

SENATE SUBSTITUTE  
FOR  
HOUSE COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 1765

AN ACT

To repeal sections 404.710, 404.717, 456.023, 456.590, 456.3-304, 456.4B-411, 456.5-508, 456.7-706, 469.060, 469.467, 473.050, 475.125, 513.430, 515.240, 515.250, 515.260, 516.105, and 650.058, RSMo, and to enact in lieu thereof eighty new sections relating to civil proceedings, with penalty provisions.

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

1           Section A. Sections 404.710, 404.717, 456.023, 456.590,  
2           456.3-304, 456.4B-411, 456.5-508, 456.7-706, 469.060, 469.467,  
3           473.050, 475.125, 513.430, 515.240, 515.250, 515.260, 516.105,  
4           and 650.058, RSMo, are repealed and eighty new sections enacted  
5           in lieu thereof, to be known as sections 404.710, 404.717,  
6           456.970, 456.975, 456.980, 456.985, 456.990, 456.995, 456.1000,  
7           456.1005, 456.1010, 456.1015, 456.1020, 456.1025, 456.1030,  
8           456.1035, 456.1040, 456.1045, 456.1050, 456.1055, 456.1060,  
9           456.1065, 456.1070, 456.1075, 456.1080, 456.1085, 456.1090,  
10          456.1095, 456.1100, 456.1105, 456.1110, 456.1115, 456.1120,  
11          456.1125, 456.1130, 456.1135, 456.3-304, 456.4B-411, 456.5-508,  
12          456.7-706, 469.467, 473.050, 475.125, 513.430, 515.500, 515.505,  
13          515.510, 515.515, 515.520, 515.525, 515.530, 515.535, 515.540,  
14          515.545, 515.550, 515.555, 515.560, 515.565, 515.570, 515.575,

1 515.580, 515.585, 515.590, 515.595, 515.600, 515.605, 515.610,  
2 515.615, 515.620, 515.625, 515.630, 515.635, 515.640, 515.645,  
3 515.650, 515.655, 515.660, 515.665, 516.105, and 650.058, to read  
4 as follows:

5 404.710. 1. A principal may delegate to an attorney in  
6 fact in a power of attorney general powers to act in a fiduciary  
7 capacity on the principal's behalf with respect to all lawful  
8 subjects and purposes or with respect to one or more express  
9 subjects or purposes. A power of attorney with general powers  
10 may be durable or not durable.

11 2. If the power of attorney states that general powers are  
12 granted to the attorney in fact and further states in substance  
13 that it grants power to the attorney in fact to act with respect  
14 to all lawful subjects and purposes or that it grants general  
15 powers for general purposes or does not by its terms limit the  
16 power to the specific subject or purposes set out in the  
17 instrument, then the authority of the attorney in fact acting  
18 under the power of attorney shall extend to and include each and  
19 every action or power which an adult who is nondisabled and  
20 nonincapacitated may carry out through an agent specifically  
21 authorized in the premises, with respect to any and all matters  
22 whatsoever, except as provided in subsections 6 and 7 of this  
23 section. When a power of attorney grants general powers to an  
24 attorney in fact to act with respect to all lawful subjects and  
25 purposes, the enumeration of one or more specific subjects or  
26 purposes does not limit the general authority granted by that  
27 power of attorney, unless otherwise provided in the power of  
28 attorney.

1           3. If the power of attorney states that general powers are  
2 granted to an attorney in fact with respect to one or more  
3 express subjects or purposes for which general powers are  
4 conferred, then the authority of the attorney in fact acting  
5 under the power of attorney shall extend to and include each and  
6 every action or power, but only with respect to the specific  
7 subjects or purposes expressed in the power of attorney that an  
8 adult who is nondisabled and nonincapacitated may carry out  
9 through an agent specifically authorized in the premises, with  
10 respect to any and all matters whatsoever, except as provided in  
11 subsections 6 and 7 of this section.

12           4. Except as provided in subsections 6 and 7 of this  
13 section, an attorney in fact with general powers has, with  
14 respect to the subjects or purposes for which the powers are  
15 conferred, all rights, power and authority to act for the  
16 principal that the principal would have with respect to his or  
17 her own person or property, including property owned jointly or  
18 by the entirety with another or others, as a nondisabled and  
19 nonincapacitated adult; and without limiting the foregoing has  
20 with respect to the subjects or purposes of the power complete  
21 discretion to make a decision for the principal, to act or not  
22 act, to consent or not consent to, or withdraw consent for, any  
23 act, and to execute and deliver or accept any deed, bill of sale,  
24 bill of lading, assignment, contract, note, security instrument,  
25 consent, receipt, release, proof of claim, petition or other  
26 pleading, tax document, notice, application, acknowledgment or  
27 other document necessary or convenient to implement or confirm  
28 any act, transaction or decision. An attorney in fact with

1 general powers, whether power to act with respect to all lawful  
2 subjects and purposes, or only with respect to one or more  
3 express subjects or purposes, shall have the power, unless  
4 specifically denied by the terms of the power of attorney, to  
5 make, execute and deliver to or for the benefit of or at the  
6 request of a third person, who is requested to rely upon an  
7 action of the attorney in fact, an agreement indemnifying and  
8 holding harmless any third person or persons from any liability,  
9 claims or expenses, including legal expenses, incurred by any  
10 such third person by reason of acting or refraining from acting  
11 pursuant to the request of the attorney in fact, and such  
12 indemnity agreement shall be binding upon the principal who has  
13 executed such power of attorney and upon the principal's  
14 successor or successors in interest. No such indemnity agreement  
15 shall protect any third person from any liability, claims or  
16 expenses incurred by reason of the fact that, and to the extent  
17 that, the third person has honored the power of attorney for  
18 actions outside the scope of authority granted by the power of  
19 attorney. In addition, the attorney in fact has complete  
20 discretion to employ and compensate real estate agents, brokers,  
21 attorneys, accountants and subagents of all types to represent  
22 and act for the principal in any and all matters, including tax  
23 matters involving the United States government or any other  
24 government or taxing entity, including, but not limited to, the  
25 execution of supplemental or additional powers of attorney in the  
26 name of the principal in form that may be required or preferred  
27 by any such taxing entity or other third person, and to deal with  
28 any or all third persons in the name of the principal without

1 limitation. No such supplemental or additional power of attorney  
2 shall broaden the scope of authority granted to the attorney in  
3 fact in the original power of attorney executed by the principal.

4 5. An attorney in fact, who is granted general powers for  
5 all subjects and purposes or with respect to any express subjects  
6 or purposes, shall exercise the powers conferred according to the  
7 principal's instructions, in the principal's best interest, in  
8 good faith, prudently and in accordance with sections 404.712 and  
9 404.714.

10 6. Any power of attorney, whether durable or not durable,  
11 and whether or not it grants general powers for all subjects and  
12 purposes or with respect to express subjects or purposes, shall  
13 be construed to grant power or authority to an attorney in fact  
14 to carry out any of the actions described in this subsection if  
15 the actions are expressly enumerated and authorized in the power  
16 of attorney. Any power of attorney may grant power of authority  
17 to an attorney in fact to carry out any of the following actions  
18 if the actions are expressly authorized in the power of attorney:

19 (1) To execute, amend or revoke any trust agreement;

20 (2) To fund with the principal's assets any trust not  
21 created by the principal;

22 (3) To make or revoke a gift of the principal's property in  
23 trust or otherwise;

24 (4) To disclaim a gift or devise of property to or for the  
25 benefit of the principal, including but not limited to the  
26 ability to disclaim or release any power of appointment granted  
27 to the principal and the ability to disclaim all or part of the  
28 principal's interest in appointive property to the extent

1 authorized under sections 456.970 to 456.1135;

2 (5) To create or change survivorship interests in the  
3 principal's property or in property in which the principal may  
4 have an interest; provided, however, that the inclusion of the  
5 authority set out in this subdivision shall not be necessary in  
6 order to grant to an attorney in fact acting under a power of  
7 attorney granting general powers with respect to all lawful  
8 subjects and purposes the authority to withdraw funds or other  
9 property from any account, contract or other similar arrangement  
10 held in the names of the principal and one or more other persons  
11 with any financial institution, brokerage company or other  
12 depository to the same extent that the principal would be  
13 authorized to do if the principal were present, not disabled or  
14 incapacitated, and seeking to act in the principal's own behalf;

15 (6) To designate or change the designation of beneficiaries  
16 to receive any property, benefit or contract right on the  
17 principal's death;

18 (7) To give or withhold consent to an autopsy or postmortem  
19 examination;

20 (8) To make an anatomical gift of, or prohibit an  
21 anatomical gift of, all or part of the principal's body under the  
22 Revised Uniform Anatomical Gift Act or to exercise the right of  
23 sepulcher over the principal's body under section 194.119;

24 (9) To nominate a guardian or conservator for the  
25 principal; and if so stated in the power of attorney, the  
26 attorney in fact may nominate himself as such;

27 (10) To give consent to or prohibit any type of health  
28 care, medical care, treatment or procedure to the extent

1 authorized by sections 404.800 to 404.865; [or]

2 (11) To designate one or more substitute or successor or  
3 additional attorneys in fact; or

4 (12) To exercise, to revoke or amend the release of, or to  
5 contract to exercise or not to exercise, any power of appointment  
6 granted to the principal to the extent authorized under sections  
7 456.970 to 456.1135.

8 7. No power of attorney, whether durable or not durable,  
9 and whether or not it delegates general powers, may delegate or  
10 grant power or authority to an attorney in fact to do or carry  
11 out any of the following actions for the principal:

12 (1) To make, publish, declare, amend or revoke a will for  
13 the principal;

14 (2) To make, execute, modify or revoke a living will  
15 declaration for the principal;

16 (3) To require the principal, against his or her will, to  
17 take any action or to refrain from taking any action; or

18 (4) To carry out any actions specifically forbidden by the  
19 principal while not under any disability or incapacity.

20 8. A third person may freely rely on, contract and deal  
21 with an attorney in fact delegated general powers with respect to  
22 the subjects and purposes encompassed or expressed in the power  
23 of attorney without regard to whether the power of attorney  
24 expressly identifies the specific property, account, security,  
25 storage facility or matter as being within the scope of a subject  
26 or purpose contained in the power of attorney, and without regard  
27 to whether the power of attorney expressly authorizes the  
28 specific act, transaction or decision by the attorney in fact.

1           9. It is the policy of this state that an attorney in fact  
2 acting pursuant to the provisions of a power of attorney granting  
3 general powers shall be accorded the same rights and privileges  
4 with respect to the personal welfare, property and business  
5 interests of the principal, and if the power of attorney  
6 enumerates some express subjects or purposes, with respect to  
7 those subjects or purposes, as if the principal himself or  
8 herself were personally present and acting or seeking to act; and  
9 any provision of law and any purported waiver, consent or  
10 agreement executed or granted by the principal to the contrary  
11 shall be void and unenforceable.

12           10. Sections 404.700 to 404.735 shall not be construed to  
13 preclude any person or business enterprise from providing in a  
14 contract with the principal as to the procedure that thereafter  
15 must be followed by the principal or the principal's attorney in  
16 fact in order to give a valid notice to the person or business  
17 enterprise of any modification or termination of the appointment  
18 of an attorney in fact by the principal; and any such contractual  
19 provision for notice shall be valid and binding on the principal  
20 and the principal's successors so long as such provision is  
21 reasonably capable of being carried out.

22           404.717. 1. As between the principal and attorney in fact  
23 or successor attorney in fact, and any agents appointed by either  
24 of them, unless the power of attorney is coupled with an  
25 interest, the authority granted in a power of attorney shall be  
26 modified or terminated as follows:

27           (1) On the date shown in the power of attorney and in  
28 accordance with the express provisions of the power of attorney;

1           (2) When the principal, orally or in writing, or the  
2 principal's legal representative with approval of the court in  
3 writing informs the attorney in fact or successor that the power  
4 of attorney is modified or terminated, or when and under what  
5 circumstances it is modified or terminated;

6           (3) When a written notice of modification or termination of  
7 the power of attorney is filed by the principal or the  
8 principal's legal representative for record in the office of the  
9 recorder of deeds in the city or county of the principal's  
10 residence or, if the principal is a nonresident of the state, in  
11 the city or county of the residence of the attorney in fact last  
12 known to the principal, or in the city or county in which is  
13 located any property specifically referred to in the power of  
14 attorney;

15           (4) On the death of the principal, except that if the power  
16 of attorney grants authority under subdivision (7) or (8) of  
17 subsection 6 of section 404.710, the power of attorney and the  
18 authority of the attorney in fact shall continue for the limited  
19 purpose of carrying out the authority granted under either or  
20 both of said subdivisions for a reasonable length of time after  
21 the death of the principal;

22           (5) When the attorney in fact under a durable power of  
23 attorney is not qualified to act for the principal;

24           (6) On the filing of any action for divorce or dissolution  
25 of the marriage of the principal and the principal's attorney in  
26 fact who were married to each other at or subsequent to the time  
27 the power of attorney was created, unless the power of attorney  
28 provides otherwise.

1           2. Whenever any of the events described in subsection 1 of  
2 this section operate merely to terminate the authority of the  
3 particular person designated as the attorney in fact, rather than  
4 terminating the power of attorney, if the power of attorney  
5 designates a successor or contingent attorney in fact or  
6 prescribes a procedure whereby a successor or contingent attorney  
7 in fact may be designated, then the authority provided in the  
8 power of attorney shall extend to and vest in the successor or  
9 contingent attorney in fact in lieu of the attorney in fact whose  
10 power and authority was terminated under any of the circumstances  
11 referred to in subsection 1 of this section.

12           3. As between the principal and attorney in fact or  
13 successor attorney in fact, acts and transactions of the attorney  
14 in fact or successor attorney in fact undertaken in good faith,  
15 in accordance with section 404.714, and without actual knowledge  
16 of the death of the principal or without actual knowledge, or  
17 constructive knowledge pursuant to subdivision (3) of subsection  
18 1 of this section, that the authority granted in the power of  
19 attorney has been suspended, modified or terminated, relieves the  
20 attorney in fact or successor attorney in fact from liability to  
21 the principal and the principal's successors in interest.

22           4. This section does not prohibit the principal, acting  
23 individually, and the person designated as the attorney in fact  
24 from entering into a written agreement that sets forth their  
25 duties and liabilities as between themselves and their  
26 successors, and which expands or limits the application of  
27 sections 404.700 to 404.735, with the exception of those acts  
28 enumerated in subsection 7 of section 404.710.

1           5. As between the principal and any attorney in fact or  
2 successor attorney in fact, if the attorney in fact or successor  
3 attorney in fact undertakes to act, and if in respect to such  
4 act, the attorney in fact or successor [acts in bad faith,  
5 fraudulently or otherwise dishonestly] attorney in fact engages  
6 in willful misconduct or fraud or acts with willful disregard for  
7 the purposes, terms, or conditions of the power of attorney, or  
8 if the attorney in fact or successor attorney in fact  
9 intentionally acts after receiving actual notice that the power  
10 of attorney has been revoked or terminated, and thereby causes  
11 damage or loss to the principal or to the principal's successors  
12 in interest, such attorney in fact or successor attorney in fact  
13 shall be liable to the principal or to the principal's successors  
14 in interest, or both, for such damages, together with reasonable  
15 attorney's fees, and punitive damages as allowed by law.

16           6. For purposes of this section, the principal's  
17 "successors in interest" shall include those persons who can  
18 prove they have been damaged as a result of the actions of the  
19 attorney in fact or successor attorney in fact, such as a  
20 conservator of the principal or a personal representative of a  
21 deceased principal. If more than one person claims a recovery  
22 under this section the court shall determine the priority of  
23 their respective claims.

24           456.970. Sections 456.970 to 456.1135 shall be known and  
25 may be cited as the "Missouri Uniform Powers of Appointment Act".

