains all of the following information and documentation presented in the order they are listed in subsections (3)(A)–(H). Applications for participation that do not comply with these requirements will not be considered. Each request shall contain:

(A) A written request from the applicant for participation in the program;

(B) A detailed written description of the proposed practice site, including the facility in which the applicant will be working and the health care services currently provided at that site;

(C) Official notification from the applicable Missouri licensing board that the applicant is licensed in good standing;

(D) For physicians, a letter from the medical director of all hospitals at which the physician has or will have privileges delineating the status of the privileges. This should include when the privileges began or will begin, how they may have changed over time and an explanation for any changes;

(E) A written statement from the applicant's malpractice insurance carrier setting forth any claims that have been made against the applicant and the disposition of those claims;

(F) A written statement from the local public health agency, whose jurisdiction includes the applicant's proposed practice site, that the applicant's services are required by and are in the interest of the community;

(G) A copy of the applicant's employment contract for the proposed practice site for a period of no less than four (4) years; and

(H) Documentation of agreement to provide care to the populations in the area of defined need, including:

1. Acceptance as a provider by the Missouri Medicaid agency; and
2. A copy of the sliding scale fee.

(4) Selection for participation in the Healthy Communities Incentive Program will be prioritized utilizing the following criteria:

(A) The degree of need for health professional services (areas with a lack of access for the entire population will be given priority over those areas without access for specific populations);

(B) Recruitment of health professionals into an area will be given priority over retention of existing providers;

(C) Those employed by an organization with a history of service to the underserved may be given priority over other employment types including self-employed applicants; and

(D) Those approved practice sites participating with the department in the financing of the incentive payments.

(5) Participation in the Healthy Communities Incentive Program shall consist of payments to individual health professionals under a written contract.

(A) The contract period shall be, at a minimum, four (4) years in length;

(B) Contract amount shall be one hundred thousand dollars (\$100,000) for each four (4)-year period;

(C) Payment for the contract shall be due the final quarter of the last year of the contract period; and

(D) Pre-payment of the contract amount may be made to facilitate placement in areas of defined need within the state.

(6) Participants shall supply the following to the department by July 1 of each year:

(A) Participant's name;

(B) Address of the contracted practice site(s);

(C) The number and characteristics of the patients served including:

1. Gender;

2. Age distributions; and

3. Payor source (Medicaid, Medicare, Commercial Insurance or Sliding Scale Fee);

(D) Letters of continued support from the Local Public Health Agency; and

(E) Letter from the applicable licensing board stating that the participant is licensed in good standing in Missouri.

(7) If an individual violates the written contract the state shall be entitled to recover from the individual an amount equal to the sum of:

(A) The total of the amounts prepaid by the state on behalf of the individual;

(B) The interest on the amounts which would be payable if at the time the amounts were paid they were loans bearing interest at the maximum prevailing rate as determined by the Treasurer of the United States; and

(C) Any legal fees or associated costs incurred by the department or the state of Missouri in the collection of damages.

AUTHORITY: section 191.411, RSMo Supp. 2001. Original rule filed Feb. 15, 2002.

PUBLIC COST: This proposed rule will cost state agencies and political subdivisions \$1,827,750 annually in the aggregate.

PRIVATE COST: This proposed rule will cost private entities two thousand dollars (\$2,000) or less annually in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with Harold Kirbey, Chief, Health Systems Development Unit, 920 Wildwood, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

**FISCAL NOTE
PUBLIC ENTITY COST**

I. RULE NUMBER

Title: Title 19 -- Missouri Department of Health and Senior Services

Division: Division 10 -- Office of the Director

Chapter: Chapter 4 -- Coordinated Health Care Services

Type of Rule Making: Proposed Rule

Rule Number and Name: 19 CSR 10-4.050 Healthy Communities Incentive Program Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Annual Cost of Compliance
DHSS	\$1,827,750 annually

III. WORKSHEET

Category			Total
Personnel Services			65,508
Equipment and Expense			48,566
PS and E&E Subtotal			114,074
	FTE	2.00	
Incentive Payments	Number	Annual Amount	
	Dentists	22	40,000
	Physicians	20	40,000
Evaluation/Research			33,676
Program Costs Subtotal		113,676	1,713,676
Total Costs		113,676	1,827,750

IV. ASSUMPTIONS

The cost indicated in the worksheet are those currently appropriated by the 91st General Assembly, House Bill Number 14. The funds identified are Tobacco Settlement.

