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SALUS POPULI SUPREMA LEX ESTO

*“The welfare of the people shall be the supreme law.”*



**MATT BLUNT**

**SECRETARY OF STATE**

MISSOURI  
REGISTER

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November 1, 2004 November 15, 2004	<b>December 1, 2004</b> <b>December 15, 2004</b>	December 31, 2004 December 31, 2004	January 30, 2005 January 30, 2005
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June 1, 2005 June 15, 2005	<b>July 1, 2005</b> <b>July 15, 2005</b>	July 31, 2005 July 31, 2005	August 30, 2005 August 30, 2005

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

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The *Missouri Register* and the *Code of State Regulations*, as required by the Missouri Documents Law (section 181.100, RSMo 2000), are available in the listed participating libraries, as selected by the Missouri State Library:

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Maryville University Library 13550 Conway Road St. Louis, MO 63141-7232 (314) 529-9494	University of Missouri-Kansas City Miller Nichols Library 5100 Rockhill Road Kansas City, MO 64110-2499 (816) 235-2438	School of Law University of Missouri-Columbia 224 Hulston Hall Columbia, MO 65211-0001 (573) 882-1125	
St. Charles City-County Library Middendorf-Kredell Branch 2750 Hwy K O'Fallon, MO 63366-7859 (636) 978-7997	B.D. Owens Library Northwest Missouri State University 800 University Drive Maryville, MO 64468-6001 (660) 562-1841	Central Methodist College Smiley Memorial Library 411 Central Methodist Square Fayette, MO 65248-1198 (660) 248-6279	
Truman State University Pickler Memorial Library 100 E. Normal Kirksville, MO 63501-4221 (660) 785-7416	St. Joseph Public Library 927 Felix Street St. Joseph, MO 64501-2799 (816) 232-8151		

## HOW TO CITE RULES AND RSMo

**RULES**—Cite material in the *Missouri Register* by volume and page number, for example, Vol. 28, *Missouri Register*, page 27. The approved short form of citation is 28 MoReg 27.

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

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

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

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

**RSMo**—The most recent version of the statute containing the section number and the date.

**R**ules appearing under this heading are filed under the authority granted by section 536.025, RSMo 2000. An emergency rule may be adopted by an agency if the agency finds that an immediate danger to the public health, safety or welfare, or a compelling governmental interest requires emergency action; follows procedures best calculated to assure fairness to all interested persons and parties under the circumstances; follows procedures which comply with the protections extended by the *Missouri* and the *United States Constitutions*; limits the scope of such rule to the circumstances creating an emergency and requiring emergency procedure, and at the time of or prior to the adoption of such rule files with the secretary of state the text of the rule together with the specific facts, reasons and findings which support its conclusion that there is an immediate danger to the public health, safety or welfare which can be met only through the adoption of such rule and its reasons for concluding that the procedure employed is fair to all interested persons and parties under the circumstances.

**R**ules filed as emergency rules may be effective not less than ten (10) days after filing or at such later date as may be specified in the rule and may be terminated at any time by the state agency by filing an order with the secretary of state fixing the date of such termination, which order shall be published by the secretary of state in the *Missouri Register* as soon as practicable.

**A**ll emergency rules must state the period during which they are in effect, and in no case can they be in effect more than one hundred eighty (180) calendar days or thirty (30) legislative days, whichever period is longer. Emergency rules are not renewable, although an agency may at any time adopt an identical rule under the normal rulemaking procedures.

## Title 20—DEPARTMENT OF INSURANCE Division 700—Licensing

### Chapter 6—Bail Bond Agents and Surety Recovery Agents

#### EMERGENCY AMENDMENT

**20 CSR 700-6.100 Fees and Renewals—Bail Bond Agents, General Bail Bond Agents and Surety Recovery Agents.** The department is amending the title of the chapter and the title of the rule, the Purpose and sections (1) and (2).

*PURPOSE:* This rule is being amended to implement the legislative changes enacted by Senate Bill 1122 in the 2004 legislative session of the 92nd General Assembly and to update and establish the licensing fees and requirements for bail bond and surety recovery agents.

*PURPOSE:* This rule sets the license and renewal fees for bail bond [and], general bail bond agents and surety recovery agents under sections 374.700–[374.775] 374.789, RSMo Supp. 2004.