26           456.975. As used in sections 456.970 to 456.1135 the  
27 following terms mean:

28           (1) "Appointee", a person to which a powerholder makes an

1 appointment of appointive property;

2 (2) "Appointive property", the property or property  
3 interest subject to a power of appointment;

4 (3) "Blanket-exercise clause", a clause in an instrument  
5 which exercises a power of appointment and is not a specific-  
6 exercise clause. The term includes a clause that:

7 (a) Expressly uses the words "any power" in exercising any  
8 power of appointment the powerholder has;

9 (b) Expressly uses the words "any property" in appointing  
10 any property over which the powerholder has a power of  
11 appointment; or

12 (c) Disposes of all property subject to disposition by the  
13 powerholder;

14 (4) "Claim of creditor", the attachment by a creditor of  
15 trust property or beneficial interests subject to a power of  
16 appointment, a creditor obtaining an order from a court forcing a  
17 judicial sale of trust property, a creditor compelling the  
18 exercise of a power of appointment, or a creditor reaching trust  
19 property or beneficial interests by other means;

20 (5) "Donor", a person who creates a power of appointment;

21 (6) "Exclusionary power of appointment", a power of  
22 appointment exercisable in favor of any one or more of the  
23 permissible appointees to the exclusion of the other permissible  
24 appointees;

25 (7) "General power of appointment", a power of appointment  
26 exercisable in favor of the powerholder, the powerholder's  
27 estate, a creditor of the powerholder, or a creditor of the  
28 powerholder's estate;

1       (8) "Gift-in-default clause", a clause identifying a taker  
2 in default of appointment;

3       (9) "Impermissible appointee", a person that is not a  
4 permissible appointee;

5       (10) "Instrument", a document that contains information  
6 that:

7       (a) Is inscribed on a hard copy, or inscribed on a hard  
8 copy that is transmitted by facsimile or stored in portable  
9 document format (.pdf) or in another comparable electronic means  
10 or other medium that is retrievable in perceivable form; and

11       (b) Contains a signature;

12       (11) "Nongeneral power of appointment", a power of  
13 appointment that is not a general power of appointment;

14       (12) "Permissible appointee", a person in whose favor a  
15 powerholder may exercise a power of appointment;

16       (13) "Person", an individual, estate, trust, business or  
17 nonprofit entity, public corporation, government or governmental  
18 subdivision, agency, or instrumentality, or other legal entity;

19       (14) "Power of appointment", a power that enables a  
20 powerholder acting in a nonfiduciary capacity to designate a  
21 recipient of an ownership interest in or another power of  
22 appointment over the appointive property. The term does not  
23 include a power of attorney;

24       (15) "Powerholder", a person in which a donor creates a  
25 power of appointment;

26       (16) "Presently exercisable power of appointment", a power  
27 of appointment exercisable by the powerholder at the relevant  
28 time. The term includes a power of appointment not exercisable

1 until the occurrence of a specified event, the satisfaction of an  
2 ascertainable standard, or the passage of a specified time only  
3 after:

4 (a) The occurrence of the specified event;

5 (b) The satisfaction of the ascertainable standard; or

6 (c) The passage of the specified time, and does not include  
7 a power exercisable only at the powerholder's death;

8 (17) "Specific-exercise clause", a clause in an instrument  
9 which specifically refers to and exercises a particular power of  
10 appointment;

11 (18) "Taker in default of appointment", a person that takes  
12 all or part of the appointive property to the extent the  
13 powerholder does not effectively exercise the power of  
14 appointment;

15 (19) "Terms of the instrument", the manifestation of the  
16 intent of the maker of the instrument regarding the instrument's  
17 provisions as expressed in the instrument or as may be  
18 established by other evidence that would be admissible in a legal  
19 proceeding.

20 456.980. 1. The creation, revocation, or amendment of the  
21 power is governed by the law of the donor's domicile at the  
22 relevant time, and the exercise, release, or disclaimer of the  
23 power, or the revocation or amendment of the exercise, release,  
24 or disclaimer of the power, is governed by the law of the  
25 powerholder's domicile at the relevant time.

26 2. The common law and principles of equity supplement  
27 sections 456.970 to 456.1135, except to the extent modified by  
28 such sections or other laws of this state.

1           456.985. 1. Except as otherwise provided in the terms of  
2 an instrument creating or exercising a power of appointment,  
3 sections 456.970 to 456.1135 govern powers of appointment.

4           2. The terms of an instrument creating or exercising a  
5 power of appointment prevail over any provisions of sections  
6 456.970 to 456.1135 except:

7           (1) The transferability of a power of appointment by a  
8 powerholder under subsection 1 of section 456.995;

9           (2) The limitations on the authority of a donor to extend a  
10 general power of appointment beyond the death of a powerholder  
11 under subsection 3 of section 456.995;

12           (3) The power is exclusionary if the permissible appointees  
13 of a power of appointment are not defined and limited under  
14 subsection 3 of section 456.1005;

15           (4) The requisites for the exercise of a power of  
16 appointment under section 456.1015;

17           (5) The effect of an impermissible appointment under  
18 section 456.1045;

19           (6) A general power of appointment which is presently  
20 exercisable may be reached by the creditors of the powerholder or  
21 the powerholder's estate under section 456.1100.

22           456.990. 1. A power of appointment is created only if:

23           (1) The instrument creating the power:

24           (a) Is valid under applicable law; and

25           (b) Except as otherwise provided in subsection 2 of this  
26 section, transfers the appointive property; and

27           (2) The terms of the instrument creating the power manifest  
28 the donor's intent to create in a powerholder a power of

1 appointment over the appointive property exercisable in favor of  
2 a permissible appointee.

3 2. Paragraph (b) of subdivision (1) of subsection 1 of this  
4 section, does not apply to the creation of a power of appointment  
5 by the exercise of a power of appointment.

6 3. Power of appointment may not be created in a deceased  
7 individual.

8 4. Subject to an applicable rule against perpetuities, a  
9 power of appointment may be created in an unborn or unascertained  
10 powerholder.

11 5. Any property that is the subject of an invalid power of  
12 appointment shall be transferred, held or otherwise disposed of  
13 in accordance with the valid provisions of the instrument  
14 attempting to create the power, if any such provisions exist, or  
15 if none, in accordance with other applicable laws, as the case  
16 may be.

17 456.995. 1. A powerholder may not transfer a power of  
18 appointment.

19 2. Except as provided in subsection 3 of this section, to  
20 the extent a powerholder dies without effectively disclaiming,  
21 exercising or releasing a power, the power lapses upon the death  
22 of the powerholder.

23 3. A general power of appointment may provide that the  
24 power shall survive the death of the powerholder in the hands of  
25 the powerholder's personal representative. Such provision shall  
26 be valid only to the extent the powerholder dies after he or she  
27 effectively receives the general power, but within the period for  
28 disclaiming the power, and only to the extent the powerholder has

1 not disclaimed, exercised or released the power. Under such  
2 circumstances, the personal representative of the powerholder may  
3 either exercise the power in favor of the powerholder's estate,  
4 if the estate is a permissible appointee, or disclaim the power  
5 as provided by section 456.1080.

6 (1) If the power is neither exercised nor disclaimed by the  
7 powerholder's personal representative as stated, the power shall  
8 lapse at the earlier of the end of the period for making a  
9 disclaimer under other applicable Missouri laws or the end of the  
10 period in which the power is valid under its terms.

11 (2) The terms of a general power of appointment providing  
12 that "this power of appointment shall survive the death of the  
13 powerholder", or words of similar import, shall be sufficient to  
14 extend the power after the death of a powerholder in the hands of  
15 his or her personal representative in this subsection.

16 (3) In addition to the protections otherwise afforded under  
17 applicable law, the personal representative shall not be  
18 individually liable for his or her actions or inactions under  
19 this subsection if he or she does not have actual knowledge of  
20 the power and all pertinent circumstances reasonably necessary  
21 for him or her to make a determination on the exercise,  
22 disclaimer or lapse of the power at least one hundred and twenty  
23 days prior to the end of the period for making a disclaimer or  
24 the end of the period in which the power is valid under its  
25 terms, whichever first occurs. The foregoing exemption from  
26 liability shall not apply if the personal representative  
27 exercises or disclaims the power or allows the power to lapse in  
28 bad faith.

1           456.1000. 1. Subject to section 456.1005, the power is:  
2           (1) Presently exercisable;  
3           (2) Exclusionary; and  
4           (3) Except as otherwise provided in subsection 2 of this  
5 section, general.

6           2. The power is nongeneral if:

7           (1) The power is exercisable only at the powerholder's  
8 death; and

9           (2) The permissible appointees of the power are a defined  
10 and limited class that does not include the powerholder's estate,  
11 the powerholder's creditors, or the creditors of the  
12 powerholder's estate.

13           456.1005. 1. As used in this section, "adverse party"  
14 means a person with a substantial beneficial interest in property  
15 which would be affected adversely by a powerholder's exercise or  
16 nonexercise of a power of appointment in favor of the  
17 powerholder, the powerholder's estate, a creditor of the  
18 powerholder, or a creditor of the powerholder's estate.

19           2. If a powerholder may exercise a power of appointment  
20 only with the consent or joinder of an adverse party, the power  
21 is nongeneral.

22           3. If the permissible appointees of a power of appointment  
23 are not defined and limited, the power is exclusionary.

24           456.1010. A donor may revoke or amend a power of  
25 appointment only to the extent that the instrument creating the  
26 power is revocable by the donor, or the donor reserves a power of  
27 revocation or amendment in the instrument creating the power of  
28 appointment.

1 456.1015. A power of appointment is exercised only if:

2 (1) The instrument exercising the power is valid under  
3 applicable law;

4 (2) The terms of the instrument exercising the power:

5 (a) Manifest the powerholder's intent to exercise the  
6 power; and

7 (b) Subject to section 456.1030, satisfy the requirements  
8 of exercise, if any, imposed by the donor; and

9 (3) To the extent the appointment is a permissible exercise  
10 of the power.

11 456.1020. 1. As used in this section:

12 (1) "Residuary clause" does not include a residuary clause  
13 containing a blanket-exercise clause or a specific-exercise  
14 clause; and

15 (2) "Will" includes a codicil and a testamentary instrument  
16 that revises another will.

17 2. A residuary clause in a powerholder's will or a  
18 comparable clause in the powerholder's revocable trust, manifests  
19 the powerholder's intent to exercise a power of appointment only  
20 if:

21 (1) The power is a general power exercisable in favor of  
22 the powerholder's estate;

23 (2) There is no gift-in-default clause or the clause is  
24 ineffective; and

25 (3) The powerholder did not release the power.

26 456.1025. 1. Except as otherwise provided in subsection 2  
27 of this section, a blanket-exercise clause extends to a power  
28 acquired by the powerholder after executing the instrument

1 containing the clause.

2 2. If the powerholder is also the donor of the power, the  
3 clause does not extend to the power unless there is no gift-in-  
4 default clause or the gift-in-default clause is ineffective.

5 456.1030. A powerholder's substantial compliance with a  
6 formal requirement of appointment imposed by the donor is  
7 sufficient if the powerholder knows of and intends to exercise  
8 the power, and the powerholder's manner of attempted exercise of  
9 the power does not impair a material purpose of the donor in  
10 imposing the requirement.

11 456.1035. 1. A powerholder of a general power of  
12 appointment that permits appointment to the powerholder or the  
13 powerholder's estate may make any appointment, including an  
14 appointment in trust or creating a new power of appointment, that  
15 the powerholder could make in disposing of the powerholder's own  
16 property.

17 2. A powerholder of a general power of appointment that  
18 permits appointment only to the creditors of the powerholder or  
19 of the powerholder's estate may appoint only to those creditors.

20 3. The powerholder of a nongeneral power may:

21 (1) Make an appointment in any form, including an  
22 appointment in trust, in favor of a permissible appointee;

23 (2) Create a general power in a permissible appointee; or

24 (3) Create a nongeneral power in any person to appoint to  
25 one or more of the permissible appointees of the original  
26 nongeneral power.

27 456.1040. 1. An appointment to a deceased appointee is  
28 ineffective.

1           2. A powerholder of a nongeneral power may exercise the  
2 power in favor of, or create a new power of appointment in, a  
3 descendant of a deceased permissible appointee whether or not the  
4 descendant is described by the donor as a permissible appointee  
5 and whether or not the descendant of a deceased permissible  
6 appointee was alive at the time of the execution of the  
7 instrument creating the power or at the time of the exercise of  
8 the power.

9           456.1045. 1. Except as otherwise provided in section  
10 456.1040, an exercise of a power of appointment in favor of an  
11 impermissible appointee is ineffective.

12           2. An exercise of a power of appointment in favor of a  
13 permissible appointee is ineffective to the extent the  
14 appointment is a fraud on the power.

15           456.1050. If a powerholder exercises a power of appointment  
16 in a disposition that also disposes of property the powerholder  
17 owns, the owned property and the appointive property shall be  
18 allocated in the permissible manner that best carries out the  
19 powerholder's intent.

20           456.1055. To the extent a powerholder of a general power of  
21 appointment, other than a power to withdraw property from,  
22 revoke, or amend a trust, makes an ineffective appointment:

23           (1) The gift-in-default clause controls the disposition of  
24 the ineffectively appointed property; or

25           (2) If there is no gift-in-default clause or to the extent  
26 the clause is ineffective, the ineffectively appointed property:

27           (a) Passes to the powerholder if the powerholder is a  
28 permissible appointee and living; or

1       (b) If the powerholder is an impermissible appointee or  
2 deceased, passes to the powerholder's estate if the estate is a  
3 permissible appointee; or

4       (c) If there is no taker under paragraphs (a) or (b) of  
5 this subdivision, passes under a reversionary interest to the  
6 donor or the donor's transferee or successor in interest.

7       456.1060. To the extent a powerholder releases or fails to  
8 exercise a general power of appointment other than a power to  
9 withdraw property from, revoke, or amend a trust, and except as  
10 provided in subsection 3 of section 456.995:

11       (1) The gift-in-default clause controls the disposition of  
12 the unappointed property; or

13       (2) If there is no gift-in-default clause or to the extent  
14 the clause is ineffective:

15       (a) Except as otherwise provided in paragraph (b) of this  
16 subdivision, the unappointed property passes to:

17       a. The powerholder if the powerholder is a permissible  
18 appointee and living; or

19       b. If the powerholder is an impermissible appointee or  
20 deceased, the powerholder's estate if the estate is a permissible  
21 appointee; or

22       (b) To the extent the powerholder released the power, or if  
23 there is no taker under paragraph (a) of this subdivision, the  
24 unappointed property passes under a reversionary interest to the  
25 donor or the donor's transferee or successor in interest.

26       456.1065. To the extent a powerholder releases,  
27 ineffectively exercises, or fails to exercise a nongeneral power  
28 of appointment:

1       (1) The gift-in-default clause controls the disposition of  
2 the unappointed property; or

3       (2) If there is no gift-in-default clause or to the extent  
4 the clause is ineffective, the unappointed property:

5       (a) Passes to the permissible appointees if:

6       a. The permissible appointees are defined and limited; and

7       b. The terms of the instrument creating the power do not  
8 manifest a contrary intent; or

9       (b) If there is no taker under paragraph (a) of this  
10 subdivision, passes under a reversionary interest to the donor or  
11 the donor's transferee or successor in interest.

12       456.1070. 1. If the powerholder makes a valid partial  
13 appointment to a taker in default of appointment, the taker in  
14 default of appointment may share fully in unappointed property.

15       2. If a powerholder makes an appointment to a taker in  
16 default of appointment and the appointee would have taken the  
17 property in the same form, manner and amount under a gift-in-  
18 default clause had the property not been appointed, the power of  
19 appointment is deemed not to have been exercised and the  
20 appointee takes under the clause.

21       456.1075. A powerholder may revoke or amend an exercise of  
22 a power of appointment at any time before the exercise becomes  
23 effective to transfer property to the appointee.

24       456.1080. As provided by sections 469.010 to 469.210, a  
25 powerholder may disclaim all or part of a power of appointment,  
26 and a permissible appointee, appointee, or taker in default of  
27 appointment may disclaim all or part of an interest in appointive  
28 property.

1       456.1085. 1. A powerholder may release a power of  
2 appointment, in whole or in part, except to the extent the terms  
3 of the instrument creating the power prevent the release.

4       2. A powerholder of a releasable power of appointment may  
5 release the power in whole or in part:

6       (1) By substantial compliance with a method provided in the  
7 terms of the instrument creating the power; or

8       (2) If the terms of the instrument creating the power do  
9 not provide a method or the method provided in the terms of the  
10 instrument is not expressly made exclusive, by an instrument  
11 manifesting the powerholder's intent by clear and convincing  
12 evidence and delivered to the donor, the donor's personal  
13 representative, a guardian of the donor or the conservator of the  
14 estate of the donor, or the holder of the legal title to the  
15 property to which the interest related. A release involving an  
16 estate or property within the jurisdiction of the probate  
17 division of a circuit court may be filed in that division.