**FISCAL NOTE
PRIVATE ENTITY COST**

I. RULE NUMBER

Title: Title 19 -- Missouri Department of Health and Senior Services

Division: Division 10 -- Office of the Director

Chapter: Chapter 4 -- Coordinated Health Care Services

Type of Rule Making: Proposed Rule

Rule Number and Name: 19 CSR 10-4.050 Healthy Communities Incentive Program Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities.
50 per year	Physician and Dentist Applicants	\$ 2,000 or less per year

III. WORKSHEET

Each applicant will be required to provide documentation of current license, letters of support and malpractice insurance coverage.

The expected number of application is an average of 50 per year. The annual cost is estimated at 50 applications submitted at a cost of no more than \$40 each, for a total annual cost of \$2,000.

IV. ASSUMPTIONS

The costs associated with the application could include mail and copying costs for application materials. Applications consist of a minimum of nine (9) documents, that may consist of an average of four (4) pages. The maximum copy cost reported by applicants is \$0.25 per page. The estimated copy costs for each application would be \$9.00. Mailing costs are estimated at a maximum of \$11.00 to allow for overnight or special carrier costs. Participants would be required to re-submit this information annually to verify continued eligibility. The total estimated cost would then be \$40.00 per application.

**Title [13/19—DEPARTMENT OF [SOCIAL SERVICES] HEALTH AND SENIOR SERVICES
Division 15—Division of [Aging] Senior Services
Chapter 4—Older Americans Act**

PROPOSED AMENDMENT

[13/19 CSR 15-4.050 Funding Formula and Fiscal Management. The director of the Division of Senior Services proposes to amend this rule by deleting obsolete language contained within sections (2) and (6), and adding new language under each of the above sections to incorporate new percentage figures for each area agency on aging.

PURPOSE: This amendment revises the funding formulas which allows the Division of Senior Services to disburse funds to the area agencies on aging in the state.

(2) The intrastate funding formula for the state of Missouri shall be established by the proportion of the population in each planning and service area (PSA) as calculated by using the following four (4) factors:

(E) Data used to compute the area agency on aging allotment percentages for all Fiscal Years preceding 2003 was derived from the 1990 Census of Population and Housing, Summary Tape 3A for the following categories:

1. Population sixty (60) years of age and over for funds allocated for the period July 1, 1994 through June 30, 1995;
2. Population sixty (60) years of age and over, below poverty;
3. Population sixty (60) years of age and over, minority below poverty;
4. Population sixty (60) years of age and over, rural or geographically isolated; and
5. Population sixty (60) years of age and over, minority;

[(N)](G) Data used to compute the area agency on aging allotment percentages was derived from the 1993 Census Estimates prepared by the Missouri Office of Administration for the population sixty (60) years of age and over for funds allocated for the period July 1, 1994 through June 30, 1995;

(H) Data used to compute the area agency on aging allotment percentages was derived from the 1993 Census Estimates prepared by the Missouri Office of Administration for the population sixty (60) years of age and over for funds allocated for the period July 1, 1995 through June 30, 1996;

(I) Data used to compute the area agency on aging allotment percentages was derived from the 1994 Census Estimates prepared by the Missouri Office of Administration for the population sixty (60) years of age and over for funds allocated for the period July 1, 1996 through June 30, 1997;

(J) Data used to compute the area agency on aging allotment percentages was derived from the 1995 Census Estimates prepared by the Missouri Office of Administration for the population sixty (60) years of age and over for funds allocated for the period July 1, 1997 through June 30, 1998;

(K) Data used to compute the area agency on aging allotment percentages was derived from the 1996 Census Estimates prepared by the Missouri Office of Administration for the population sixty (60) years of age and over for funds allocated for the period July 1, 1998 through June 30, 1999;

(L) Data used to compute the area agency on aging allotment percentages was derived from the 1997 Census Estimates prepared by the Missouri Office of

Administration for the population sixty (60) years of age and over for funds allocated for the period July 1, 1999 through June 30, 2000;

(M) Data used to compute the area agency on aging allotment percentages was derived from the 1998 Census Estimates prepared by the Missouri Office of Administration for the population sixty (60) years of age and over for funds allocated for the period July 1, 2000 through June 30, 2001;]