*EMERGENCY STATEMENT:* This emergency amendment contains guidelines for the licensing of general bail bond, bail bond and surety recovery agents. During the 2004 legislative session, the General Assembly enacted Senate Bill 1122 which enacted the “Professional Bail Bondsman and Surety Recovery Agent Licensure Act,” (RSMo sections 374.695 to 374.789). SB 1122, effective January 1, 2005, substantially revises the requirements for licensure for bail bond

licensees and grants the department regulatory authority over surety recovery agents. Specifically, SB 1122 imposes new licensing and education obligations on applicants for a bail bond license and prohibits any person, including all current surety recovery agents, from performing surety recovery activities in the state of Missouri as of January 1, 2005, unless licensed by the department. This emergency amendment is necessary to protect the public health, safety and welfare of Missouri citizens by ensuring the continued uninterrupted availability of bail bond and surety recovery services in the state of Missouri after January 1, 2005, including the continued recovery of fugitives and/or criminal defendants, by establishing procedures to allow the prompt licensing of bail bond and surety recovery applicants. As a result, the Missouri Department of Insurance finds an immediate danger to the public health, safety and/or welfare and a compelling governmental interest, which requires emergency action. A proposed amendment, which covers the same material, was published in the October 15, 2004 issue of the *Missouri Register*. The scope of this emergency amendment is limited to the conditions creating the emergency and complies with the protections extended in the *Missouri* and *United States Constitutions*. In developing this emergency amendment, representatives of the professional licensing, bail bond and surety recovery industries were consulted. Additionally, the department has previously published the emergency amendment on its website in an attempt to solicit comments from effected parties. The department believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed October 29, 2004, effective January 1, 2005 and expires June 29, 2005.

(1) Each application for license as a general bail bond agent, [or] bail bond agent or surety recovery agent must be accompanied by a licensing fee of [twenty-five] one hundred fifty dollars [(\$25)] (\$150) for the [one (1)] two (2)-year license. The fee for renewal of the license shall also be [twenty-five] one hundred fifty dollars [(\$25)] (\$150) for a biennial license.

(2) If a general bail bond agent, [or] bail bond agent or surety recovery agent fails to file for renewal of his/her license on or before the expiration date, the Department of Insurance will issue a renewal of the license upon payment of a late renewal fee of twenty-five dollars (\$25) per month or fraction of a month after the renewal deadline. In the alternative to payment of a late renewal fee, the former licensee may apply for a new license except that the former licensee must comply with all provisions of sections [374.725] 374.710 and 374.784, RSMo regarding issuance of a new license.

*AUTHORITY:* sections 374.045, RSMo [Supp. 1993] 2000 and 374.705, 374.710, 374.730, 374.783, 374.784 and 374.786, RSMo Supp. 2004. Original rule filed March 14, 1994, effective Sept. 30, 1994. Amended: Filed Sept. 14, 2004. Emergency amendment filed Oct. 29, 2004, effective Jan. 1, 2005, expires June 29, 2005. A proposed amendment covering this same material is published in this issue of the *Missouri Register*.

## Title 20—DEPARTMENT OF INSURANCE Division 700—Licensing Chapter 6—Bail Bond Agents and Surety Recovery Agents

#### EMERGENCY RULE

**20 CSR 700-6.150 Initial Basic Training for Bail Bond Agents, General Bail Bond Agents and Surety Recovery Agents**

**PURPOSE:** This rule outlines initial basic training requirements for bail bond agents, general bail bond agents, and surety recovery agents under sections 374.710 and 374.784, RSMo Supp. 2004.

**EMERGENCY STATEMENT:** This emergency rule contains guidelines for the licensing of general bail bond, bail bond and surety recovery agents. During the 2004 legislative session, the General Assembly enacted Senate Bill 1122 which enacted the "Professional Bail Bondsman and Surety Recovery Agent Licensure Act," (RSMo sections 374.695 to 374.789). SB 1122, effective January 1, 2005, substantially revises the requirements for licensure for bail bond licensees and grants the department regulatory authority over surety recovery agents. Specifically, SB 1122 imposes new licensing and education obligations on applicants for a bail bond license and prohibits any person, including all current surety recovery agents, from performing surety recovery activities in the state of Missouri as of January 1, 2005, unless licensed by the department. This emergency rule is necessary to protect the public health, safety and welfare of Missouri citizens by ensuring the continued uninterrupted availability of bail bond and surety recovery services in the state of Missouri after January 1, 2005, including the continued recovery of fugitives and/or criminal defendants by establishing procedures to allow the prompt licensing of bail bond and surety recovery applicants. As a result, the Missouri Department of Insurance finds an immediate danger to the public health, safety and/or welfare and a compelling governmental interest, which requires emergency action. A proposed rule, which covers the same material, is published in the October 15, 2004 issue of the *Missouri Register*. The scope of this emergency rule is limited to the conditions creating the emergency and complies with the protections extended in the *Missouri and United States Constitutions*. In developing this emergency rule, representatives of the professional licensing, bail bond and surety recovery industries were consulted. Additionally, the department has previously published the emergency rule on its website in an attempt to solicit comments from effected parties. The department believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule was filed October 29, 2004, effective January 1, 2005 and expires June 29, 2005.