18       3. A powerholder may revoke or amend a release of a power  
19 of appointment only to the extent that:

20       (1) The instrument of release is revocable by the  
21 powerholder; or

22       (2) The powerholder reserves a power of revocation or  
23 amendment in the instrument of release.

24       456.1090. 1. A powerholder of a presently exercisable  
25 power of appointment may contract:

26       (1) Not to exercise the power; or

27       (2) To exercise the power if the contract when made does  
28 not confer a benefit on an impermissible appointee.

1           2. A powerholder of a power of appointment that is not  
2 presently exercisable may contract to exercise or not to exercise  
3 the power only if the powerholder:

4           (1) Is also the donor of the power; and

5           (2) Has reserved the power in a revocable trust.

6           456.1095. The remedy for a powerholder's breach of contract  
7 to appoint or not to appoint property is limited to damages  
8 payable out of the appointive property or, if appropriate,  
9 specific performance of the contract.

10           456.1100. 1. As used in this section, "power of  
11 appointment created by the powerholder" includes a power of  
12 appointment created in a transfer by another person to the extent  
13 the powerholder contributed value to the transfer.

14           2. Appointive property subject to a general power of  
15 appointment created by the powerholder is subject to a claim of a  
16 creditor of the powerholder or of the powerholder's estate to the  
17 extent provided in chapter 428.

18           3. Subject to subsection 2 of this section, appointive  
19 property subject to a general power of appointment created by the  
20 powerholder is not subject to a claim of a creditor of the  
21 powerholder or the powerholder's estate:

22           (1) To the extent the powerholder irrevocably appointed the  
23 property in favor of a person other than the powerholder or the  
24 powerholder's estate; and

25           (2) If the power is not presently exercisable.

26           4. Subject to subdivision (1) of subsection 3 of this  
27 section, and notwithstanding the presence of a spendthrift  
28 provision or whether the claim arose before or after the creation

1 of the power of appointment, appointive property subject to a  
2 general power of appointment created by the powerholder is  
3 subject to a claim of a creditor of the powerholder to the same  
4 extent as if the powerholder owned the appointive property, if  
5 the power is presently exercisable.

6 456.1105. 1. Except as otherwise provided in subsection 3  
7 of this section, appointive property subject to a exercisable  
8 general power of appointment created by a person other than the  
9 powerholder is subject to a claim of a creditor of the  
10 powerholder to the extent the powerholder's property is  
11 insufficient.

12 2. Appointive property subject to testamentary or not  
13 presently exercisable general power of appointment created by a  
14 person other than the powerholder is not subject to a claim of a  
15 creditor of the powerholder or the powerholder's estate.

16 3. Subject to subsection 3 of section 456.1115, a power of  
17 appointment created by a person other than the powerholder which  
18 is subject to an ascertainable standard relating to an  
19 individual's health, education, support, or maintenance within  
20 the meaning of Section 2041(b)(1)(A) or Section 2514(c)(1) of the  
21 Internal Revenue Code, is treated for purposes of sections  
22 456.1100 to 456.1115 as a nongeneral power.

23 456.1110. 1. For purposes of sections 456.1100 to  
24 456.1115, and except as otherwise provided in subsection 2 of  
25 this section, during the period the power may be exercised, a  
26 power of withdrawal shall be treated as a presently exercisable  
27 general power of appointment to the extent of the property  
28 subject to the power.

1           2. Upon the lapse, release, or waiver of a power to  
2 withdraw property from a trust, the power is treated as a  
3 presently exercisable general power of appointment only to the  
4 extent the value of the property affected by the lapse, release,  
5 or waiver exceeds the greater of the amount specified in Sections  
6 2041(b)(2), 2514(e) or 2503(b) of the Internal Revenue Code.

7           456.1115. 1. Except as otherwise provided in subsections 2  
8 and 3 of this section, appointive property subject to a  
9 nongeneral power of appointment is exempt from a claim of a  
10 creditor of the powerholder or the powerholder's estate.

11           2. Appointive property subject to a nongeneral power of  
12 appointment is subject to a claim of a creditor of the  
13 powerholder or the powerholder's estate to the extent that the  
14 powerholder owned the property and, reserving the nongeneral  
15 power, transferred the property in violation of chapter 428.

16           3. If the initial gift-in-default of appointment is to the  
17 powerholder or the powerholder's estate, a nongeneral power of  
18 appointment is treated for purposes of sections 456.1100 to  
19 456.1115 as a general power.

20           456.1120. Sections 456.970 to 456.1135 shall not limit the  
21 ability of a creditor or other claimant to reach a beneficial  
22 interest as otherwise provided in sections 456.5-501 to 456.5-  
23 507.

24           456.1125. In applying and construing sections 456.970 to  
25 456.1135, consideration shall be given to the need to promote  
26 uniformity of the law with respect to its subject matter among  
27 states that enact it.

28           456.1130. Sections 456.970 to 456.1135 modify, limit, or

1 supersede the Electronic Signatures in Global and National  
2 Commerce Act, 15 U.S.C. Section 7001 et seq., but do not modify,  
3 limit, or supersede Section 101(c) of that act, 15 U.S.C. Section  
4 7001 (c), or authorize electronic delivery of any of the notices  
5 described in Section 103(b) of that act, 15 U.S.C. Section  
6 7003(b).

7 456.1135. 1. Except as otherwise provided in sections  
8 456.970 to 456.1135:

9 (1) Sections 456.970 to 456.1135 shall apply to a power of  
10 appointment created before, on, or after the effective date of  
11 such sections, and shall apply to a judicial proceeding  
12 concerning a power of appointment commenced on or after the  
13 effective date of these sections;

14 (2) Sections 456.970 to 456.1135 shall apply to a judicial  
15 proceeding concerning a power of appointment commenced before the  
16 effective date of such sections unless the court finds that  
17 application of a particular provision of such sections would  
18 interfere substantially with the effective conduct of the  
19 judicial proceeding or prejudice a right of a party, in which  
20 case the particular provision of such sections does not apply and  
21 the superseded law applies;

22 (3) A rule of construction or presumption provided in  
23 sections 456.970 to 456.1135 applies to an instrument executed  
24 before the effective date of sections 456.970 to 456.1135 unless  
25 there is a clear indication of a contrary intent in the terms of  
26 the instrument; and

27 (4) Except as otherwise provided in subdivisions (1) to (3)  
28 of this subsection, an action done before the effective date of

1 sections 456.970 to 456.1135 is not affected by such sections.

2 2. If a right is acquired, extinguished, or barred on the  
3 expiration of a prescribed period that commenced under law of  
4 this state other than sections 456.970 to 456.1135 before the  
5 effective date of such sections, the law continues to apply to  
6 the right.

7 456.3-304. 1. Unless otherwise represented, a minor,  
8 incapacitated, or unborn individual, or a person whose identity  
9 or location is unknown and not reasonably ascertainable, may be  
10 represented by and bound by another having a substantially  
11 identical interest with respect to the particular question or  
12 dispute, but only to the extent there is no conflict of interest  
13 between the representative and the person represented with  
14 respect to a particular question or dispute.

15 2. Unless otherwise represented, a beneficiary who is not a  
16 qualified beneficiary may be represented by and bound by a  
17 qualified beneficiary having a substantially identical interest  
18 with respect to the particular question or dispute, but only to  
19 the extent there is no conflict of interest with respect to the  
20 particular question or dispute between the representative and the  
21 person represented, in any court proceeding under subsection 2 of  
22 section 456.4-412, or in a nonjudicial settlement agreement  
23 entered into under section 456.1-111 or section 456.4A-411 in  
24 lieu of such a court proceeding.

25 456.4B-411. 1. When all of the adult beneficiaries having  
26 the capacity to contract consent, the court may, upon finding  
27 that the interest of any nonconsenting beneficiary will be  
28 adequately protected, modify the terms of a noncharitable

1 irrevocable trust so as to reduce or eliminate the interests of  
2 some beneficiaries and increase those of others, change the times  
3 or amounts of payments and distributions to beneficiaries, or  
4 provide for termination of the trust at a time earlier or later  
5 than that specified by its terms. The court may at any time upon  
6 its own motion appoint a representative pursuant to section  
7 456.3-305 to represent a nonconsenting beneficiary. The court  
8 shall appoint such a representative upon the motion of any party,  
9 unless the court determines such an appointment is not  
10 appropriate under the circumstances.

11 2. Upon termination of a trust under subsection 1 of this  
12 section, the trustee shall distribute the trust property as  
13 directed by the court.

14 3. If a trust cannot be terminated or modified under  
15 subsection 1 of this section because not all adult beneficiaries  
16 having capacity to contract consent or the terms of the trust  
17 prevent such modification or termination, the modification or  
18 termination may be approved by the court if the court is  
19 satisfied that the interests of a beneficiary, other than the  
20 settlor, who does not consent will be adequately protected,  
21 modification or termination will benefit a living settlor who is  
22 also a beneficiary, and:

23 (1) in the case of a termination, the party seeking  
24 termination establishes that continuance of the trust is not  
25 necessary to achieve any material purpose of the trust; or

26 (2) in the case of a modification, the party seeking  
27 modification establishes that the modification is not  
28 inconsistent with a material purpose of the trust, and the

1 modification is not specifically prohibited by the terms of the  
2 trust.

3 4. This section shall [apply to trusts created under trust  
4 instruments that become irrevocable on or after January 1, 2005.]  
5 replace the provisions of section 456.590 and shall apply to all  
6 trusts that were created under trust instruments that become  
7 irrevocable prior to, on, or after January 1, 2005.

8 456.5-508. 1. [A creditor or other claimant of a  
9 beneficiary or other person holding a special power of  
10 appointment or a testamentary general power of appointment may  
11 not attach trust property or beneficial interests subject to the  
12 power, obtain an order from a court forcing a judicial sale of  
13 the trust property, compel the exercise of the power, or reach  
14 the trust property or beneficial interests by any other means]  
15 Except as provided in sections 456.970 to 456.1135:

16 (1) Appointive property subject to a general power of  
17 appointment exercisable only at the powerholder's death is not  
18 subject to the claim of a creditor;

19 (2) Appointive property subject to a nongeneral power of  
20 appointment is not subject to the claim of a creditor.

21 2. This section shall not limit the ability of a creditor  
22 or other claimant to reach a beneficial interest as otherwise  
23 provided in sections 456.5-501 to 456.5-507.

24 3. [In this section "special power of appointment" means a  
25 power of appointment exercisable in favor of one or more  
26 appointees other than the holder, the holder's estate, the  
27 holder's creditors, or the creditors of the holder's estate, and  
28 a "testamentary general power of appointment" means a power of

1 appointment exercisable at the death of the holder, without the  
2 consent of the creator of the power or of a person holding an  
3 adverse interest in favor of the holder, the holder's estate, the  
4 holder's creditors, or the creditors of the holder's estate] As  
5 used in this section, the terms "appointive property", "general  
6 power of appointment", "nongeneral power of appointment", and  
7 "claim of a creditor" shall have the same meaning as defined in  
8 section 456.975.

9 456.7-706. 1. The settlor, a cotrustee, or a qualified  
10 beneficiary may request the court to remove a trustee, or a  
11 trustee may be removed and replaced by the court within its  
12 discretion on its own initiative.

13 2. The court within its discretion may remove and replace a  
14 trustee [if] under the following circumstances:

15 (1) the trustee has committed a serious breach of trust;

16 (2) lack of cooperation among cotrustees substantially  
17 impairs the administration of the trust;

18 (3) because of unfitness, unwillingness, or persistent  
19 failure of the trustee to administer the trust effectively, the  
20 court determines that removal of the trustee best serves the  
21 interests of the beneficiaries; or

22 (4) the trustee has substantially and materially reduced  
23 the level of services provided to that trust and has failed to  
24 reinstate a substantially equivalent level of services within  
25 ninety days after receipt of notice by the settlor, a cotrustee,  
26 or a qualified beneficiary or removal is requested by all of the  
27 qualified beneficiaries and in either such case the party seeking  
28 removal establishes to the court that:

1 (a) removal of the trustee best serves the interests of all  
2 of the beneficiaries;

3 (b) removal of the trustee is not inconsistent with a  
4 material purpose of the trust; and

5 (c) a suitable cotrustee or successor trustee is available  
6 and willing to serve.

7 3. In an action to remove a trustee under subdivision (4)  
8 of subsection 2 of this section, the following apply:

9 (1) In the event that a corporation is the trustee being  
10 removed, a [suitable] replacement cotrustee or successor trustee  
11 shall be [another corporation qualified to conduct trust business  
12 in this state] such trustee or trustees as the court finds  
13 suitable under the circumstances.

14 (2) In the event that a successor trustee is not appointed  
15 under the provisions of section 456.7-704 or the court finds that  
16 all potential successor trustees are not suitable, then the court  
17 may appoint such trustee or trustees as the court finds suitable  
18 under the circumstances.

19 (3) With respect to a trust created under an instrument  
20 executed before January 1, 2005, the provisions of subdivision  
21 (4) of subsection 2 of this section shall not apply if the  
22 instrument contains any language or procedures concerning removal  
23 of any trustee designated in the trust instrument.

24 4. Pending a final decision on a request to remove a  
25 trustee, or in lieu of or in addition to removing a trustee, the  
26 court may order such appropriate relief under subsection 2 of  
27 section 456.10-1001 as may be necessary to protect the trust  
28 property or the interests of the beneficiaries.

1           469.467. Sections 469.401 to 469.467 apply to every trust  
2 or decedent's estate existing on or after August 28, 2001, except  
3 as otherwise expressly provided in the will or terms of the trust  
4 or in sections 469.401 to 469.467.

5           473.050. 1. A will, to be effective as a will, must be  
6 presented for and admitted to probate.

7           2. When used in chapter 472, chapter 474, chapter 475, and  
8 this chapter, the term "presented" means:

9           (1) Either the delivery of a will of a decedent, if such  
10 will has not previously been delivered, to the probate division  
11 of the circuit court which would be the proper venue for the  
12 administration of the estate of such decedent, or the delivery of  
13 a verified statement to such court, if the will of such decedent  
14 is lost, destroyed, suppressed or otherwise not available,  
15 setting forth the reason such will is not available and setting  
16 forth the provisions of such will so far as known; and

17           (2) One of the following:

18           (a) An affidavit pursuant to section 473.097, which  
19 requests such will be admitted to probate; or

20           (b) A petition which seeks to have such will admitted to  
21 probate; or

22           (c) An authenticated copy of the order admitting such will  
23 to probate in any state, territory or district of the United  
24 States, other than this state.

25           3. No proof shall be taken of any will nor a certificate of  
26 probate thereof issued unless such will has been presented within  
27 the applicable time set forth as follows:

28           (1) In cases where notice has previously been given in

1 accordance with section 473.033 of the granting of letters on the  
2 estate of such testator, within six months after the date of the  
3 first publication of the notice of granting of letters, or within  
4 thirty days after the commencement of an action under section  
5 473.083 to establish or contest the validity of a will of the  
6 testator named in such will, whichever later occurs;

7 (2) In cases where notice has not previously been given in  
8 accordance with section 473.033 of the granting of letters on the  
9 estate of testator, within one year after the date of death of  
10 the testator;

11 (3) In cases involving a will admitted to probate in any  
12 state, territory or district of the United States, other than  
13 this state, which was the decedent's domicile, at any time during  
14 the course of administration of the decedent's domiciliary estate  
15 in such other state, territory or district of the United States.

16 4. A will presented for probate within the time limitations  
17 provided in subsection 3 of this section may be exhibited to be  
18 proven, and proof received and administration granted on such  
19 will at any time after such presentation.

20 5. A will not presented for probate within the time  
21 limitations provided in subsection 3 of this section is forever  
22 barred from admission to probate in this state.

23 6. Except as provided in subsection 4 of this section and  
24 section 537.021, no letters of administration shall be issued  
25 unless application is made to the court for such letters within  
26 one year from the date of death of the decedent.