[(N)](G) Data used to compute the area agency on aging allotment percentages was derived from the 1999 Census Estimates prepared by the Missouri Office of Administration for the population sixty (60) years of age and over for funds allocated for the period July 1, 2001 through June 30, 2002;

(H) Data used to compute the area agency on aging allotment percentages was derived from the 2000 Census prepared by the Missouri Office of Administration for the population sixty (60) years of age and over for funds allocated for the period July 1, 2002 through June 30, 2003;

[(O) Based on the factors stated in this rule, the percentage of funds allocated to each PSA for the period July 1, 1994 through June 30, 1995, are as follows:

1. Southwest Missouri Office on Aging—12.45%;
 2. Southeast Missouri Area Agency on Aging—10.66%;
 3. District III Area Agency on Aging—6.73%;
 4. Northwest Missouri Area Agency on Aging—6.62%;
 5. Northeast Missouri Area Agency on Aging—5.76%;
 6. Central Missouri Area Agency on Aging—10.79%;
 7. Mid-America Regional Council on Aging—14.21%;
 8. Mid-East Area Agency on Aging—19.34%;
 9. City of St. Louis Area Agency on Aging—9.80%;
- and
10. Area Agency on Aging Region X—3.64%;

(P) Based on the factors stated in this rule, the percentage of funds allocated to each PSA for Fiscal Year 1996 beginning on July 1, 1995 and ending June 30, 1996, are as follows:

1. Southwest Missouri Office on Aging—12.58%;
 2. Southeast Missouri Area Agency on Aging—10.57%;
 3. District III Area Agency on Aging—6.63%;
 4. Northwest Missouri Area Agency on Aging—6.49%;
 5. Northeast Missouri Area Agency on Aging—5.65%;
 6. Central Missouri Area Agency on Aging—10.86%;
 7. Mid-America Regional Council Area Agency on Aging—14.32%;
 8. Mid-East Area Agency on Aging—20.07%;
 9. City of St. Louis Area Agency on Aging—9.19%;
- and
10. Area Agency on Aging Region X—3.64%;

(Q) Based on the factors stated in this rule, the percentages of funds allocated to each PSA for Fiscal Year 1997 beginning on July 1, 1996 and ending June 30, 1997, are as follows:

1. Southwest Missouri Office on Aging—12.63%;
2. Southeast Missouri Area Agency on Aging—10.54%;
3. District III Area Agency on Aging—6.61%;
4. Northwest Missouri Area Agency on Aging—6.44%;
5. Northeast Missouri Area Agency on Aging—5.63%;
6. Central Missouri Area Agency on Aging—10.88%;

7. *Mid-America Regional Council Area Agency on Aging—14.35%*;

8. *Mid-East Area Agency on Aging—20.28%*;

9. *St. Louis Area Agency on Aging—9.00%*; and

10. *Area Agency on Aging Region X—3.64%*;

(R) Based on the factors stated in this rule, the percentages of funds allocated to each PSA for Fiscal Year 1998 beginning on July 1, 1997 and ending June 30, 1998, are as follows:

1. *Southwest Missouri Office on Aging—12.69%*;

2. *Southeast Missouri Area Agency—10.52%*;

3. *District III Area Agency—6.60%*;

4. *Northwest Missouri Area Agency—6.40%*;

5. *Northeast Missouri Area Agency—5.61%*;

6. *Central Missouri Area Agency—10.91%*;

7. *Mid-America Regional Council—14.39%*;

8. *Mid-East Area Agency—20.42%*;

9. *St. Louis Area Agency—8.82%* and

10. *Region X Area Agency—3.64%*;

(S) Based on the factors stated in this rule, the percentages of funds allocated to each PSA for Fiscal Year 1999 beginning on July 1, 1998 and ending June 30, 1999, are as follows:

1. *Southwest Missouri Office on Aging—12.76%*;

2. *Southeast Missouri Area Agency—10.48%*;

3. *District III Area Agency—6.59%*;

4. *Northwest Missouri Area Agency—6.35%*;

5. *Northeast Missouri Area Agency—5.59%*;

6. *Central Missouri Area Agency—10.94%*;

7. *Mid-America Regional Council—14.42%*;

8. *Mid-East Area Agency—20.59%*;

9. *St. Louis Area Agency—8.64%*; and

10. *Region X Area Agency—3.64%*;

(T) Based on the factors stated in this rule, the percentages of funds allocated to each PSA for Fiscal Year 2000 beginning on July 1, 1999 and ending June 30, 2000, are as follows:

1. *Southwest Missouri Office on Aging—12.82%*;

2. *Southeast Missouri Area Agency—10.46%*;

3. *District III Area Agency—6.59%*;

4. *Northwest Missouri Area Agency—6.30%*;

5. *Northeast Missouri Area Agency—5.59%*;

6. *Central Missouri Area Agency—10.97%*;

7. *Mid-America Regional Council—14.46%*;

8. *Mid-East Area Agency—20.72%*;

9. *St. Louis Area Agency—8.46%*; and

10. *Region X Area Agency—3.63%*; and

(U) Based on the factors stated in this rule, the percentages of funds allocated to each PSA for Fiscal Year 2001 beginning on July 1, 2000 and ending June 30, 2001, are as follows:

1. *Southwest Missouri Office on Aging—12.87%*;

2. *Southeast Missouri Area Agency—10.43%*;

3. *District III Area Agency—6.57%*;

4. *Northwest Missouri Area Agency—6.26%*;

5. *Northeast Missouri Area Agency—5.58%*;

6. *Central Missouri Area Agency—11.00%*;

7. *Mid-America Regional Council—14.49%*;

8. *Mid-East Area Agency—20.86%*;

9. *St. Louis Area Agency—8.30%*; and

10. *Region X Area Agency—3.64%*; and

[(V)](I) Based on the factors stated in this rule, the percentages of funds allocated to each PSA for the Fiscal Year 2002 beginning on July 1, 2001 and ending June 30, 2002, are as follows:

1. *Southwest Missouri Office on Aging—12.93%*;

2. *Southeast Missouri Area Agency—10.40%*;

3. *District III Area Agency—6.56%*;

4. *Northwest Missouri Area Agency—6.23%*;

5. *Northeast Missouri Area Agency—5.55%*;

6. *Central Missouri Area Agency—11.03%*;

7. *Mid-America Regional Council—14.53%*;

8. *Mid-East Area Agency—20.93%*;

9. *St. Louis Area Agency—8.21%*; and

10. *Region X Area Agency—3.63% [.]*; and

(J) Based on the factors stated in this rule, the percentage of funds allocated to each PSA for Fiscal Year 2003 beginning July 1, 2002 and ending June 30, 2003, are as follows:

1. **Southwest Missouri Office on Aging—13.16%**;

2. **Southeast Missouri Area Agency—10.43%**;

3. **District III Area Agency—6.60%**;

4. **Northwest Missouri Area Agency—6.18%**;

5. **Northeast Missouri Area Agency—5.58%**;

6. **Central Missouri Area Agency—11.16%**;

7. **Mid-America Regional Council—14.41%**;

8. **Mid-East Area Agency—21.01%**;

9. **St. Louis Area Agency—7.82%**; and

10. **Region X Area Agency—3.65%**.

(6) The intrastate funding formula for the allocation of Title III funds for Disease Prevention and Health Promotion Services shall be established by the proportion of the sum of the factors for each PSA to the total of the factors for the state as calculated by using the following three (3) factors:

(D) Data used for the following categories was derived from the 1990 Census of Population and Housing, Summary Tape File 2A for use in allocating funds for the Fiscal Years preceding 2003:

1. Population sixty (60) and over;

2. Population sixty (60) and over minority;

(E) Data used for the following categories was derived from the 2000 Census for use in allocating funds for Fiscal Year 2003;

1. Population sixty (60) and over;

2. Population sixty (60) and over minority;

[(E)](F) Data used for the population sixty (60) and over below poverty was derived from the 1990 Census of Population and Housing, Summary Tape File 4A;

[(F)](G) Data used for the population per square mile was derived from the 1990 Census of Population and Housing Unit Counts, Table 4;

[(G)](H) Data from the Missouri Department of Social Services, Division of Medical Services was used for the population sixty (60) and over receiving Medicaid assistance;

[(H) Data from the Federal Register, Volume 59, Number 14, was used for the population sixty (60) and over residing in HPSAs;

(I) Based upon the factors stated in this rule, the percentage of funds allocated to each PSA for Fiscal Year 1997 is as follows:

1. *Southwest Missouri Office on Aging—12.79%*;

2. *Southeast Missouri Area Agency on Aging—10.98%*;

3. *District III Area Agency on Aging—7.30%*;