(1) Initial Basic Training. Except as otherwise provided by law, before an individual may be licensed as a bail bond agent, general bail bond agent, or surety recovery agent s/he must first fulfill the initial basic training requirements set forth in sections 374.710 and 374.784, RSMo. The initial basic training must be completed within a twelve (12)-month period prior to submitting an application. The basic course of training shall consist of a minimum of twenty-four (24) hours, taught by personnel with qualifications approved by the director and shall include instruction in all of the following subject areas:

(A) Areas of Law.

1. Statute: Chapter 374, sections 374.695 to 374.789, RSMo;
2. Statute: Chapter 544, RSMo—Arrest, Examination, Commitment and Bail;
3. Applicable federal and state constitutional and case law, including, but not limited to:
  - A. Warrants/warrant procedures.
  - B. Incarceration, surrender and release.
  - C. Extraditions.
  - D. Use of force.
  - E. Custody and transportation.

(B) Bail Bond Training.

1. Licensing.
  - A. Test procedures.
  - B. Regulation.
  - C. Terminology.
2. Documentation.

- A. Power of Attorney.
  - B. Contracts: elements, classifications.
  - C. Certifications.
  - D. Revocation of bail.
  - E. Incarceration, surrender and release.
3. Missouri Supreme Court Rules: 33.17, 33.18, 33.19.
  4. Rights of a bondsman.
    - A. History.
    - B. Powers.
    - C. Principles.
    - D. Practices.
  5. Business etiquette.
    - A. Contracts.
    - B. Appearance.
    - C. Ethics.

(C) Surety Recovery Training.

1. Licensing.
  - A. Test procedures.
  - B. Regulation.
  - C. Terminology.
2. Documentation.
  - A. Contracts.
  - B. Authority.
    - (I) Warrants.
    - (II) Certifications.
    - (III) Extradition.
    - (IV) Incarceration and surrender.
3. Apprehension procedures.
  - A. Authority notification.
  - B. Techniques.
    - (I) Verification.
    - (II) Proper use of force.
    - (III) Self-identification.
    - (IV) Custody and transportation.
4. Legal liability.

(2) Authorized Educational Providers.

(A) Pending approval by the department upon submission of an application for course provider, the director shall grant authority to public or private institutions, educational organizations, associations or individuals to provide the required initial basic training. All course provider applications must include a course outline and list of instructors, as provided herein. Applicants for course provider must have demonstrated three (3) years prior competent experience in the areas of instruction listed in section (1) of this rule.

(B) Each course provider and each course must be approved by the director. Application forms for this approval are available on the department's website at [www.insurance.mo.gov](http://www.insurance.mo.gov) and at the Department of Insurance. In order for the director to review applications for approval, the following must be submitted:

1. The provider's application must include each instructor's qualifications and a listing of dates and times of all scheduled courses. Upon approval of the course, notification will be returned to the provider indicating the course number assigned by the Department of Insurance. Once approved, subsequent courses with a schedule of dates and times the course will be offered must be submitted thirty (30) days prior to holding the course.

2. A course outline prepared by each instructor which demonstrates the topics to be taught and the time that will be devoted to each topic. Course outlines shall indicate a sufficient amount of time for each subject area and must include all subjects as listed in this section.

3. An application fee of one hundred dollars (\$100) must be submitted with the provider and course application. Personal checks are not accepted.

4. The cost per student for the twenty-four (24)-hour initial basic training which shall not exceed two hundred dollars (\$200).

(C) All approved course providers shall complete a class roster in the form approved by the department indicating all course attendees for each day classes are held which shall be sent to the Missouri Department of Insurance within thirty (30) days of completion of the course.