27 475.125. 1. The court may make orders for the management  
28 of the estate of the protectee for the care, education,

1 treatment, habilitation, respite, support and maintenance of the  
2 protectee and for the maintenance of his or her family and  
3 education of his or her children, according to his or her means  
4 and obligation, if any, out of the proceeds of his or her estate,  
5 and may direct that payments for such purposes shall be made  
6 weekly, monthly, quarterly, semiannually or annually. The  
7 payments ordered under this section may be decreased or increased  
8 from time to time as ordered by the court.

9 2. Appropriations for any such purposes, expenses of  
10 administration and allowed claims shall be paid from the property  
11 or income of the estate. The court may authorize the conservator  
12 to borrow money and obligate the estate for the payment thereof  
13 if the court finds that funds of the estate for the payment of  
14 such obligation will be available within a reasonable time and  
15 that the loan is necessary. If payments are made to another  
16 under the order of the court, the conservator of the estate is  
17 not bound to see to the application thereof.

18 3. In acting under this section the court shall take into  
19 account any duty imposed by law or contract upon a parent or  
20 spouse of the protectee, a government agency, a trustee, or other  
21 person or corporation, to make payments for the benefit of or  
22 provide support, education, care, treatment, habilitation,  
23 respite, maintenance or safekeeping of the protectee and his or  
24 her dependents. The guardian of the person and the conservator  
25 of the estate shall endeavor to enforce any such duty.

26 513.430. 1. The following property shall be exempt from  
27 attachment and execution to the extent of any person's interest  
28 therein:

1           (1) Household furnishings, household goods, wearing  
2 apparel, appliances, books, animals, crops or musical instruments  
3 that are held primarily for personal, family or household use of  
4 such person or a dependent of such person, not to exceed three  
5 thousand dollars in value in the aggregate;

6           (2) A wedding ring not to exceed one thousand five hundred  
7 dollars in value and other jewelry held primarily for the  
8 personal, family or household use of such person or a dependent  
9 of such person, not to exceed five hundred dollars in value in  
10 the aggregate;

11          (3) Any other property of any kind, not to exceed in value  
12 six hundred dollars in the aggregate;

13          (4) Any implements or professional books or tools of the  
14 trade of such person or the trade of a dependent of such person  
15 not to exceed three thousand dollars in value in the aggregate;

16          (5) Any motor vehicles, not to exceed three thousand  
17 dollars in value in the aggregate;

18          (6) Any mobile home used as the principal residence but not  
19 attached to real property in which the debtor has a fee interest,  
20 not to exceed five thousand dollars in value;

21          (7) Any one or more unmaturred life insurance contracts  
22 owned by such person, other than a credit life insurance  
23 contract, and up to fifteen thousand dollars of any matured life  
24 insurance proceeds for actual funeral, cremation, or burial  
25 expenses where the deceased is the spouse, child, or parent of  
26 the beneficiary;

27          (8) The amount of any accrued dividend or interest under,  
28 or loan value of, any one or more unmaturred life insurance

1 contracts owned by such person under which the insured is such  
2 person or an individual of whom such person is a dependent;  
3 provided, however, that if proceedings under Title 11 of the  
4 United States Code are commenced by or against such person, the  
5 amount exempt in such proceedings shall not exceed in value one  
6 hundred fifty thousand dollars in the aggregate less any amount  
7 of property of such person transferred by the life insurance  
8 company or fraternal benefit society to itself in good faith if  
9 such transfer is to pay a premium or to carry out a nonforfeiture  
10 insurance option and is required to be so transferred  
11 automatically under a life insurance contract with such company  
12 or society that was entered into before commencement of such  
13 proceedings. No amount of any accrued dividend or interest  
14 under, or loan value of, any such life insurance contracts shall  
15 be exempt from any claim for child support. Notwithstanding  
16 anything to the contrary, no such amount shall be exempt in such  
17 proceedings under any such insurance contract which was purchased  
18 by such person within one year prior to the commencement of such  
19 proceedings;

20 (9) Professionally prescribed health aids for such person  
21 or a dependent of such person;

22 (10) Such person's right to receive:

23 (a) A Social Security benefit, unemployment compensation or  
24 a public assistance benefit;

25 (b) A veteran's benefit;

26 (c) A disability, illness or unemployment benefit;

27 (d) Alimony, support or separate maintenance, not to exceed  
28 seven hundred fifty dollars a month;

1 (e) Any payment under a stock bonus plan, pension plan,  
2 disability or death benefit plan, profit-sharing plan, nonpublic  
3 retirement plan or any plan described, defined, or established  
4 pursuant to section 456.014, the person's right to a participant  
5 account in any deferred compensation program offered by the state  
6 of Missouri or any of its political subdivisions, or annuity or  
7 similar plan or contract on account of illness, disability,  
8 death, age or length of service, to the extent reasonably  
9 necessary for the support of such person and any dependent of  
10 such person unless:

11 a. Such plan or contract was established by or under the  
12 auspices of an insider that employed such person at the time such  
13 person's rights under such plan or contract arose;

14 b. Such payment is on account of age or length of service;  
15 and

16 c. Such plan or contract does not qualify under Section  
17 401(a), 403(a), 403(b), 408, 408A or 409 of the Internal Revenue  
18 Code of 1986, as amended, (26 U.S.C. Section 401(a), 403(a),  
19 403(b), 408, 408A or 409);

20  
21 except that any such payment to any person shall be subject to  
22 attachment or execution pursuant to a qualified domestic  
23 relations order, as defined by Section 414(p) of the Internal  
24 Revenue Code of 1986, as amended, issued by a court in any  
25 proceeding for dissolution of marriage or legal separation or a  
26 proceeding for disposition of property following dissolution of  
27 marriage by a court which lacked personal jurisdiction over the  
28 absent spouse or lacked jurisdiction to dispose of marital

1 property at the time of the original judgment of dissolution;

2 (f) Any money or assets, payable to a participant or  
3 beneficiary from, or any interest of any participant or  
4 beneficiary in, a retirement plan, profit-sharing plan, health  
5 savings plan, or similar plan, including an inherited account or  
6 plan, that is qualified under Section 401(a), 403(a), 403(b),  
7 408, 408A or 409 of the Internal Revenue Code of 1986, as  
8 amended, whether such participant's or beneficiary's interest  
9 arises by inheritance, designation, appointment, or otherwise,  
10 except as provided in this paragraph. Any plan or arrangement  
11 described in this paragraph shall not be exempt from the claim of  
12 an alternate payee under a qualified domestic relations order;  
13 however, the interest of any and all alternate payees under a  
14 qualified domestic relations order shall be exempt from any and  
15 all claims of any creditor, other than the state of Missouri  
16 through its department of social services. As used in this  
17 paragraph, the terms "alternate payee" and "qualified domestic  
18 relations order" have the meaning given to them in Section 414(p)  
19 of the Internal Revenue Code of 1986, as amended. If proceedings  
20 under Title 11 of the United States Code are commenced by or  
21 against such person, no amount of funds shall be exempt in such  
22 proceedings under any such plan, contract, or trust which is  
23 fraudulent as defined in subsection 2 of section 428.024 and for  
24 the period such person participated within three years prior to  
25 the commencement of such proceedings. For the purposes of this  
26 section, when the fraudulently conveyed funds are recovered and  
27 after, such funds shall be deducted and then treated as though  
28 the funds had never been contributed to the plan, contract, or

1 trust;

2 (11) The debtor's right to receive, or property that is  
3 traceable to, a payment on account of the wrongful death of an  
4 individual of whom the debtor was a dependent, to the extent  
5 reasonably necessary for the support of the debtor and any  
6 dependent of the debtor;

7 (12) Firearms, firearm accessories, and ammunition, not to  
8 exceed one thousand five hundred dollars in value in the  
9 aggregate.

10 2. Nothing in this section shall be interpreted to exempt  
11 from attachment or execution for a valid judicial or  
12 administrative order for the payment of child support or  
13 maintenance any money or assets, payable to a participant or  
14 beneficiary from, or any interest of any participant or  
15 beneficiary in, a retirement plan which is qualified pursuant to  
16 Section 408A of the Internal Revenue Code of 1986, as amended.

17 515.500. Sections 515.500 to 515.665 may be cited as the  
18 "Missouri Commercial Receivership Act".

19 515.505. As used in sections 515.500 to 515.665, the  
20 following terms shall mean:

21 (1) "Affiliate":

22 (a) A person that directly or indirectly owns, controls, or  
23 holds with power to vote twenty percent or more of the  
24 outstanding voting interests of a debtor, other than:

25 a. An entity that holds such securities in a fiduciary or  
26 agency capacity without sole discretionary power to vote such  
27 interests; or

28 b. Solely to secure a debt, if such entity has not in fact

1 exercised such power to vote;

2 (b) A person whose business is operated under a lease or  
3 operating agreement by a debtor, or a person substantially all of  
4 whose property is operated under an operating agreement with a  
5 debtor; or

6 (c) A person that directly or indirectly operates the  
7 business or substantially all of the property of the debtor under  
8 a lease or operating agreement or similar arrangement;

9 (2) "Claim", a right to payment whether or not such right  
10 is reduced to judgment, liquidated, unliquidated, fixed,  
11 contingent, matured, unmatured, disputed, undisputed, legal,  
12 equitable, secured or unsecured, or a right to an equitable  
13 remedy for breach of performance if such breach gives rise to a  
14 right to payment, whether or not such right to an equitable  
15 remedy is reduced to judgment, fixed, contingent, matured,  
16 unmatured, disputed, undisputed, secured, or unsecured;

17 (3) "Court", a circuit court of the state of Missouri  
18 before which an application to appoint a receiver under sections  
19 515.500 to 515.665 has been made or granted, or before which a  
20 receivership action under sections 515.500 to 515.665 is pending;

21 (4) "Creditor", a person that has a claim against the  
22 debtor that arose at the time of or before the appointment of a  
23 receiver pursuant to sections 515.500 to 515.665;

24 (5) "Debt", liability on a claim;

25 (6) "Debtor", a person as to which a receiver is sought to  
26 be appointed or a court appoints pursuant to sections 515.500 to  
27 515.665, a person who owns property as to which a receiver is  
28 sought to be appointed or a court appoints a receiver pursuant to

1 sections 515.500 to 515.665, a person as to which a receiver has  
2 been appointed by a court in a foreign jurisdiction, or a person  
3 who owns property as to which a receiver has been appointed by a  
4 court in a foreign jurisdiction;

5 (7) "Entity", a person other than a natural person;

6 (8) "Estate property", property as to which a court  
7 appoints a receiver pursuant to sections 515.500 to 515.665;

8 (9) "Executory contract", a contract, including a lease,  
9 where the obligations of the debtor and the counter party or  
10 counter parties to the contract are unperformed to the extent  
11 that the failure of either party to complete performance of its  
12 obligations would constitute a material breach of the contract,  
13 thereby excusing the other party's performance of its obligations  
14 under the contract;

15 (10) "Foreign jurisdiction", any state or federal  
16 jurisdiction other than that of this state;

17 (11) "Insolvent", a financial status or condition such that  
18 the sum of the person's debts is greater than the value of such  
19 person's property, at fair valuation;

20 (12) "Lien", a charge against property or an interest in  
21 property to secure payment of a debt or performance of an  
22 obligation whether created voluntarily or by operation of law;

23 (13) "Notice and a hearing", such notice as is appropriate  
24 and an opportunity for hearing if one is requested. Absent  
25 request for hearing by an appropriate person or party in  
26 interest, the term notice and a hearing does not indicate a  
27 requirement for an actual hearing unless the court so orders;

28 (14) "Party", a person who is a party to the action,

1 becomes a party to the action, or shall be joined or shall be  
2 allowed to intervene in the action pursuant to the rules of the  
3 Missouri supreme court, including, without limitation, any person  
4 needed for just adjudication of the action;

5 (15) "Party in interest", the debtor, any party, the  
6 receiver, any person with an ownership interest in or lien  
7 against estate property or property sought to become estate  
8 property, any person that, with respect to particular matters  
9 presented in the receivership, has an interest that will be  
10 affected, and, in a general receivership, any creditor of the  
11 debtor;

12 (16) "Person", includes natural persons, partnerships,  
13 limited liability companies, corporations, and other entities  
14 recognized under the laws of this state;

15 (17) "Property", any right, title, and interest, of the  
16 debtor, whether legal or equitable, tangible or intangible, in  
17 real and personal property, regardless of the manner by which  
18 such rights were or are acquired, but does not include property  
19 of an individual person exempt from execution under the laws of  
20 this state; provided however, that estate property includes any  
21 nonexempt interest in property that is partially exempt.  
22 Property includes, but is not limited to, any proceeds, products,  
23 offspring, rents, or profits of or from property. Property does  
24 not include any power that a debtor may exercise solely for the  
25 benefit of another person or property impressed with a trust  
26 except to the extent that the debtor has a residual interest;

27 (18) "Receiver", a receiver appointed by a court pursuant  
28 to sections 515.500 to 515.665;

1       (19) "Receivership", the estate created pursuant to the  
2 court's order or orders appointing a receiver pursuant to  
3 sections 515.500 to 515.665, including all estate property and  
4 the interests, rights, powers, and duties of the receiver and all  
5 parties in interest relating to estate property;

6       (20) "Receivership action", the action as to which a  
7 receiver is sought to be appointed or a court appoints a receiver  
8 pursuant to sections 515.500 to 515.665;

9       (21) "Secured creditor", a creditor that has a security  
10 interest or other lien on estate property.

11       515.510. 1. To the extent the appointment of a receiver is  
12 not otherwise provided for pursuant to sections 49.555, 82.1026,  
13 91.730, 198.099, 257.450, 276.501, 287.360, 287.875, 351.498,  
14 351.1189, 354.357, 354.480, 355.736, 369.354, 370.154, 375.650,  
15 375.954, 375.1166, 375.1176, 379.1336, 379.1418, 382.409,  
16 393.145, 407.100, 425.030, 441.510, 443.893, 513.105, 513.110,  
17 521.310, 537.500, 630.763, or any other statute providing for the  
18 appointment of a receiver or administration of a receivership  
19 estate in specific circumstances, the court or any judge thereof  
20 in vacation, shall have the power to appoint a receiver, whenever  
21 such appointment shall be deemed necessary, whose duty it shall  
22 be to keep and preserve any money or other thing deposited in  
23 court, or that may be subject of a tender, and to keep and  
24 preserve all property and protect any business or business  
25 interest entrusted to the receiver pending any legal or equitable  
26 action concerning the same, subject to the order of the court,  
27 including in the following instances:

28       (1) In an action brought to dissolve an entity the court

1 may appoint a receiver with the powers of a custodian to manage  
2 the business affairs of the entity and to wind up and liquidate  
3 the entity;

4 (2) In an action in which the person seeking appointment of  
5 a receiver has a lien on or interest in property or its revenue-  
6 producing potential, and either:

7 (a) The appointment of a receiver with respect to the  
8 property or its revenue-producing potential is necessary to keep  
9 and preserve the property or its revenue-producing potential or  
10 to protect any business or business interest concerning the  
11 property or its revenue-producing potential; or

12 (b) The appointment of a receiver with respect to the  
13 property or its revenue-producing potential is provided for by a  
14 valid and enforceable contract or contract provision; or

15 (c) The appointment of a receiver is necessary to  
16 effectuate or enforce an assignment of rents or other revenues  
17 from the property;

18 (3) After judgment, in order to give effect to the  
19 judgment, provided that the party seeking the appointment  
20 demonstrates it has no other adequate remedy to enforce the  
21 judgment;

22 (4) To dispose of property according to provisions of a  
23 judgment dealing with its disposition;

24 (5) To the extent that property is not exempt from  
25 execution, at the instance of a judgment creditor either before  
26 or after the issuance of any execution, to preserve or protect  
27 it, or prevent its transfer;

28 (6) If and to the extent that property is subject to

1 execution to satisfy a judgment, to preserve the property during  
2 the pendency of an appeal, or when an execution has been returned  
3 unsatisfied, or when an order requiring a judgment debtor to  
4 appear for proceedings supplemental to judgment has been issued  
5 and the judgment debtor fails to submit to examination as  
6 ordered;

7 (7) Upon attachment of real or personal property when the  
8 property attached is of a perishable nature or is otherwise in  
9 danger of waste, impairment, or destruction or where a debtor has  
10 absconded with, secreted, or abandoned the property, and it is  
11 necessary to collect, conserve, manage, control, or protect it,  
12 or to dispose of it promptly, or when the court determines that  
13 the nature of the property or the exigency of the case otherwise  
14 provides cause for the appointment of a receiver;

15 (8) In an action by a transferor of real or personal  
16 property to avoid or rescind the transfer on the basis of fraud,  
17 or in an action to subject property or a fund to the payment of a  
18 debt;

19 (9) In an action against any entity if that person is  
20 insolvent or is not generally paying the entity's debts as those  
21 debts become due unless they are the subject of bona fide  
22 dispute;

23 (10) In an action where a mortgagee has posted and the  
24 court has approved a redemption bond as provided pursuant to  
25 section 443.440;

26 (11) If a general assignment for the benefit of creditors  
27 has been made;

28 (12) Pursuant to the terms of a valid and enforceable

1 contract or contract provision providing for the appointment of a  
2 receiver, other than pursuant to a contract or contract provision  
3 providing for the appointment of a receiver with respect to the  
4 primary residence of a debtor who is a natural person;

5 (13) To enforce a valid and enforceable contractual  
6 assignment of rents or other revenue from the property; and

7 (14) To prevent irreparable injury to the person or persons  
8 requesting the appointment of a receiver with respect to the  
9 debtor's property.