4. *Northwest Missouri Area Agency on Aging—7.55%*;

5. *Northeast Missouri Area Agency on Aging—6.70%*;

6. *Central Missouri Area Agency on Aging—11.67%*;

7. *Mid-America Regional Council—13.51%*;

8. *Mid-East Area Agency on Aging—11.30%*;

9. *St. Louis City Area Agency on Aging—13.01%*; and

10. *Area Agency on Aging Region X—5.19%*;

(J) Data from the October 2, 1995 Federal Register was used for the population sixty (60) and over residing in HPSAs;

(K) Based upon the factors stated in this rule, the percentage of funds allocated to each PSA for Fiscal Year 1998 is as follows:

1. Southwest Missouri Office on Aging—12.46%;
2. Southeast Missouri Area Agency—11.25%;
3. District III Area Agency—7.06%;
4. Northwest Missouri Area Agency—6.94%;
5. Northeast Missouri Area Agency—6.68%;
6. Central Missouri Area Agency—9.23%;
7. Mid-America Regional Council—19.06%;
8. Mid-East Area Agency—11.90%;
9. St. Louis Area Agency—10.60%; and
10. Region X Area Agency—4.82%;]

[(L)](I) Data from the Department of Health and Senior Services was used for the population sixty (60) and over residing in HPSAs;

[(M)] Based upon the factors stated in this rule, the percentage of funds allocated to each PSA for Fiscal Year 1999 are as follows:

1. Southwest Missouri Office on Aging—12.89%;
2. Southeast Missouri Area Agency—11.06%;
3. District III Area Agency—7.34%;
4. Northwest Missouri Area Agency—7.00%;
5. Northeast Missouri Area Agency—6.37%;
6. Central Missouri Area Agency—9.19%;
7. Mid-America Regional Council—19.00%;
8. Mid-East Area Agency—11.99%;
9. St. Louis Area Agency—10.60%; and
10. Region X Area Agency—4.56%;

(N) Based upon the factors stated in this rule, the percentage of funds allocated to each PSA for Fiscal Year 2000 are as follows:

1. Southwest Missouri Office on Aging—12.50%;
2. Southeast Missouri Area Agency—11.38%;
3. District III Area Agency—7.31%;
4. Northwest Missouri Area Agency—7.03%;
5. Northeast Missouri Area Agency—6.64%;
6. Central Missouri Area Agency—9.21%;
7. Mid-America Regional Council—18.83%;
8. Mid-East Area Agency—12.06%;
9. St. Louis Area Agency—10.19%; and
10. Region X Area Agency—4.85%;

(O) Based upon the factors stated in this rule, the percentages of funds allocated to each PSA for Fiscal Year 2001 are as follows:

1. Southwest Missouri Office on Aging—12.61%;
2. Southeast Missouri Area Agency—11.35%;
3. District III Area Agency—7.31%;
4. Northwest Missouri Area Agency—6.98%;
5. Northeast Missouri Area Agency—6.70%;
6. Central Missouri Area Agency—9.24%;
7. Mid-America Regional Council—18.93%;
8. Mid-East Area Agency—12.15%;
9. St. Louis Area Agency—9.96%; and
10. Region X Area Agency—4.77%; and]

[(P)](J) Based upon the factors stated in this rule, the percentages of funds allocated to each PSA for Fiscal Year 2002 are as follows:

1. Southwest Missouri Office on Aging—14.27%;
2. Southeast Missouri Area Agency—12.18%;
3. District III Area Agency—6.46%;
4. Northwest Missouri Area Agency—7.86%;
5. Northeast Missouri Area Agency—5.74%;
6. Central Missouri Area Agency—8.33%;
7. Mid-America Regional Council—8.45%;
8. Mid-East Area Agency—19.65%;
9. St. Louis Area Agency—11.02%; and
10. Region X Area Agency—6.04%[.]; and

(K) Based upon the factors stated in this rule, the percentages of funds allocated to each PSA for Fiscal Year 2003 are as follows:

1. Southwest Missouri Office on Aging—12.31%;
2. Southeast Missouri Area Agency—10.21%;
3. District III Area Agency—7.03%;
4. Northwest Missouri Area Agency—7.15%;
5. Northeast Missouri Area Agency—6.78%;
6. Central Missouri Area Agency—10.40%;
7. Mid-America Regional Council—12.54%;
8. Mid-East Area Agency—20.40%;
9. St. Louis Area Agency—7.47%; and
10. Region X Area Agency—5.71%.