(D) Course providers shall present each attendee with a Certificate of Completion of Initial Basic Training upon the attendee's successful completion of the course, in the form approved by the department.

(E) The Missouri Department of Insurance may audit the approved courses at any time.

(F) Self-study courses in any format, or electronic or telephone conference courses shall not be eligible for approval for initial basic training.

(G) Class roster and Certificate of Completion of Initial Basic Training forms are available on the department's website at [www.insurance.mo.gov](http://www.insurance.mo.gov) and at the Department of Insurance.

*AUTHORITY: sections 374.045, RSMo 2000 and 374.705, 374.710 and 374.784, RSMo Supp. 2004. Original rule filed Sept. 14, 2004. Emergency rule filed Oct. 29, 2004, effective Jan. 1, 2005, expires June 29, 2005. A proposed rule covering this same material is published in this issue of the **Missouri Register**.*

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

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

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

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

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

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

the board and shall not be available for inspection by the public. During the investigative state, the board and its executive staff shall keep the complaint and the fact of its existence confidential to the extent practicable. However, a copy of the complaint and any attachments shall be provided to any *[licensee]* person who is the subject of that complaint or his/her legal counsel, upon written request to the board.

*AUTHORITY: sections 327.041 and 620.010.14(7), RSMo Supp. [2001] 2003. Original rule filed Dec. 8, 1981, effective March 11, 1982. Amended: Filed Sept. 1, 1987, effective Nov. 23, 1987. Amended: Filed Oct. 30, 2002, effective April 30, 2003. Amended: Filed Nov. 1, 2004.*

*PUBLIC COST: This proposed amendment will cost state agencies and political subdivisions approximately one hundred thirty-six dollars and thirty-four cents (\$136.34) annually for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation and are expected to increase at the rate projected by the Legislative Oversight Committee.*

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects, PO Box 184, Jefferson City, MO 65102 or via email at moapels@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

Proposed Amendment Text Reminder:

**Boldface text indicates new matter.**

*[Bracketed text indicates matter being deleted.]*

## Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

### Division 30—Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects

#### Chapter 12—Complaints

#### PROPOSED AMENDMENT

**4 CSR 30-12.010 Public Complaint Handling and Disposition  
Procedure.** The board is proposing to amend section (6).

*PURPOSE: This rule is being amended to allow unlicensed individuals, who have charges filed against them, an equal opportunity to request and obtain a copy of the complaint and all attachments.*

(6) Both the complaint and any information obtained as a result of the investigation of the complaint shall be considered a closed record of



**PUBLIC ENTITY FISCAL NOTE**

**I. RULE NUMBER**

**Title 4 -Department of Economic Development**

**Division 30 - Missouri Board for Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects**

**Chapter 12 - Complaints**

**Proposed Rule - 4 CSR 30-12.010 Public Complaint Handling and Disposition Procedure**

Prepared September 21, 2004 by the Division of Professional Registration

**II. SUMMARY OF FISCAL IMPACT**

Affected Agency or Political Subdivision	Estimated Annual Cost of Compliance
Missouri Board for Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects	\$136.34
<b>Total Annual Cost of Compliance for the Life of the Rule</b>	
	<b>\$136.34</b>

**III. WORKSHEET**

Expenditure of Money

CLASSIFICATION	Fee Amount	Number in Class	AGGREGATE COST
Copy Paper (20 sheets @ .03/per page)	\$0.60	37	\$22.20
Envelope for Mailing Correspondence	\$0.16	37	\$5.92
Postage for Mailing Correspondence	\$1.44	37	\$53.28
<b>Total expense and equipment cost associated with printing and mailing applications</b>			<b>\$81.40</b>

The Senior Office Support Assistant will make a copy of the complaint and prepare the package for mailing. The figures below represent the personal service costs paid by the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects for the initial licensure process.