10 2. A court of this state shall appoint as receiver of  
11 property located in this state a person appointed in a foreign  
12 jurisdiction as receiver with respect to the property  
13 specifically or with respect to the debtor's property generally,  
14 upon the application of the receiver appointed in the foreign  
15 jurisdiction or of any party to that foreign action, and  
16 following the appointment shall give effect to orders, judgments,  
17 and decrees of the court in the foreign jurisdiction affecting  
18 the property in this state held by a receiver appointed in the  
19 foreign jurisdiction, unless the court determines that to do so  
20 would be manifestly unjust or manifestly inequitable. The venue  
21 of such an action may be any county in which the debtor resides  
22 or maintains any office, or any county in which any property over  
23 which a receiver is to be appointed is located at the time the  
24 action is commenced.

25 3. At least seven days' notice of any application for the  
26 appointment of a receiver shall be given to the debtor and to all  
27 other parties to the action in which the request for appointment  
28 of a receiver is sought, and to all other parties in interest as

1 the court may require. If any execution by a judgment creditor or  
2 any application by a judgment creditor for the appointment of a  
3 receiver with respect to property over which the appointment of a  
4 receiver is sought is pending in any other action at the time the  
5 application is made, then notice of the application for the  
6 receiver's appointment also shall be given to the judgment  
7 creditor in the other action. The court may shorten or expand  
8 the period for notice of an application for the appointment of a  
9 receiver upon good cause shown.

10 4. The order appointing a receiver shall reasonably  
11 describe the property over which the receiver is to take charge,  
12 by category, individual items, or both if the receiver is to take  
13 charge of less than substantially all of the debtor's property.  
14 If the order appointing a receiver does not expressly limit the  
15 receiver's authority to designated property or categories of  
16 property of the owner, the receiver shall be deemed a general  
17 receiver with authority to take charge over all of the debtor's  
18 property, wherever located.

19 5. The court may condition the appointment of a receiver  
20 upon the giving of security by the person seeking the appointment  
21 of a receiver, in such amount as the court may specify, for the  
22 payment of costs and damages incurred or suffered by any person  
23 should it later be determined that the appointment of the  
24 receiver was wrongfully obtained.

25 6. The appointment of a receiver is not required to be  
26 relief ancillary or in addition to any other claim, and may be  
27 sought as an independent claim and remedy.

28 7. Sections 515.500 to 515.665 shall not apply to persons

1 or entities who are, or who should be, regulated as public  
2 utilities by the public service commission.

3 515.515. A receiver shall be either a general receiver or a  
4 limited receiver. A receiver shall be a general receiver if the  
5 receiver is appointed to take possession and control of all or  
6 substantially all of a debtor's property and provided the power  
7 to liquidate such property. A receiver shall be a limited  
8 receiver if the receiver is appointed to take possession and  
9 control of only limited or specific property of a debtor, whether  
10 to preserve or to liquidate such property. A receiver appointed  
11 at the request of a person having a lien on or interest in  
12 specific property that constitutes all or substantially all of a  
13 debtor's property may be either a general receiver or a limited  
14 receiver. The court shall specify in the order appointing a  
15 receiver whether the receiver is appointed as a general receiver  
16 or as a limited receiver. The court by order, upon notice and a  
17 hearing, may convert either a general receiver into a limited  
18 receiver or a limited receiver into a general receiver for good  
19 cause shown. In the absence of a clear designation by the court  
20 of the type of receiver appointed, whether limited or general,  
21 the receiver shall be presumed to be a general receiver and shall  
22 have the rights, powers, and duties attendant thereto.

23 515.520. 1. Upon entry of an order appointing a receiver  
24 or upon conversion of a limited receiver to a general receiver  
25 pursuant to section 515.515 and within ten business days thereof,  
26 or within such additional time as the court may allow, the  
27 receiver shall give notice of the appointment or conversion to  
28 all parties in interest, including the secretary of state for the

1 state of Missouri, and state and federal taxing authorities.  
2 Such notice shall be made by first class mail and proof of  
3 service thereof shall be filed with the court. The content of  
4 such notice shall include:

5 (1) The caption reflecting the action in which the receiver  
6 is appointed;

7 (2) The date the action was filed;

8 (3) The date the receiver was appointed;

9 (4) The name, address, and contact information of the  
10 appointed receiver;

11 (5) Whether the receiver is a limited or general receiver;

12 (6) A description of the estate property;

13 (7) The debtor's name and address and the name and address  
14 of the attorney for the debtor, if any;

15 (8) The court address at which pleadings, motions, or other  
16 papers may be filed;

17 (9) Such additional information as the court directs; and

18 (10) A copy of the court's order appointing the receiver.

19 2. A general receiver shall also give notice of the  
20 receivership by publication in a newspaper of general circulation  
21 published in the county or counties in which estate property is  
22 known to be located once a week for three consecutive weeks. The  
23 first notice shall be published within thirty days after the date  
24 of appointment of the receiver. The notice of the receivership  
25 shall include the date of appointment of the receiver, the name  
26 of the court and the action number, the last day on which claims  
27 may be filed, if established by the court, and the name and  
28 address of the debtor, the receiver, and the receiver's attorney,

1 if any. For purposes of this section, all intangible property  
2 included as estate property is deemed to be located in the county  
3 in which the debtor, if a natural person, resides, or in which  
4 the debtor, if an entity, maintains its principal administrative  
5 offices.

6 3. The debtor shall cooperate with all reasonable requests  
7 for information from the receiver for purposes of assisting the  
8 receiver in providing notice pursuant to subsection 1 of this  
9 section. In the court's discretion, the failure of such debtor  
10 to cooperate with any reasonable request for information may be  
11 punished as a contempt of court.

12 515.525. Except as provided in sections 515.500 to 515.665  
13 or otherwise by statute, any person, whether or not a resident of  
14 this state, may serve as a receiver. A person may not be  
15 appointed as a receiver, and shall be replaced as receiver if  
16 already appointed, if it should appear to the court that the  
17 person:

18 (1) Has been found guilty of a felony or other crime  
19 involving moral turpitude or is controlled by a person who has  
20 been convicted of a felony or other crime involving moral  
21 turpitude;

22 (2) Is a party to the action, or is a parent, grandparent,  
23 grandchild, sibling, partner, director, officer, agent, attorney,  
24 employee, secured or unsecured creditor or lienor of, or holder  
25 of any equity interest in, or controls or is controlled by, the  
26 debtor, or who is the agent, affiliate, or attorney of any  
27 disqualified person;

28 (3) Has an interest materially adverse to the interest of

1 persons to be affected by the receivership generally; or

2 (4) Is a sheriff of any county.

3 515.530. Except as otherwise provided for by statute or  
4 court rule, before entering upon duties of receiver, a receiver  
5 shall execute a bond with one or more sureties approved by the  
6 court, in the amount the court specifies, conditioned that the  
7 receiver will faithfully discharge the duties of receiver in  
8 accordance with orders of the court and state law. Unless  
9 otherwise ordered by the court, the receiver's bond runs in favor  
10 of all persons having an interest in the receivership proceeding  
11 or property held by the receiver and in favor of state agencies.

12 515.535. As of the time of appointment, and subject to the  
13 provisions of subdivision (3) of subsection 3 of section 515.575,  
14 the receiver shall have the powers and priority as if it were a  
15 creditor that obtained a judicial lien at the time of appointment  
16 on all of the debtor's property that is subject to the  
17 receivership, subject to satisfaction of recording requirements  
18 as to real property pursuant to paragraph (c) of subsection 2 of  
19 section 515.545.

20 515.540. 1. Except as otherwise provided for by sections  
21 515.500 to 515.665, the court in all cases has exclusive  
22 authority over the receiver, and the exclusive possession and  
23 right of control with respect to all real property and all  
24 tangible and intangible personal property with respect to which  
25 the receiver is appointed, wherever located, and the exclusive  
26 authority to determine all controversies relating to the  
27 collection, preservation, application, and distribution of all  
28 property, and all claims against the receiver arising out of the

1 exercise of the receiver's powers or the performance of the  
2 receiver's duties. However, the court does not have exclusive  
3 authority over actions in which a state agency is a party and in  
4 which jurisdiction or venue is vested elsewhere.

5 2. For good cause shown, the court has power to shorten or  
6 expand the time frames specified in sections 515.500 to 515.665.

7 515.545. 1. A receiver has the following powers and  
8 authority:

9 (1) To incur or pay expenses incidental to the receiver's  
10 preservation and use of estate property, and otherwise in the  
11 performance of the receiver's duties, including the power to pay  
12 obligations incurred prior to the receiver's appointment if and  
13 to the extent that payment is determined by the receiver to be  
14 prudent in order to preserve the value of estate property and the  
15 funds used for this purpose are not subject to any lien or right  
16 of setoff in favor of a creditor who has not consented to the  
17 payment and whose interest is not otherwise adequately protected;

18 (2) If the appointment applies to all or substantially all  
19 of the property of an operating business or any revenue-producing  
20 property of the debtor, to do all the things which the owner of  
21 the business or property may do in the exercise of ordinary  
22 business judgment, or in the ordinary course of the operation of  
23 the business as a going concern or use of the property including,  
24 but not limited to, the purchase and sale of goods or services in  
25 the ordinary course of such business, and the incurring and  
26 payment of expenses of the business or property in the ordinary  
27 course;

28 (3) To assert any rights, claims, or choses in action of

1 the debtor, if and to the extent that the rights, claims, or  
2 choses in action are themselves property within the scope of the  
3 appointment or relate to any estate property, to maintain in the  
4 receiver's name or in the name of the debtor any action to  
5 enforce any right, claim, or chose in action, and to intervene in  
6 actions in which the debtor is a party for the purpose of  
7 exercising the powers under this subsection;

8 (4) To intervene in any action in which a claim is asserted  
9 against the debtor, for the purpose of prosecuting or defending  
10 the claim and requesting the transfer of venue of the action to  
11 the court appointing the receiver. However, the court shall not  
12 transfer actions in which a state agency is a party and as to  
13 which a statute expressly vests jurisdiction or venue elsewhere.  
14 This power is exercisable with court approval by a limited  
15 receiver, and with or without court approval by a general  
16 receiver;

17 (5) To assert rights, claims, or choses in action of the  
18 receiver arising out of transactions in which the receiver is a  
19 participant;

20 (6) To pursue in the name of the receiver any claim under  
21 sections 428.005 to 428.059 assertable by any creditor of the  
22 debtor, if pursuit of the claim is determined by the receiver to  
23 be appropriate in the exercise of the receiver's business  
24 judgment;

25 (7) To seek and obtain advice or instruction from the court  
26 with respect to any course of action with respect to which the  
27 receiver is uncertain in the exercise of the receiver's powers or  
28 the discharge of the receiver's duties;

1       (8) To obtain appraisals with respect to estate property;

2       (9) To compel by subpoena any person to submit to an  
3 examination under oath, in the manner of a deposition in  
4 accordance with rule 57.03 of the Missouri rules of civil  
5 procedure, with respect to estate property or any other matter  
6 that may affect the administration of the receivership;

7       (10) To use, sell, or lease property other than in the  
8 ordinary course of business pursuant to section 515.645, and to  
9 execute in the debtor's stead such documents, conveyances, and  
10 borrower consents as may be required in connection therewith; and

11       (11) All other powers as may be conferred upon the receiver  
12 specifically by sections 515.500 to 515.665, by statute, court  
13 rule, or by the court.

14       2. A receiver has the following duties:

15       (1) The duty to notify all federal and state taxing and  
16 applicable regulatory agencies of the receiver's appointment in  
17 accordance with any applicable laws imposing this duty, including  
18 but not limited to, 26 U.S.C. Section 6036;

19       (2) The duty to comply with state law;

20       (3) If a receiver is appointed with respect to any real  
21 property, the duty to record as soon as practicable within the  
22 land records in any county in which such real property may be  
23 situated a notice of lis pendens as provided in section 527.260,  
24 together with a certified copy of the order of appointment,  
25 together with a legal description of the real property if one is  
26 not included in that order; and

27       (4) Other duties as may be required specifically by  
28 sections 515.500 to 515.665, by statute, court rule, or by the

1 court.

2 3. The various powers, authorities, and duties of a  
3 receiver provided by sections 515.500 to 515.665 may be expanded,  
4 modified, or limited by order of the court.

5 515.550. 1. Upon demand by a receiver, any person,  
6 including the debtor, shall turn over any estate property that is  
7 within the possession or control of that person unless otherwise  
8 ordered by the court for good cause shown. A receiver by motion  
9 may seek to compel turnover of estate property as against any  
10 person over which the court first establishes jurisdiction,  
11 unless there exists a bona fide dispute with respect to the  
12 existence or nature of the receiver's possessory interest in the  
13 estate property, in which case turnover shall be sought by means  
14 of a legal action. In the absence of a bona fide dispute with  
15 respect to the receiver's right to possession of estate property,  
16 the failure to relinquish possession and control to the receiver  
17 shall be punishable as a contempt of the court.

18 2. Should the court after notice and a hearing pursuant to  
19 subsection 1 of this section order the turnover of property to  
20 the receiver, the party against which such order is made shall  
21 have the right to deliver a bond executed by such party as  
22 principal together with one or more sufficient sureties providing  
23 that the principal and each such surety shall each be bound to  
24 the receiver in double the amount of the value of the property to  
25 be turned over, should the property not be turned over to the  
26 receiver when such order becomes final. Absent such bond, the  
27 property ordered to be turned over to the receiver shall be  
28 immediately turned over to the receiver within ten days of the

1 entry of such order.

2 515.555. 1. In addition to other duties and requirements  
3 set forth in sections 515.500 to 515.665 and as ordered by the  
4 court, the debtor shall:

5 (1) Within fourteen days of the appointment of a general  
6 receiver, make available for inspection by the receiver during  
7 normal business hours all information and data required to be  
8 filed with the court pursuant to section 515.560, in the form and  
9 manner the same are maintained in the ordinary course of the  
10 debtor's business;

11 (2) Assist and cooperate fully with the receiver in the  
12 administration of the estate and the discharge of the receiver's  
13 duties, and comply with all orders of the court;

14 (3) Supply to the receiver information necessary to enable  
15 the receiver to complete any schedules or reports that the  
16 receiver may be required to file with the court, and otherwise  
17 assist the receiver in the completion of the schedules;

18 (4) Upon the receiver's appointment, deliver into the  
19 receiver's possession all the property of the receivership estate  
20 in the person's possession, custody, or control, including, but  
21 not limited to, all accounts, books, papers, records, and other  
22 documents; and

23 (5) Following the receiver's appointment, submit to  
24 examination by the receiver, or by any other person upon order of  
25 the court, under oath, concerning the acts, conduct, property,  
26 liabilities, and financial condition of that person or any matter  
27 relating to the receiver's administration of the estate.

28 2. When the debtor is an entity, each of the officers,

1 directors, managers, members, partners, or other individuals  
2 exercising or having the power to exercise control over the  
3 affairs of the entity are subject to the requirements of this  
4 section.