AUTHORITY section 660.050, RSMo [2000] Supp. 2001. This rule was previously filed as 13 CSR 15-6.195 and 13 CSR 15-4.050. Original rule filed Jan. 6, 1986, effective April 30, 1986. For intervening history, please consult the *Code of State Regulations*. Moved to 19 CSR 15-4.050, effective Aug. 28, 2001. Amended: Filed Feb 15, 2002.

PUBLIC COST: In accordance with section 305 of the Older Americans Act, the Division of Senior Services as the state unit on aging has designated ten (10) area agencies on aging within the state. This rule is specific to those ten (10) area agencies on aging. Seven (7) of the entities are non-profit organizations and three (3) are public organizations. The public entities and their respective increase/(decrease) in revenues are: Mid-America Regional Council Area Agency on Aging—\$20,749, City of St. Louis Area Agency on Aging—(\$162,048) and Area Agency on Aging Region X—\$1,334.

PRIVATE COST: In accordance with section 305 of the Older Americans Act, the Division of Senior Services as the state unit on aging has designated ten (10) area agencies on aging within the state. This rule is specific to those ten (10) area agencies on aging. Seven (7) of the entities are non-profit organizations and three (3) are public organizations. The non-profit agencies and their respective increase/(decrease) in revenues are: Southwest Missouri Office on Aging—\$40,335, Southeast Missouri Area Agency on Aging—(\$18,097), District III Area Agency on Aging—\$19,425, Northwest Missouri Area Agency on Aging—(\$24,248), Northeast Missouri Area Agency on Aging—\$22,915, Central Missouri Area Agency on Aging—\$66,097 and Mid-East Area Agency on Aging—\$33,538.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Senior Services, Linda Allen, Director, PO Box 1337, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

FISCAL NOTE
PUBLIC ENTITY COST

I. RULE NUMBER

Title: 19 - Department of Health & Senior Services

Division: 15 - Division of Senior Services

Chapter: 4 - Older Americans Act

Type of Rulemaking: Proposed Amendment

Rule Number and Name: 19 CSR 15-4.050, Funding Formula and Fiscal Management

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Mid America Regional Council	\$20,749
City of St. Louis	(\$162,048)
Area Agency on Aging Region X	\$1,334

III. WORKSHEET

Funding formula for distribution of funds:

	Increase/(Decrease) in Title III Funds	Increase/(Decrease) in Disease Prevention Funds
Mid America Regional Council	\$(34,978)	\$ 55,727
City of St. Louis	(113,679)	(48,369)
Area Agency on Aging Region X	<u>5,830</u>	<u>(4,496)</u>
Total	\$(142,827)	\$2,862

IV. ASSUMPTIONS

- In accordance with the federal Older Americans Act (OAA), this rule relates to the Missouri Department of Health & Senior Services/Division of Senior Services (DHSS/DSS), the designated state agency responsible for development and implementation of a state plan on aging under Titles III, V and VII of the Act.
- This rule is specific to the state unit on aging within DHSS/DSS as mandated by Title III of the OAA and designated area agencies on aging. In accordance with section 305 of the OAA, DSS as the state unit on aging has designated ten (10) area agencies on aging within the state. This rule is specific to those ten (10) area agencies on aging. Seven (7) of the entities are non-profit organizations and three (3) are public organizations. The non-profit agencies are: Southwest Missouri Office on Aging, Southeast Missouri Area Agency on Aging, District III Area Agency on Aging, Northwest Missouri Area Agency on Aging, Northeast Missouri Area Agency on Aging, Central Missouri Area Agency on Aging and Mid-East Area Agency on Aging. The public entities are: Mid-America Regional Council Area Agency on Aging, City of St. Louis Area Agency on Aging and Area Agency on Aging Region X.
- This rule is mandated by the OAA; therefore, a takings analysis is not required under section 536.017, RSMo 2000.