STAFF	ANNUAL SALARY	SALARY TO INCLUDE FRINGE BENEFIT	HOURLY SALARY	COST PER MINUTE	TIME PER REQUEST	COST PER REQUEST	TOTAL COST
Senior Office Support Assistant	\$27,636	\$37,060	\$17.82	\$0.30	5 minutes	\$1.48	\$54.94
<b>Total personal service costs associated with printing and mailing the applications for licensure to applicant</b>							<b>\$54.94</b>

**IV. ASSUMPTION**

1. The number of requests for copies of complaints are based on actual figures from FY03.
2. Employee's salaries were calculated using their annual salary multiplied by 40.47% for fringe benefits and then were divided by 2080 hours per year to determine the hourly salary. The hourly salary was then divided by 60 minutes to determine the cost per minute. The cost per minute was then multiplied by the amount of time the Senior Office Support Assistant spent on the processing of the request for a copy of a complaint. The total cost was based on the cost per request multiplied by the estimated number of requests received on an annual basis.
3. It is anticipated that the total cost will recur annually for the life of the rule, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 100—Division of Credit Unions  
Chapter 2—State-Chartered Credit Unions**

**PROPOSED AMENDMENT**

**4 CSR 100-2.045 Member Business Loans.** The director is amending sections (1)–(8), adding new sections (3), (8), (10) and (11), and renumbering sections accordingly.

*PURPOSE: This amendment is designed to update the rule by adding additional direction and clarification in lending requirements.*

(1) For purposes of this section, the following words and terms, shall have the following meanings, unless the context clearly indicates otherwise:

(E) **“Loan to value ratio”** is the aggregate amount of all sums borrowed including outstanding balances plus all unfunded commitments or lines of credit from all sources on an item of collateral divided by the market value of the collateral used to secure the loan.

(F) **“Construction or development loan”** is a financing arrangement for acquiring property or rights to property, including land or structures, with the intent to convert it to income producing property such as residential housing for rental or sale; commercial use; industrial use; or similar uses.

(2) A member business loan includes any loan, line of credit, or letter of credit, **including any unfunded commitments**, the proceeds of which will be used for a commercial, corporate, business investment property or venture, or agricultural purpose, except that the following types of loans shall not be considered member business loans for the purposes of this rule:

(C) Loan(s) otherwise meeting the definition of a member business loan made to a member or associated member that, in the aggregate, is **equal to less than fifty thousand dollars (\$50,000) [or less];**

(D) A loan where a federal or state agency or one of its political subdivisions[, or another credit union] or a **municipality** fully insures repayment, or fully guarantees repayment, or provides an advance commitment to purchase in full; or

**(3) Any interest a credit union has in a business loan through participation with another lender shall be treated as a business loan for the purposes of this rule.**

*[(3)](4)* A credit union that engages in member business lending shall adopt specific member business loan policies and procedures, and review such policy and procedures at least annually. Credit unions must submit business-lending policies and procedures to the Division of Credit Unions for review prior to commencing a member business loan program. The policies and procedures, at a minimum, shall address all of the following areas:

(A) Types of business loans to be made;

(B) The maximum amount of credit union assets, relative to credit union net worth, that will be invested in member business loans;

(C) The maximum amount of credit union assets, relative to credit union net worth, that will be invested in a given category or type of member business loan;

(D) The maximum amount of credit union assets, relative to credit union net worth, that will be loaned to any one member or group of associated members, subject to *[subsection (D) of this section]* **section (5);**

(E) The qualifications and experience requirements for personnel involved in making and servicing business loans. **The credit union must utilize the services of an individual or entity with at least two (2) years of experience in lending to underwrite the type of**

loans to be made given the complexity and risk exposure. Any third party utilized to fulfill this requirement must be independent from the transaction and is prohibited from having a participation in the loan or an interest in the collateral. Credit union’s utilizing a third party must make the actual lending decision;

(F) Documented analysis **consistent with appropriate underwriting and due diligence requirements** of the member’s initial and ongoing financial capacity to repay the debt;

(G) Receipt and periodic documentation supporting each request for an extension of credit, advance on a line of credit, or an increase in an existing loan or line of credit, which shall address all of the following:

1. A balance sheet;
2. An income statement;
3. A cash flow analysis;
4. Tax returns;
5. Leveraging; and
6. Receipt and the periodic updating of financial statements, tax returns, and other documentation;

(H) Collateral requirements which must include all of the following:

1. Loan-to-value (LTV) ratios *[that]* for all liens cannot exceed eighty percent (80%) unless the value in excess of eighty percent (80%) is covered through private mortgage or equivalent insurance, or third party *[guarantee]* **government guarantee or government advance purchase commitment**, but in no case can it exceed ninety-five percent (95%);. **Unsecured loans shall not exceed the lesser of one hundred thousand dollars (\$100,000) or 2.5% of net worth to any one borrower or group of associated members. Only well capitalized credit unions with net worth of seven percent (7%) or greater may make unsecured loans. The aggregate of all unsecured lending shall not exceed ten percent (10%) of net worth. Loans may be made for a car, van, pick-up truck or SUV, that are not part of a commercial fleet of vehicles, up to one hundred percent (100%) of the vehicle market value;**