5 515.560. 1. Within thirty days after the date of  
6 appointment of a general receiver, the debtor shall file with the  
7 court and submit to the receiver the following schedules:

8 (1) A true list of all of the known creditors and  
9 applicable regulatory and taxing agencies of the debtor,  
10 including the mailing addresses for each, the amount and nature  
11 of their claims, and whether their claims are disputed; and

12 (2) A true list of all estate property, including the  
13 estimated liquidation value and location of the property and, if  
14 real property, a legal description thereof, as of the date of  
15 appointment of the receiver.

16 2. The Missouri supreme court may from time to time  
17 prescribe by court rule the schedules to be filed in  
18 receiverships as the supreme court shall deem appropriate to the  
19 effective administrations of sections 515.500 to 515.665.

20 515.565. 1. A receiver shall not be obligated to obtain  
21 any appraisal or other independent valuation of property in the  
22 receiver's possession unless ordered by the court to do so.

23 2. A court may order the receiver to file such additional  
24 schedules, reports of assets, liabilities, claims, or inventories  
25 as necessary and proper.

26 3. Whenever a list or schedule required pursuant to this  
27 section is not prepared and filed as required by the debtor, the  
28 court may order the receiver, a petitioning creditor, or such

1 other person as the court in its discretion deems appropriate to  
2 prepare and file such list or schedule within a time fixed by the  
3 court. The court may approve reimbursement of the cost incurred  
4 in complying with such order as an administrative expense.

5 515.570. 1. A general receiver shall file with the court a  
6 monthly report of the receiver's operations and financial affairs  
7 unless otherwise ordered by the court. Except as otherwise  
8 ordered by the court, each report of a general receiver shall be  
9 due by the last day of the subsequent month and shall include the  
10 following:

11 (1) A balance sheet;

12 (2) A statement of income and expenses;

13 (3) A statement of cash receipts and disbursements;

14 (4) A statement of accrued accounts receivable of the  
15 receiver;

16 (5) A statement disclosing amounts considered to be  
17 uncollectable;

18 (6) A statement of accounts payable of the receiver,  
19 including professional fees. Such statement shall list the name  
20 of each creditor and the amounts owing and remaining unpaid over  
21 thirty days; and

22 (7) A tax disclosure statement, which shall list post  
23 filing taxes due or tax deposits required, the name of the taxing  
24 agency, the amount due, the date due, and an explanation for any  
25 failure to make payments or deposits.

26 2. A limited receiver shall file with the court all such  
27 reports as the court may require.

28 515.575. 1. Except as otherwise ordered by the court, the

1 entry of an order appointing a general receiver shall operate as  
2 a stay, applicable to all persons, of:

3 (1) The commencement or continuation, including the  
4 issuance, employment, or service of process, of a judicial,  
5 administrative, or other action or proceeding against the debtor  
6 that was or could have been commenced before the entry of the  
7 order of appointment, or to recover a claim against the debtor  
8 that arose before the entry of the order of appointment;

9 (2) The enforcement against the debtor or any estate  
10 property of a judgment obtained before the order of appointment;

11 (3) Any act to obtain possession of estate property from  
12 the receiver, or to interfere with, or exercise control over,  
13 estate property;

14 (4) Any act to create, perfect, or enforce any lien or  
15 claim against estate property except by exercise of a right of  
16 setoff, to the extent that the lien secures a claim against the  
17 debtor that arose before the entry of the order of appointment;

18 or

19 (5) Any act to collect, assess, or recover a claim against  
20 the debtor that arose before the entry of the order of  
21 appointment.

22 2. The stay shall automatically expire as to the acts  
23 specified in subdivisions (1), (2) and (3) of subsection 1 of  
24 this section sixty days after the entry of the order of  
25 appointment unless before the expiration of the sixty-day period  
26 the debtor or receiver, for good cause shown, obtains an order of  
27 the court extending the stay, after notice and a hearing. A  
28 person whose action or proceeding is stayed by motion to the

1 court may seek relief from the stay for good cause shown. Any  
2 judgment obtained against the debtor or estate property following  
3 the entry of the order of appointment is not a lien against  
4 estate property unless the receivership is terminated prior to a  
5 conveyance of the property against which the judgment would  
6 otherwise constitute a lien.

7 3. The entry of an order appointing a receiver does not  
8 operate as a stay of:

9 (1) The commencement or continuation of a criminal  
10 proceeding against the debtor;

11 (2) The commencement or continuation of an action or  
12 proceeding to establish paternity, or to establish or modify an  
13 order for alimony, maintenance, or support, or to collect  
14 alimony, maintenance, or support under any order of a court;

15 (3) Any act to perfect or to maintain or continue the  
16 perfection of an interest in estate property pursuant to any  
17 generally applicable Missouri law that permits perfection of an  
18 interest in property to be effective against an entity that  
19 acquires rights in such property before the date of perfection.  
20 Such right to perfect an interest in estate property includes any  
21 act to perfect an interest in purchase money collateral pursuant  
22 to sections 400.9-301 to 400.9-339, perfection of a lien that may  
23 be placed against real property under the provisions of chapter  
24 429, or the assertion of a right to continue in possession of any  
25 estate property that is in the possession of a person entitled to  
26 retain possession of such property pending payment for work  
27 performed with respect to such property. If perfection of an  
28 interest would otherwise require seizure of the property involved

1 or the commencement of an action, the perfection shall instead be  
2 accomplished by filing, and by serving upon the receiver, or  
3 receiver's counsel, if any, notice of the interest within the  
4 time fixed by law for seizure or commencement;

5 (4) The commencement or continuation of an action or  
6 proceeding by a governmental unit to enforce its police or  
7 regulatory power;

8 (5) The enforcement of a judgment, other than a money  
9 judgment, obtained in an action or proceeding by a governmental  
10 unit to enforce its police or regulatory power, or with respect  
11 to any licensure of the debtor;

12 (6) The exercise of a right of setoff, including but not  
13 limited to, any right of a commodity broker, forward contract  
14 merchant, stockbroker, financial institution, or securities  
15 clearing agency to set off a claim for a margin payment or  
16 settlement payment arising out of a commodity contract, forward  
17 contract, or securities contract against cash, securities, or  
18 other property held or due from the commodity broker, forward  
19 contract merchant, stockbroker, financial institution, or  
20 securities clearing agency to margin, guarantee, secure, or  
21 settle the commodity contract, forward contract, or securities  
22 contract, and any right of a swap participant to set off a claim  
23 for a payment due to the swap participant under or in connection  
24 with a swap agreement against any payment due from the swap  
25 participant under or in connection with the swap agreement or  
26 against cash, securities, or other property of the debtor held by  
27 or due from the swap participant to guarantee, secure, or settle  
28 the swap agreement;

1       (7) The establishment by a governmental unit of any tax  
2 liability and any appeal thereof; or

3       (8) Any action pending in a court other than that in which  
4 the receiver is appointed until transcription of the order  
5 appointing the receiver or extending the stay is made to the  
6 other court in which an action against the debtor is pending.

7       4. For the purposes of subdivision (8) of subsection 3 of  
8 this section, the receiver or any party in interest is authorized  
9 to cause to be transcribed any order appointing a receiver or  
10 extending the stay to any and all courts in which any action  
11 against a debtor is pending in this state. A court that receives  
12 a transcript of an order of receivership or extension of stay may  
13 on its own order sua sponte transfer the matter before the court  
14 to the court issuing an order of receivership.

15       515.580. 1. A public utility, as defined in section  
16 386.020, providing service to estate property may not alter,  
17 refuse, or discontinue service to the property without first  
18 giving the receiver fifteen days' notice, or such other notice as  
19 may be required by the rules of the public service commission for  
20 a customer of that class, of any default or intention to alter,  
21 refuse, or discontinue service to estate property. This section  
22 does not prohibit the court, upon motion by the receiver, to  
23 prohibit the alteration or cessation of utility service if the  
24 receiver can furnish adequate assurance of payment in the form of  
25 deposit or other security for service to be provided after entry  
26 of the order appointing the receiver.

27       2. Any public utility regulated by the public service  
28 commission which violates this section shall be subject to

1 appropriate remedial measures by the commission upon receiving  
2 notice that the utility has violated the provisions of this  
3 section.

4 3. When a utility service provider not regulated by the  
5 public service commission violates this section, upon direction  
6 of the court, an action may be brought by the receiver against  
7 the utility to enforce compliance with the provisions of this  
8 section.

9 515.585. 1. A receiver may assume or reject any executory  
10 contract or unexpired lease of the debtor upon order of the court  
11 following notice and a hearing, which shall include notice to  
12 persons party to the executory contract or unexpired lease to be  
13 assumed or rejected. The court may condition assumption or  
14 rejection of any executory contract or unexpired lease on the  
15 terms and conditions the court believes are just and proper under  
16 the particular circumstances of the action. Such terms and  
17 conditions may include a requirement that the receiver cures or  
18 provides adequate assurance that the receiver will promptly cure  
19 any default. A general receiver's performance of an executory  
20 contract or unexpired lease prior to the court's authorization of  
21 its assumption or rejection shall not constitute an assumption of  
22 the executory contract or unexpired lease, or an agreement by the  
23 receiver to assume it, nor otherwise preclude the receiver  
24 thereafter from seeking the court's authority to reject it.

25 2. Any person party to an executory contract or unexpired  
26 lease may by motion seek to compel the rejection thereof at any  
27 time, such rejection the court shall order in its discretion, and  
28 as the interests of justice may require. In determining a motion

1 to compel the rejection of an executory contract or unexpired  
2 lease, the court may consider, among other factors:

3 (1) Whether rejection is in the best interests of the  
4 receivership estate and the interests of creditors;

5 (2) The extent to which the executory contract or unexpired  
6 lease burdens the receivership estate financially;

7 (3) Whether the debtor is performing or is in breach of the  
8 executory contract or unexpired lease;

9 (4) If the debtor is in breach of a financial provision of  
10 the executory contract or unexpired lease, the debtor's ability  
11 to cure such breach within a reasonable time; and

12 (5) Harm suffered by the non-debtor person party to the  
13 executory contract or unexpired lease that results or may result  
14 from refusing the rejection thereof.

15 3. Any obligation or liability incurred by a general  
16 receiver on account of the receiver's assumption of an executory  
17 contract or unexpired lease shall be treated as an expense of the  
18 receivership. A receiver's rejection of an executory contract or  
19 unexpired lease shall be treated as a breach of the contract or  
20 lease occurring immediately prior to the receiver's appointment;  
21 and the receiver's right to possess or use property pursuant to  
22 any executory contract or unexpired lease shall terminate upon  
23 rejection of such contract or lease. A non-debtor party to an  
24 executory contract or unexpired lease that is rejected by a  
25 receiver may take such steps as may be necessary under applicable  
26 law to terminate or cancel such contract or lease. The claim of  
27 a non-debtor party to an executory contract or unexpired lease  
28 resulting from a receiver's rejection of it shall be served upon

1 the receiver within thirty days following the date the receiver  
2 gives notice of such rejection to such person, which notice shall  
3 indicate the right to file a claim within the thirty day period.

4 4. A receiver's power under this section to assume an  
5 executory contract or unexpired lease shall not be affected by  
6 any provision in such contract or lease that would effect or  
7 permit a forfeiture, modification, or termination of it on  
8 account of either the receiver's appointment, the financial  
9 condition of the debtor, or an assignment for the benefit of  
10 creditors by the debtor.

11 5. A receiver may not assume an executory contract or  
12 unexpired lease of debtor without the consent of the other person  
13 party to such contract or lease if:

14 (1) Applicable law would excuse a person, other than the  
15 debtor, from accepting performance from or rendering performance  
16 to anyone other than the debtor even in the absence of any  
17 provisions in the contract or lease expressly restricting or  
18 prohibiting an assignment of the person's rights or the  
19 performance of the debtor's duties;

20 (2) The contract or lease is a contract to make a loan or  
21 extend credit or financial accommodations to or for the benefit  
22 of the debtor, or to issue a security of the debtor; or

23 (3) The executory contract or lease expires by its own  
24 terms, or under applicable law prior to the receiver's assumption  
25 thereof.

26 6. A receiver may not assign an executory contract or  
27 unexpired lease without assuming it, absent the consent of the  
28 other parties to the contract or lease.

1           7. If the receiver rejects an executory contract or  
2 unexpired lease for:

3           (1) The sale of real property under which the debtor is the  
4 seller and the purchaser is in possession of the real property;

5           (2) The sale of a real property timeshare interest under  
6 which the debtor is the seller;

7           (3) The license of intellectual property rights under which  
8 the debtor is the licensor; or

9           (4) The lease of real property in which the debtor is the  
10 lessor;

11  
12 then the purchaser, licensee, or lessee may treat the rejection  
13 as a termination of the contract, license agreement, or lease, or  
14 alternatively, the purchaser, licensee, or lessee may remain in  
15 possession in which circumstance the purchaser, licensee, or  
16 lessee shall continue to perform all obligations arising  
17 thereunder as and when they may fall due, but may offset against  
18 any payments any damages occurring on account of the rejection  
19 after it occurs. The purchaser of real property in such a  
20 circumstance is entitled to receive from the receiver any deed or  
21 any other instrument of conveyance which the debtor is obligated  
22 to deliver under the executory contract when the purchaser  
23 becomes entitled to receive it, and the deed or instrument has  
24 the same force and effect as if given by the person. A  
25 purchaser, licensee, or lessee who elects to remain in possession  
26 under the terms of this subsection has no rights against the  
27 receiver on account of any damages arising from the receiver's  
28 rejection except as expressly provided for by this subsection. A

1 purchaser of real property who elects to treat rejection of an  
2 executory contract as a termination has a lien against the  
3 interest in that real property of the debtor for the recovery of  
4 any portion of the purchase price that the purchaser has paid.

5 8. Any contract with the state shall be deemed rejected if  
6 not assumed within sixty days of appointment of a general  
7 receiver unless the receiver and state agency agree to its  
8 assumption.

9 9. Nothing in sections 515.500 to 515.665 affects the  
10 enforceability of anti-assignment prohibitions provided under  
11 contract or applicable law.

12 515.590. 1. If a receiver is authorized to operate the  
13 business of a debtor or manage a debtor's property, the receiver  
14 may obtain unsecured credit and incur unsecured debt in the  
15 ordinary course of business as an administrative expense of the  
16 receiver without order of the court.

17 2. The court after notice and a hearing may authorize a  
18 receiver to obtain credit or incur debt other than in the  
19 ordinary course of business. The court may allow the receiver to  
20 mortgage, pledge, hypothecate, or otherwise encumber estate  
21 property as security for repayment of any debt that the receiver  
22 may incur, including that the court may provide that additional  
23 credit extended to a receiver by a secured creditor of the debtor  
24 be afforded the same priority as the secured creditor's existing  
25 lien.

26 3. When determining the propriety of allowing a receiver to  
27 obtain credit or incur debt pursuant to subsection 2 of this  
28 section, the court shall consider the likely impact on the

1 interests of unsecured creditors of the debtor.

2 515.595. 1. A receiver has the right to sue and be sued in  
3 the receiver's capacity as such, without leave of court, in all  
4 circumstances necessary or proper for the conduct of the  
5 receivership. However, an action seeking to dispossess a  
6 receiver of any estate property or otherwise to interfere with  
7 the receiver's management or control of any estate property may  
8 not be maintained or continued unless permitted by order of the  
9 court obtained upon notice and a hearing.

10 2. An action by or against a receiver is adjunct to the  
11 receivership action. The clerk of the court may assign or refer  
12 a case number that reflects the relationship of any action to the  
13 receivership action. All pleadings in an adjunct action shall  
14 include the case number of the receivership action as well as the  
15 adjunct action case number assigned by the clerk of the court.  
16 All adjunct actions shall be referred to the judge, if any,  
17 assigned to the receivership action.

18 3. A receiver may be joined or substituted as a party in  
19 any action or proceeding that was pending at the time of the  
20 receiver's appointment and in which the debtor is a party, upon  
21 application by the receiver to the court, agency, or other forum  
22 before which the action or proceeding is pending.

23 4. Venue for adjunct actions by or against a receiver shall  
24 lie in the court in which the receivership is pending, if the  
25 court has jurisdiction over the action. Actions in other courts  
26 in this state shall be transferred to the court upon the  
27 receiver's filing of a motion for change of venue, provided that  
28 the receiver files the motion within thirty days following

1 service of original process upon the receiver. However, actions  
2 in other courts or forums in which a state agency is a party  
3 shall not be transferred on request of the receiver absent  
4 consent of the affected state agency or grounds provided under  
5 other applicable law.