4. The OAA mandates Title III funds, with limited exceptions detailed within section 304, be distributed to area agencies on aging designated by the state unit on aging. DSS, the designated state unit on aging, is responsible for developing in consultation with the area agencies on aging an intrastate funding formula for distribution of Title III funds to area agencies on aging. The intrastate funding formula is based upon criteria found within section 305 of the OAA.
5. This rule is federally mandated; therefore, the life of the rule cannot be determined by DSS.
6. The aggregate decrease in public revenues over the life of the rule may be obtained by multiplying the revenues above by the number of years the rule is projected to be in effect. Consideration should be given to the demographic changes as contained within information from the US Department of Commerce, Bureau of the Census and population estimates prepared by the Missouri Office of Administration. Further, the area agency on aging funding levels are annually affected by the level of federal, Administration on Aging grant awards to Missouri.
7. Area agencies on aging do not cover the same number of counties nor do they receive the same level of funding. In order to obtain a reasonable estimate of the decreased revenue to a single area agency on aging, first divide the anticipated decrease in public revenues by the number of public or private area agencies on aging affected under this specific fiscal note.
8. Any other costs not identified within this fiscal note are unforeseeable and unquantifiable.

FISCAL NOTE
PRIVATE ENTITY COST

I. RULE NUMBER

Title: 19 - Department of Health & Senior Services

Division: 15 - Division of Senior Services

Chapter: 4 - Older Americans Act

Type of Rulemaking: Proposed Amendment

Rule Number and Name: 19 CSR 15-4.050, Funding Formula and Fiscal Management

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
7	Area agencies on aging	\$139,965*

*The aggregate change over the life of the rule may be obtained by multiplying the revenues above by the number of years the rule is projected to be in effect.

III. WORKSHEET

Funding formula for distribution of funds:

	Increase/(Decrease) in Title III Funds	Increase/(Decrease) in Disease Prevention Funds
Southwest Office on Aging	\$ 67,040	\$(26,705)
Southeast Missouri Area Agency	8,745	(26,842)
District III Area Agency	11,659	7,766
Northwest Missouri Area Agency	(14,574)	(9,674)
Northeast Missouri Area Agency	8,745	14,170
Central Missouri Area Agency	37,893	28,204
Mid East Area Agency	<u>23,319</u>	<u>10,219</u>
Totals	\$142,827	\$(2,862)

IV. ASSUMPTIONS

1. In accordance with the federal Older Americans Act (OAA), this rule relates to the Missouri Department of Health & Senior Services/Division of Senior Services (DHSS/DSS), the designated state agency responsible for development and implementation of a state plan on aging under Titles III, V and VII of the Act.
2. This rule is specific to the state unit on aging within DHSS/DSS as mandated by Title III of the OAA and designated area agencies on aging. In accordance with section 305 of the Act, DSS as the state unit on aging has designated ten (10) area agencies on aging within the state. This rule is specific to those ten (10) area agencies on aging. Seven (7) of the entities are non-profit

organizations and three (3) are public organizations. The non-profit agencies are: Southwest Missouri Office on Aging, Southeast Missouri Area Agency on Aging, District III Area Agency on Aging, Northwest Missouri Area Agency on Aging, Northeast Missouri Area Agency on Aging, Central Missouri Area Agency on Aging and Mid-East Area Agency on Aging. The public entities are: Mid-America Regional Council Area Agency on Aging, City of St. Louis Area Agency on Aging and Area Agency on Aging Region X.

3. This rule is mandated by the OAA; therefore, a takings analysis is not required under section 536.017, RSMo 2000.
4. The OAA mandates Title III funds, with limited exceptions detailed within section 304, be distributed to area agencies on aging designated by the state unit on aging. DSS, the designated state unit on aging, is responsible for developing in consultation with the area agencies on aging an intrastate funding formula for distribution of Title III funds to area agencies on aging. The intrastate funding formula is based upon criteria found within section 305 of the OAA.
5. This rule is federally mandated; therefore, the life of the rule cannot be determined by DSS.
6. The aggregate decrease in public revenues over the life of the rule may be obtained by multiplying the revenues above by the number of years the rule is projected to be in effect. Consideration should be given to the demographic changes as contained within information from the US Department of Commerce, Bureau of the Census and population estimates prepared by the Missouri Office of Administration. Further, the area agency on aging funding levels are annually affected by the level of federal, Administration on Aging grant awards to Missouri.
7. Area agencies on aging do not cover the same number of counties nor do they receive the same level of funding. In order to obtain a reasonable estimate of the decreased revenue to a single area agency on aging, first divide the anticipated decrease in public revenues by the number of public or private area agencies on aging affected under this specific fiscal note.
8. Any other costs not identified within this fiscal note are unforeseeable and unquantifiable.