2. Appraisal, title search, determination of value and insurance requirements;

3. Steps to be taken to secure various types of collateral; and

4. Frequency of revaluation/marketability of collateral; and

(I) Identification, by position, of the officials and senior management employees who are prohibited from receiving member business loans that, at a minimum, shall include the credit union’s chief executive officer, any assistant chief executive officers, the chief financial officer, **all elected officials**, and any associated member or immediate family member of such persons. **Business loans may not be granted if any additional income received by the credit union or senior management employees is derived from the profit or sale of the business or commercial endeavor for which the loan is made.**

*[(4)](5)* The aggregate amount of outstanding member business loans to any one member or group of associated members shall not be more than fifteen percent (15%) of the credit union’s net worth *[less the Allowance for Loan Losses account]*, or one hundred thousand dollars (\$100,000), whichever is greater. These limitations only apply to borrowers with member business loans. If any portion of a member business loan is secured by shares in the credit union or deposits in another financial institution, or is fully or partially insured or guaranteed by, or subject to an advance commitment to purchase by, any agency of the federal government or of a state or any of its political subdivisions, such portion shall not be calculated in determining the fifteen percent (15%) limit.

*[(5)](6)* Construction and development of commercial or residential property are subject to the following additional requirements:

(A) The aggregate of all construction and development loans must not exceed fifteen percent (15%) of the credit union’s net worth. **The**

borrower must have at a minimum a twenty-five percent (25%) equity interest in the project. To determine appraised value the credit union must use the market value of the project at the time the loan is made. To determine the aggregate, a credit union may exclude any portion of a loan:

1. Secured by shares in the credit union;
2. Secured by deposits in another financial institution;
3. Fully or partially insured or guaranteed by any agency of the federal government, state, or its political subdivisions; or
4. Subject to an advance commitment to purchase by an agency of the federal government, state, or its political subdivisions;

(B) The member borrower and associated members must have a minimum of *[thirty-five percent (35%)]* **twenty-five percent (25%)** equity interest in the project being financed; and

(C) The funds may be released only after on-site, written inspections are performed by qualified personnel. Funds shall be released only in accordance to a preapproved draw schedule and any other conditions set forth in the loan documentation *[or business plan]*.

*[(6)](7)* The aggregate limit on a credit union's outstanding member business loans, including any unfunded commitments, is the lesser of 1.75 times the credit union's net worth or 12.25% of the credit union's total assets. Loans that are exempt from the definition of member business loans are not counted for the purpose of the aggregate loan limit.

**(8) Exceptions to the aggregate loan limit are permitted as follows:**

*[(7)](A)* The following types of credit unions are exempt from the aggregate loan limit **upon approval by the director:**

*[(A)]1.* Credit unions that have a low-income designation or participate in the Community Development Financial Institutions program; and

*[(B)]2.* Credit unions that were chartered for the purpose of making member business loans and that can provide documentary evidence of such purpose, including but not limited to the original charter, original bylaws, original business plan, original field of membership, board minutes and loan portfolio*./.*; **and**

**(B) The director will forward a copy of the approval to the Regional Director, National Credit Union Administration.**

*[(8)](9)* A loan granted by a credit union to another credit union or corporate credit union service organization or natural person credit union service organization is exempt from this rule except for the aggregate limits established in section *[(6)] (7)* of this rule.

**(10) A credit union participating in a Small Business Administration loan guarantee program may make member business loans with the maturity, interest rates, collateral and equity ratios, and prepayment penalties authorized under the loan guarantee program.**

**(11) The process for obtaining waivers is as follows:**

**(A) A credit union may seek a waiver in any of the following areas:**

1. Aggregate construction and development loan limits in section (6) of this rule;
2. Minimum borrower equity requirements for construction and developments loans under section (6) of this rule;
3. Loan-to-value ratio requirements under subsection (4)(H) of this rule;
4. Maximum unsecured business loans to one member or group of associated members under subsection (4)(H) of this rule; and
5. Maximum aggregate unsecured member business loan limit under subsection (4)(H) of this rule; and