6 5. An action by or against a receiver does not abate by  
7 reason of death or resignation or removal of the receiver, but  
8 continues against the successor receiver or against the debtor,  
9 if a successor receiver is not appointed.

10 6. Whenever the assets of any domestic or foreign  
11 corporation, that has been doing business in this state, has been  
12 placed in the hands of any general receiver and the receiver is  
13 in possession of its assets, service of all process upon the  
14 corporation may be made upon the receiver.

15 7. A judgment against a general receiver or the debtor is  
16 not a lien on estate property, nor shall any execution issue  
17 thereon. Upon entry of a judgment against a general receiver or  
18 the debtor in the court in which a general receivership is  
19 pending, or upon filing in a general receivership of a certified  
20 copy of a judgment against a general receiver or the debtor  
21 entered by another court in this state or a foreign jurisdiction,  
22 the judgment shall be treated as an allowed claim in the  
23 receivership. A judgment against a limited receiver shall be  
24 treated and has the same effect as a judgment against the debtor,  
25 except that the judgment is not enforceable against estate  
26 property unless otherwise ordered by the court upon notice and a  
27 hearing.

28 515.600. 1. A receiver appointed pursuant to sections

1 515.500 to 515.665, and the agents, attorneys, and employees of  
2 the receivership employed by the receiver pursuant to section  
3 515.605 shall enjoy judicial immunity for acts and omissions  
4 arising out of and performed in connection with his or her  
5 official duties on behalf of the court and within the scope of  
6 his or her appointment. A person other than a successor receiver  
7 duly appointed by the court does not have a right of action  
8 against a receiver under this section to recover property or the  
9 value thereof for or on behalf of the estate except as provided  
10 in subsection 2 of this section. A successor receiver may  
11 recover only actual damages incurred by the receivership estate  
12 from a prior receiver.

13 2. A person, other than a successor receiver duly appointed  
14 by the court, shall not have the right to bring an action against  
15 a receiver or the agents, attorneys, and employees of the  
16 receivership employed by the receiver pursuant to section 515.605  
17 for any act or omission while acting in the performance of their  
18 functions and duties in connection with the receivership unless  
19 such person first files a verified application with the  
20 appointing court requesting leave to bring such action and the  
21 court grants such application after notice and hearing. The  
22 appointing court shall only approve the application to bring  
23 claims against the receiver under this section upon a prima facie  
24 showing by the person making such request that the receiver's  
25 actions are not protected by the grant of immunity set forth in  
26 subsection 1 of this section. No other court apart from the  
27 appointing court shall have the authority to review or approve  
28 the application to bring claims against the receiver under this

1 section.

2 3. If a person requests leave to bring claims under  
3 subsection 2 of this section and such leave is denied, the court  
4 shall grant judgment in favor of the receiver for the costs of  
5 the proceeding and reasonable attorney's fee if the court finds  
6 that the position of the person was not substantially justified.

7 515.605. 1. The receiver, with the court's approval, may  
8 employ one or more attorneys, accountants, appraisers,  
9 auctioneers, or other professional persons that do not hold or  
10 represent an interest adverse to the receivership to represent or  
11 assist the receiver in carrying out the receiver's duties.

12 2. A person is not disqualified for employment under this  
13 section solely because of the person's employment by,  
14 representation of, or other relationship with a creditor or other  
15 party in interest, if the relationship is disclosed in the  
16 application for the person's employment and if the court  
17 determines that there is no actual conflict of interest or  
18 inappropriate appearance of a conflict.

19 3. This section does not preclude the court from  
20 authorizing the receiver to act as attorney or accountant if the  
21 authorization is in the best interests of the receivership.

22 4. The receiver and any professionals employed by the  
23 receiver shall maintain itemized billing records containing a  
24 description of services, the time spent, billing rates of all who  
25 perform work to be compensated, and a detailed list of expenses.  
26 The receiver, and any professionals employed by the receiver may  
27 file a motion requesting the allowance of fees and expenses.  
28 Notice of the motion shall be served on all persons required to

1 be identified on the master mailing list maintained pursuant to  
2 section 515.610, advising that objections to the application  
3 shall be filed within ten days from the date of the notice, and  
4 if objections are not timely filed, the court may approve the  
5 motion without further notice or hearing. If an objection is  
6 filed, the receiver or professional whose compensation is  
7 affected may notice the objection for a hearing. Upon request of  
8 any person required to receive notice pursuant to this  
9 subsection, the receiver and any professionals employed by the  
10 receiver shall provide a copy of their itemized billing records  
11 upon which their motion for fees and expenses is based within  
12 five days of the date of the request.

13 515.610. 1. Creditors and parties in interest to whom are  
14 given notice as provided by sections 515.500 to 515.665 and  
15 creditors or other persons submitting written claims in the  
16 receivership or otherwise appearing and participating in the  
17 receivership are bound by the acts of the receiver and the orders  
18 of the court relating to the receivership whether or not the  
19 person is a party to the receivership action.

20 2. Creditors and parties in interest have a right to notice  
21 and a hearing as provided in sections 515.500 to 515.665 whether  
22 or not the person is a party to the receivership action.

23 3. Any party in interest may appear in the receivership in  
24 the manner prescribed by court rule and shall file with the court  
25 a written notice including the name and mailing address of the  
26 party in interest, and the name and address of the party in  
27 interest's attorney, if any, with the clerk, and by serving a  
28 copy of the notice upon the receiver and the receiver's attorney

1 of record, if any. The receiver shall maintain a master mailing  
2 list of all parties and of all parties in interest that file and  
3 serve a notice of appearance in accordance with this subsection  
4 and such parties in interest's attorneys, if any. The receiver  
5 shall make a copy of the current master mailing list available to  
6 any party or upon request.

7 4. Any request for relief against a state agency shall be  
8 mailed to or otherwise served on the agency and on the office of  
9 the attorney general.

10 5. The receiver shall give not less than ten days' written  
11 notice of any examination by the receiver of the debtor to all  
12 persons required to be identified on the master mailing list.

13 6. All persons required to be identified on the master  
14 mailing list are entitled to not less than thirty days' written  
15 notice of the hearing of any motion or other proceeding involving  
16 any proposed:

17 (1) Allowance or disallowance of any claim or claims;

18 (2) Abandonment, disposition, or distribution of estate  
19 property, other than an emergency disposition of property subject  
20 to eroding value or a disposition of estate property in the  
21 ordinary course of business;

22 (3) Compromise or settlement of a controversy that might  
23 affect the distribution to creditors from the receivership;

24 (4) Motion for termination of the receivership or removal  
25 or discharge of the receiver. Notice of the motion shall also be  
26 sent to the department of revenue and other applicable regulatory  
27 agencies;

28 (5) Any opposition to any motion to authorize any of the

1 actions under subdivisions (1) to (4) of this subsection shall be  
2 filed and served upon all persons required to be identified on  
3 the master mailing list at least ten days before the date of the  
4 proposed action.

5 7. Whenever notice is not specifically required to be given  
6 under sections 515.500 to 515.665 or otherwise by court rule, the  
7 court may consider motions and grant or deny relief without  
8 notice or hearing, unless a party or party in interest would be  
9 prejudiced or harmed by the relief requested.

10 515.615. 1. The claims administration process identified  
11 in this section shall be administered by a general receiver and  
12 may be ordered by the court to be administered by a limited  
13 receiver.

14 2. All claims, other than claims of duly perfected secured  
15 creditors, arising prior to the receiver's appointment shall be  
16 in the form required by this section and served and noticed as  
17 required by this section. Any claim not in the form required by  
18 this section and so served and noticed is barred from  
19 participating in any distribution to creditors.

20 3. Claims shall be served on the receiver within thirty  
21 days from the date notice is given under this section, unless the  
22 court reduces or extends the period for cause shown, except that  
23 a claim arising from the rejection of an executory contract or an  
24 unexpired lease of the debtor may be served within thirty days  
25 after the rejection. Claims by state agencies shall be served by  
26 such state agencies on the receiver within sixty days from the  
27 date notice is given by mail under this section.

28 4. Claims shall be in written form entitled "Proof of

1 Claim", setting forth the name and address of the creditor and  
2 the nature and amount of the claim, and executed by the creditor  
3 or the creditor's authorized agent. When a claim or an interest  
4 in estate property securing the claim is based on a writing, the  
5 original or a copy of the writing shall be included as a part of  
6 the proof of claim together with evidence of perfection of any  
7 security interest or other lien asserted by the claimant. Unless  
8 otherwise ordered by the court, creditors may amend such claims  
9 and such amendments shall relate back to the original filing of  
10 such claim.

11 5. Notices of claim shall be filed with the court. A  
12 notice shall be filed with the court relating to each served  
13 claim. A notice of claim shall not include the claim or  
14 supporting documentation served upon the receiver. A notice of  
15 claim shall include the name and address of the creditor  
16 asserting the claim, together with the name and address of the  
17 attorney, if any representing the creditor, the amount of the  
18 claim, whether or not the claim is secured or unsecured, and if  
19 secured, a brief description of any estate property and other  
20 collateral securing the claim.

21 6. A claim properly noticed, executed, and served in  
22 accordance with this section constitutes prima facie evidence of  
23 the validity and amount of the claim.

24 515.620. 1. At any time prior to the entry of an order  
25 approving the general receiver's final report, the receiver or  
26 any party in interest may file with the court an objection to a  
27 claim, such objection shall be in writing and shall set forth the  
28 grounds for the objection to the claim. A copy of the objection

1 shall be mailed to the creditor who shall have thirty days to  
2 file with the court any suggestions in support of the claim.  
3 Upon the filing of any suggestions in support of the claim, the  
4 court may adjudicate the claim objection or set a hearing  
5 relating to the claim objection. Claims that comply with the  
6 requirements of section 515.615 that are not disallowed by the  
7 court are entitled to share in distributions from the  
8 receivership in accordance with the priorities provided for by  
9 sections 515.500 to 515.665 or otherwise by law.

10 2. Upon order of the court, the general receiver, or any  
11 party in interest objecting to the creditor's claim, an objection  
12 may be subject to mediation prior to adjudication of the  
13 objection. However, state claims are not subject to mediation  
14 absent agreement of the state.

15 3. Upon motion of the general receiver or other party in  
16 interest, the following claims may be estimated for purpose of  
17 allowance under this section under the rules or orders applicable  
18 to the estimation of claims under this section:

19 (1) Any contingent or unliquidated claim, the fixing or  
20 liquidation of which, as the circumstance may be, would unduly  
21 delay the administration of the receivership; or

22 (2) Any right to payment arising from a right to an  
23 equitable remedy for breach of performance.

24 Claims subject to this subsection shall be allowed in the  
25 estimated amount thereof.

26 515.625. 1. Claims not disallowed by the court shall  
27 receive distribution under sections 515.500 to 515.665 in the  
28 order of priority under subdivisions (1) to (8) of this section

1 and, with the exception of subdivisions (1) to (3) of this  
2 subsection, on a pro rata basis:

3 (1) Any secured creditor that is duly perfected under  
4 applicable law, whether or not such secured creditor has filed a  
5 proof of claim, shall receive the proceeds from the disposition  
6 of the estate property that secures its claim. However, the  
7 receiver may recover from estate property secured by a lien or  
8 the proceeds thereof the reasonable, necessary expenses of  
9 preserving, protecting, or disposing of the estate property to  
10 the extent of any benefit to a duly perfected secured creditor.  
11 If and to the extent that the proceeds are less than the amount  
12 of a duly perfected secured creditor's claim or a duly perfected  
13 secured creditor's lien is avoided on any basis, the duly  
14 perfected secured creditor's claim is an unsecured claim under  
15 subdivision (8) of this subsection. Duly perfected secured  
16 claims shall be paid from the proceeds in accordance with their  
17 respective priorities under otherwise applicable law;

18 (2) Actual, necessary costs and expenses incurred during  
19 the administration of the receivership, other than those expenses  
20 allowable under subdivision (1) of this subsection, including  
21 allowed fees and reimbursement of reasonable charges and expenses  
22 of the receiver and professional persons employed by the  
23 receiver. Notwithstanding subdivision (1) of this subsection,  
24 expenses incurred during the administration of the estate have  
25 priority over the secured claim of any secured creditor obtaining  
26 or consenting to the appointment of the receiver;

27 (3) A secured creditor that is not duly perfected under  
28 applicable law shall receive the proceeds from the disposition of

1 the estate property that secures its claim if and to the extent  
2 that unsecured claims are made subject to those liens under  
3 applicable law;

4 (4) Claims for wages, salaries, or commissions, including  
5 vacation, severance, and sick leave pay, or contributions to an  
6 employee benefit plan earned by the claimant within one hundred  
7 eighty days of the date of appointment of the receiver or the  
8 cessation of any business relating to the receivership, whichever  
9 occurs first, but only to the extent of ten thousand nine hundred  
10 fifty dollars;

11 (5) Unsecured claims, to the extent of two thousand four  
12 hundred twenty-five dollars for each natural person, arising from  
13 the deposit with the person debtor before the date of appointment  
14 of the receiver of money in connection with the purchase, lease,  
15 or rental of estate property or the purchase of services for  
16 personal, family, or household use that were not delivered or  
17 provided;

18 (6) Claims for a marital, family, or other support debt,  
19 but not to the extent that the debt is assigned to another  
20 person, voluntarily, by operation of law, or otherwise; or  
21 includes a liability designated as a support obligation unless  
22 that liability is actually in the nature of a support obligation;

23 (7) Unsecured claims of governmental units for taxes which  
24 accrued prior to the date of appointment of the receiver;

25 (8) Other unsecured claims.

26 2. If all of the classes under subsection 1 of this section  
27 have been paid in full, any residue shall be paid to the debtor.

28 515.630. Except as otherwise provided for by statute,

1 estate property acquired by the estate, the receiver, or the  
2 debtor of the receiver is subject to an allowed secured claim to  
3 the same extent as would exist in the absence of a receivership.

4 515.635. To the extent that funds are available in the  
5 estate for distribution to creditors in a general receivership,  
6 the holder of an allowed noncontingent, liquidated claim is  
7 entitled to receive interest at the legal rate or other  
8 applicable rate from the date of appointment of the receiver or  
9 the date on which the claim became a noncontingent, liquidated  
10 claim. If there are sufficient funds in the estate to fully pay  
11 all interest owing to all members of the class, then interest  
12 shall be paid proportionately to each member of the class.

13 515.640. The receiver or any party upon order of the court  
14 following notice and a hearing and upon the terms and conditions  
15 the court considers just and proper may abandon any estate  
16 property that is burdensome to the receiver or is of  
17 inconsequential value or benefit. However, a receiver may not  
18 abandon property that is a hazard or potential hazard to the  
19 public in contravention of a state statute or rule that is  
20 reasonably designed to protect the public health or safety from  
21 identified hazards. Property that is abandoned no longer  
22 constitutes estate property.

23 515.645. 1. The receiver with the court's approval after  
24 notice and a hearing may use, sell, or lease estate property  
25 other than in the ordinary course of business.

26 2. The court may order that a general receiver's sale of  
27 estate property either under subsection 1 of this section, or  
28 consisting of real property that the debtor intended to sell in

1 its ordinary course of business, be effected free and clear of  
2 liens, claims, and of all rights of redemption, whether or not  
3 the sale will generate proceeds sufficient to fully satisfy all  
4 claims secured by the property, unless either:

5 (1) The property to be sold is real property used  
6 principally in the production of crops, livestock, or  
7 aquaculture, or the property is a homestead, and the owner of the  
8 property has not consented to the sale following the appointment  
9 of the receiver; or

10 (2) A party in interest, including but not limited to, an  
11 owner of the property to be sold or a secured creditor as regards  
12 to the property to be sold serves and files a timely opposition  
13 to the receiver's sale, and the court determines that the amount  
14 likely to be realized by the receiver's sale is less than the  
15 amount that may be realized within a reasonable time in the  
16 absence of the receiver's sale.

17  
18 Upon any sale free and clear of liens authorized by this section,  
19 all liens encumbering the property sold shall transfer and attach  
20 to the proceeds of the sale, net of reasonable expenses incurred  
21 in the disposition of the property sold, in the same order,  
22 priority, and validity as the liens had with respect to the  
23 property sold immediately before the conveyance. The court may  
24 authorize the receiver at the time of sale to satisfy, in whole  
25 or in part, any lien on the property sold out of the proceeds of  
26 its sale if the interest of any other creditor having a lien  
27 against the proceeds of the sale would not thereby be impaired.

28 3. At a public sale of estate property under subsection 1

1 of this section, a creditor with a lien against the property to  
2 be sold may credit bid at the sale of the property. A creditor  
3 with a lien against the property to be sold who purchases the  
4 property from a receiver may offset against the purchase price  
5 its secured claim against the property, provided that such  
6 secured creditor tenders cash sufficient to satisfy in full all  
7 secured claims payable out of the proceeds of sale having  
8 priority over such secured creditor's secured claim. If the lien  
9 or the claim it secures is the subject of a bona fide dispute,  
10 the court may order the holder of the lien or claim to provide  
11 the receiver with adequate security to assure full payment of the  
12 purchase price in the event the lien, the claim, or any part  
13 thereof is determined to be invalid or unenforceable.

14 4. If estate property includes an interest as a co-owner of  
15 property, the receiver shall have the rights and powers of a co-  
16 owner afforded by applicable state or federal law, including but  
17 not limited to, any rights of partition.

18 5. The reversal or modification on appeal of an  
19 authorization to sell or lease estate property under this section  
20 does not affect the validity of a sale or lease under that  
21 authorization to any person that purchased or leased the property  
22 in good faith, whether or not the person knew of the pendency of  
23 the appeal, unless the authorization and sale or lease were  
24 stayed pending the appeal.

25 6. The notice of a proposed use, sale, or lease of estate  
26 property required by subsection 1 of this section shall include  
27 the time and place of any public sale, the terms and conditions  
28 of any private sale and the time fixed for filing objections, and

1 shall be mailed to all parties in interest, and to such other  
2 persons as the court in the interests of justice may require.

3 7. In determining whether a sale free and clear of liens,  
4 claims, encumbrances, and of all rights of redemption is in the  
5 best interest of the estate, the court may consider, among such  
6 other factors as the court deems appropriate, the following:

7 (1) Whether the sale shall be conducted in a commercially  
8 reasonable manner considering assets of a similar type or nature;

9 (2) Whether an independent appraisal supports the purchase  
10 price to be paid;

11 (3) Whether creditors and parties in interest received  
12 adequate notice of the sale, sale procedures, and details of the  
13 proposed sale;

14 (4) Any relationship between the buyer and the debtor;

15 (5) Whether the sale is an arm's length transaction; and

16 (6) Whether parties asserting a lien as to the property to  
17 be sold consent to the proposed sale.

18 515.650. 1. A receiver appointed in any action pending in  
19 the courts of this state, without first seeking approval of the  
20 court, may apply to any court outside of this state for  
21 appointment as receiver with respect to any property or business  
22 of the person over whose property the receiver is appointed  
23 constituting estate property which is located in any other  
24 jurisdiction, if the appointment is necessary to the receiver's  
25 possession, control, management, or disposition of property in  
26 accordance with orders of the court.

27 2. A receiver appointed by a court of another state, or by  
28 a federal court in any district outside of this state, or any

1 other person having an interest in that proceeding, may obtain  
2 appointment by a court of this state of that same receiver with  
3 respect to any property or business of the person over whose  
4 property the receiver is appointed constituting property of the  
5 foreign receivership that is located in this jurisdiction if the  
6 person is eligible to serve as receiver and the appointment is  
7 necessary to the receiver's possession, control, or disposition  
8 of the property in accordance with orders of the court in the  
9 foreign proceeding. Upon the receiver's request, the court shall  
10 enter the orders not offensive to the laws and public policy of  
11 this state, necessary to effectuate orders entered by the court  
12 in the foreign receivership proceeding. A receiver appointed in  
13 an ancillary receivership in this state is required to comply  
14 with sections 515.500 to 515.665 requiring notice to creditors or  
15 other parties in interest only as may be required by the superior  
16 court in the ancillary receivership.

17 515.655. 1. The court shall remove or replace the receiver  
18 on application of the debtor, the receiver, or any creditor, or  
19 any party or on the court's own motion if the receiver fails to  
20 perform the receiver's duties or obligations under sections  
21 515.500 to 515.665, as ordered by the court.

22 2. Upon removal, resignation, or death of the receiver the  
23 court shall appoint a successor receiver if the court determines  
24 that further administration of the estate is required. The  
25 successor receiver shall immediately take possession of the  
26 estate and assume the duties of receiver.

27 3. Whenever the court is satisfied that the receiver so  
28 removed or replaced has fully accounted for and turned over to

1 the successor receiver appointed by the court all of the property  
2 of the estate and has filed a report of all receipts and  
3 disbursements during the person's tenure as receiver, the court  
4 shall enter an order discharging that person from all further  
5 duties and responsibilities as receiver after notice and a  
6 hearing.

7 515.660. 1. Upon distribution or disposition of all  
8 property of the estate, or the completion of the receiver's  
9 duties with respect to estate property, the receiver shall move  
10 the court to be discharged upon notice and a hearing.

11 2. The receiver's final report and accounting setting forth  
12 all receipts and disbursements of the estate shall be included in  
13 the petition for discharge and filed with the court.

14 3. Upon approval of the final report, the court shall  
15 discharge the receiver.

16 4. The receiver's discharge releases the receiver from any  
17 further duties and responsibilities as receiver under sections  
18 515.500 to 515.665.

19 5. Upon motion of any party in interest, or upon the  
20 court's own motion, the court has the power to discharge the  
21 receiver and terminate the court's administration of the property  
22 over which the receiver was appointed. If the court determines  
23 that the appointment of the receiver was wrongfully procured or  
24 procured in bad faith, the court may assess against the person  
25 who procured the receiver's appointment all of the receiver's  
26 fees and other costs of the receivership and any other sanctions  
27 the court determines to be appropriate.

28 6. A certified copy of an order terminating the court's

1 administration of the property over which the receiver was  
2 appointed shall operate as a release of any lis pendens notice  
3 recorded pursuant to section 515.545 and the same shall be  
4 recorded within the land records in any county in which such real  
5 property may be situated, together with a legal description of  
6 the real property if one is not included in that order.

7 515.665. Orders of the court pursuant to sections 515.500  
8 to 515.665 are appealable to the extent allowed under existing  
9 law, including subdivision (2) of section 512.020.

10 516.105. All actions against physicians, hospitals,  
11 dentists, registered or licensed practical nurses, optometrists,  
12 podiatrists, pharmacists, chiropractors, professional physical  
13 therapists, mental health professionals licensed under chapter  
14 337, and any other entity providing health care services and all  
15 employees of any of the foregoing acting in the course and scope  
16 of their employment, for damages for malpractice, negligence,  
17 error or mistake related to health care shall be brought within  
18 two years from the date of occurrence of the act of neglect  
19 complained of, except that:

20 (1) In cases in which the act of neglect complained of is  
21 introducing and negligently permitting any foreign object to  
22 remain within the body of a living person, the action shall be  
23 brought within two years from the date of the discovery of such  
24 alleged negligence, or from the date on which the patient in the  
25 exercise of ordinary care should have discovered such alleged  
26 negligence, whichever date first occurs; and

27 (2) In cases in which the act of neglect complained of is  
28 the negligent failure to inform the patient of the results of

1 medical tests, the action for failure to inform shall be brought  
2 within two years from the date of the discovery of such alleged  
3 negligent failure to inform, or from the date on which the  
4 patient in the exercise of ordinary care should have discovered  
5 such alleged negligent failure to inform, whichever date first  
6 occurs; except that, no such action shall be brought for any  
7 negligent failure to inform about the results of medical tests  
8 performed more than two years before August 28, 1999. For  
9 purposes of this subdivision, the act of neglect based on the  
10 negligent failure to inform the patient of the results of medical  
11 tests shall not include the act of informing the patient of the  
12 results of negligently performed medical tests or the act of  
13 informing the patient of erroneous test results; and

14 (3) In cases in which the person bringing the action is a  
15 minor less than eighteen years of age, such minor shall have  
16 until his or her twentieth birthday to bring such action.

17 In no event shall any action for damages for malpractice, error,  
18 or mistake be commenced after the expiration of ten years from  
19 the date of the act of neglect complained of or for two years  
20 from a minor's eighteenth birthday, whichever is later.

21 650.058. 1. Notwithstanding the sovereign immunity of the  
22 state, any individual who was found guilty of a felony in a  
23 Missouri court and was later determined to be actually innocent  
24 of such crime solely as a result of DNA profiling analysis may be  
25 paid restitution. The individual may receive an amount of fifty  
26 dollars per day for each day of postconviction incarceration for  
27 the crime for which the individual is determined to be actually  
28 innocent. The petition for the payment of said restitution shall

1 be filed with the sentencing court. For the purposes of this  
2 section, the term "actually innocent" shall mean:

3 (1) The individual was convicted of a felony for which a  
4 final order of release was entered by the court;

5 (2) All appeals of the order of release have been  
6 exhausted;

7 (3) The individual was not serving any term of a sentence  
8 for any other crime concurrently with the sentence for which he  
9 or she is determined to be actually innocent, unless such  
10 individual was serving another concurrent sentence because his or  
11 her parole was revoked by a court or the board of probation and  
12 parole in connection with the crime for which the person has been  
13 exonerated. Regardless of whether any other basis may exist for  
14 the revocation of the person's probation or parole at the time of  
15 conviction for the crime for which the person is later determined  
16 to be actually innocent, when the court's or the board of  
17 probation and parole's sole stated reason for the revocation in  
18 its order is the conviction for the crime for which the person is  
19 later determined to be actually innocent, such order shall, for  
20 purposes of this section only, be conclusive evidence that their  
21 probation or parole was revoked in connection with the crime for  
22 which the person has been exonerated; and

23 (4) Testing ordered under section 547.035, or testing by  
24 the order of any state or federal court, if such person was  
25 exonerated on or before August 28, 2004, or testing ordered under  
26 section 650.055, if such person was or is exonerated after August  
27 28, 2004, demonstrates a person's innocence of the crime for  
28 which the person is in custody.

1 Any individual who receives restitution under this section shall  
2 be prohibited from seeking any civil redress from the state, its  
3 departments and agencies, or any employee thereof, or any  
4 political subdivision or its employees. This section shall not  
5 be construed as a waiver of sovereign immunity for any purposes  
6 other than the restitution provided for herein. The department  
7 of corrections shall determine the aggregate amount of  
8 restitution owed during a fiscal year. If insufficient moneys  
9 are appropriated each fiscal year to pay restitution to such  
10 persons, the department shall pay each individual who has  
11 received an order awarding restitution a pro rata share of the  
12 amount appropriated. Provided sufficient moneys are appropriated  
13 to the department, the amounts owed to such individual shall be  
14 paid on June thirtieth of each subsequent fiscal year, until such  
15 time as the restitution to the individual has been paid in full.  
16 However, no individual awarded restitution under this subsection  
17 shall receive more than thirty-six thousand five hundred dollars  
18 during each fiscal year. No interest on unpaid restitution shall  
19 be awarded to the individual. No individual who has been  
20 determined by the court to be actually innocent shall be  
21 responsible for the costs of care under section 217.831.

22 2. If the results of the DNA testing confirm the person's  
23 guilt, then the person filing for DNA testing under section  
24 547.035, shall:

25 (1) Be liable for any reasonable costs incurred when  
26 conducting the DNA test, including but not limited to the cost of  
27 the test. Such costs shall be determined by the court and shall  
28 be included in the findings of fact and conclusions of law made

1 by the court; and

2 (2) Be sanctioned under the provisions of section 217.262.

3 3. A petition for payment of restitution under this section  
4 may only be filed by the individual determined to be actually  
5 innocent or the individual's legal guardian. No claim or  
6 petition for restitution under this section may be filed by the  
7 individual's heirs or assigns. An individual's right to receive  
8 restitution under this section is not assignable or otherwise  
9 transferrable. The state's obligation to pay restitution under  
10 this section shall cease upon the individual's death. Any  
11 beneficiary designation that purports to bequeath, assign, or  
12 otherwise convey the right to receive such restitution shall be  
13 void and unenforceable.

14 4. An individual who is determined to be actually innocent  
15 of a crime under this chapter shall automatically be granted an  
16 order of expungement from the court in which he or she pled  
17 guilty or was sentenced to expunge from all official records all  
18 recordations of his or her arrest, plea, trial or conviction.  
19 Upon granting of the order of expungement, the records and files  
20 maintained in any administrative or court proceeding in an  
21 associate or circuit division of the court shall be confidential  
22 and only available to the parties or by order of the court for  
23 good cause shown. The effect of such order shall be to restore  
24 such person to the status he or she occupied prior to such  
25 arrest, plea or conviction and as if such event had never taken  
26 place. No person as to whom such order has been entered shall be  
27 held thereafter under any provision of any law to be guilty of  
28 perjury or otherwise giving a false statement by reason of his or

1 her failure to recite or acknowledge such arrest, plea, trial,  
2 conviction or expungement in response to any inquiry made of him  
3 or her for any purpose whatsoever and no such inquiry shall be  
4 made for information relating to an expungement under this  
5 section.

6 [456.023. A general residuary clause in a will,  
7 or a will making general disposition of all of the  
8 testator's property, does not exercise a power of  
9 appointment granted in an instrument creating or  
10 amending a trust unless specific reference is made to  
11 the power or there is some other indication of  
12 intention to include the property subject to the  
13 power.]  
14

15 [456.590. 1. Where, in the management or  
16 administration of any property vested in trustees, any  
17 sale, lease, mortgage, surrender, release, or other  
18 disposition, or any purchase, investment, acquisition,  
19 expenditure, or other transaction is in the opinion of  
20 the court expedient, but the same cannot be effected by  
21 reason of the absence of any power for that purpose  
22 vested in the trustees by the trust instrument, if any,  
23 or by law, the court may by order confer upon the  
24 trustees, either generally or in any particular  
25 instance, the necessary power for the purpose, on such  
26 terms, and subject to such provisions and conditions,  
27 if any, as the court may think fit and may direct in  
28 what manner any money authorized to be expended, and  
29 the costs of any transaction, are to be paid or borne  
30 as between capital and income.

31 2. When all of the adult beneficiaries who are  
32 not disabled consent, the court may, upon finding that  
33 such variation will benefit the disabled, minor, unborn  
34 and unascertained beneficiaries, vary the terms of a  
35 private trust so as to reduce or eliminate the  
36 interests of some beneficiaries and increase those of  
37 others, to change the times or amounts of payments and  
38 distributions to beneficiaries, or to provide for  
39 termination of the trust at a time earlier or later  
40 than that specified by the terms.

41 3. The court may, from time to time, rescind or  
42 vary any order made under this section, or may make any  
43 new or further order.

44 4. An application to the court under this section  
45 may be made by the trustees, or by any of them, or by  
46 any person beneficially interested under the trust.]  
47

1           [469.060. A power with respect to property shall  
2 be treated as an interest in such property and if  
3 releasable shall be disclaimable in whole or in part  
4 under the provisions of this chapter by the holder of  
5 the power. An individual who is a potential object of  
6 a power exercise has an interest in the property that  
7 is disclaimable in whole or in part.]  
8

9           [515.240. The court, or any judge thereof in  
10 vacation, shall have power to appoint a receiver,  
11 whenever such appointment shall be deemed necessary,  
12 whose duty it shall be to keep and preserve any money  
13 or other thing deposited in court, or that may be  
14 subject of a tender, and to keep and preserve all  
15 property and protect any business or business interest  
16 entrusted to him pending any legal or equitable  
17 proceeding concerning the same, subject to the order of  
18 the court.]  
19

20           [515.250. Such receiver shall give bond, and have  
21 the same powers and be subject to all the provisions,  
22 as far as they may be applicable, enjoined upon a  
23 receiver appointed by virtue of the law providing for  
24 suits by attachment.]  
25

26           [515.260. The court shall allow such receiver  
27 such compensation for his services and expenses as may  
28 be reasonable and just, and cause the same to be taxed  
29 as costs, and paid as other costs in the cause.]