**(B) The waiver request must be in writing and contain information as required by the director, Division of Credit Unions. Prior to deciding a waiver request the director shall consult and seek to work cooperatively with National Credit Union Administration officials. In the event the director approves a waiver request, the director will promptly forward the request to the National Credit Union Administration (NCUA) regional director for review. A waiver request is not deemed approved until the regional director, National Credit Union Administration has reviewed it and the credit union notified by the director, Division of Credit Unions of its final approval.**

*AUTHORITY: sections 370.070, 370.071, 370.100 and 370.310, RSMo 2000. Original rule filed March 7, 2000, effective Sept. 30, 2000. Amended: Filed Nov. 6, 2000, effective May 30, 2001. Amended: Filed Nov. 1, 2004.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the John P. Smith, Director, Division of Credit Unions, PO Box 1607, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

#### **Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 100—Division of Credit Unions Chapter 2—State-Chartered Credit Unions**

#### **PROPOSED AMENDMENT**

**4 CSR 100-2.205 Deposit of Public Funds.** The director is amending the Purpose and adding section (2).

*PURPOSE: This amendment incorporates the language of 370.400, RSMo through passage of Senate Bill No. 1093 by the 92nd General Assembly. Credit union may act as a custodian and place funds in other financial institutions as long as they are insured by federal deposit insurance (see sections 148.660, 370.070, 370.071 and 370.400, RSMo).*

*PURPOSE: This rule allows credit unions to accept public funds for deposit (see sections 148.660, 370.070, [and] 370.071, and 370.400 RSMo).*

**(2) Political subdivisions and other public entities may invest funds that are not immediately needed for their intended use. For such investments, certain conditions must be met, which include placing the funds in a credit union. The credit union must arrange for the deposit of the funds in certificates of deposit. Each certificate of deposit must be insured by the National Credit Union Share Insurance Fund. The credit union must act as custodian for the public entity with respect to the certificate of deposit. The credit union must receive an equal amount of deposits from customers of other credit unions to that of the public funds initially placed by the public entity. These public funds may be accepted provided the following occur:**

**(A) The public funds are invested through a credit union, which has been selected as a depository of the funds in accordance with the applicable provisions of the statutes of Missouri**

relating to the selection of depositories and such credit unions enter into a written agreement with the public entity;

(B) The selected credit union arranges for the deposit of the public funds in certificates of deposit in one (1) or more credit unions wherever located in the United States, for the account of the public entity;

(C) Each such certificate of deposit issued by credit unions as provided in subsection (B) of this section is insured by the National Credit Union Share Insurance Fund for one hundred percent (100%) of the principal and accrued interest of the certificate of deposit;

(D) The selected credit union acts as custodian for the public entity with respect to the certificate of deposit issued for its account; and

(E) At the same time that the public funds are deposited and the certificates of deposit are issued, the selected credit union receives an amount of deposits from customers of other credit unions equal to the amount of the public funds initially invested by the public entity through the selected credit union.

*AUTHORITY:* sections 148.660, 370.070, [RSMo 1986] and 370.071, RSMo [Supp. 1991] 2000 and 370.400, RSMo Supp. 2004 and Section 107 (12 U.S.C. 1757). Emergency rule filed Feb. 14, 1984, effective Feb. 24, 1984, expired June 23, 1984. Original rule filed March 12, 1984, effective June 11, 1984. Amended: Filed Nov. 1, 2004.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with John P. Smith, Director, Division of Credit Unions, PO Box 1607, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

*AUTHORITY:* sections 334.090.2 and 334.125, RSMo 2000. Emergency rule filed July 1, 1981, effective July 11, 1981, expired Nov. 8, 1981. Original rule filed July 14, 1981, effective Oct. 11, 1981. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Nov. 1, 2004.

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

*PRIVATE COST:* This proposed amendment will cost private entities an increase of \$1,033,450 biennially for the life of the rule. It is anticipated that the total cost will recur biennially for the life of the rule, may vary with inflation and is expected to increase biennially at the rate projected by the Legislative Oversight Committee.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri State Board of Healing Arts, Attn: Tina Steinman, Executive Director, 3605 Missouri Blvd., PO Box 4, Jefferson City, MO 65102 or [healingarts@pr.mo.gov](mailto:healingarts@pr.mo.gov). To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

## Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

### Division 150—State Board of Registration for the Healing Arts

#### Chapter 2—Licensing of Physicians and Surgeons

#### PROPOSED AMENDMENT

**4 CSR 150-2.080 Fees.** The board is proposing to amend subsection (1)(J).

*PURPOSE:* The State Board of Registration for the Healing Arts is statutorily obligated to enforce and administer the provisions of Chapter 334, RSMo. The board shall by rule and regulation set the amount of fees authorized by section 334.090, RSMo so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the board for administering the provisions of sections 334.002 to 334.265, RSMo. This proposed amendment is necessary because the board's fund balance and projected revenue will not support the expenditures necessary to enforce and administer the provisions of sections 334.002 to 334.265, RSMo, which will result in an endangerment to the health, welfare, and safety of the public.

(1) The following fees are established by the State Board of Registration for the Healing Arts:

(J) Renewal of Certificate of Registration Fee	[ <del>\$200.00</del> ] <b>\$250.00</b>
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**PRIVATE ENTITY FISCAL NOTE**

**I. RULE NUMBER**

**Title 4 -Department of Economic Development**

**Division 150 - State Board of Registration for the Healing Arts**

**Chapter 2 - Licensing of Physicians and Surgeons**

**Proposed Amendment - 4 CSR 150-2.080 Fees**

Prepared October 18, 2004 by the Division of Professional Registration

**II. SUMMARY OF FISCAL IMPACT**

**Biennial Increase Comply Beginning in FY06**

Estimate the number of entities by class which would likely be affected by the adoption of the proposed amendment:	Classification by type of the business entities which would likely be affected:	Estimated biennial cost of compliance with the amendment by affected entities:
20,669	Licensees (Renewal of Certificate of Registration Fee - \$50 increase)	\$1,033,450
<b>Estimated Biennial Cost of Compliance for the Life of the Rule</b>		<b>\$1,033,450</b>

**III. WORKSHEET**

See table above.

**IV. ASSUMPTION**

1. Based on the current licensee count, the board estimates that 20,669 licensees will be affected by the \$50 biennial renewal fee increase beginning in FY06. The board anticipates the number of licensees to remain constant over the life of the rule.
2. It is anticipated that the total cost will recur annually for the life of the rule, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee.

**NOTE:** The board is statutorily obligated to enforce and administer the provisions of Chapter 334, RSMo. Pursuant to Section 334.050, RSMo, the board shall by rule and regulation set the amount of fees authorized by Chapter 334, RSMo so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the board for administering the provisions of Chapter 334, RSMo. This proposed amendment is necessary because the board's projected revenue will not support the expenditures necessary to enforce and administer the provisions of Chapter 334, RSMo, which will result in an endangerment to the health, welfare, and safety of the public.

**Title 11—DEPARTMENT OF PUBLIC SAFETY  
Division 75—Peace Officer Standards and  
Training Program  
Chapter 13—Peace Officer Licenses**

**PROPOSED AMENDMENT**

**11 CSR 75-13.010 Classification of Peace Officer Licenses.** The department is amending subsection (1)(H).

*PURPOSE:* This amendment will allow those peace officers that are a holder of a Class R license to carry concealed if permitted by law.

(1) Every peace officer license shall be classified according to the type of commission for which it is valid:

(H) Class R.

1. Valid only for commission as a reserve peace officer with police powers limited by the commissioning authority as follows: while on duty the officer shall be under the direct supervision of a commissioned officer who holds a valid class A, B, or C license; while off duty the officer shall have no police power and shall not carry a concealed weapon, **unless otherwise permitted by law**; and the officer shall have no police power outside the commissioning political subdivision.

2. As used in this rule, direct supervision means supervision in which the supervising officer: monitors the supervised officer, including by two-way radio or radio scanner; is available for voice communication with the supervised officer; and is able to respond and assist the supervised officer in a timely manner.

3. A class R license shall not be valid for any commission by a first class county with a charter form of government, a political subdivision located within a first class county with a charter form of government, a city not within a county, the Missouri State Highway Patrol, the Missouri State Water Patrol, or the Missouri Conservation Commission.

*AUTHORITY:* sections 590.020.2, 590.030.6, and 590.040.2, RSMo Supp. [2002] 2003. Original rule filed May 1, 2002, effective Oct. 30, 2002. Amended: Filed April 25, 2003, effective Oct. 30, 2003. Amended: Filed Aug. 2, 2004. Amended: Filed Nov. 1, 2004.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with Jeremy Spratt, POST Program, Missouri Department of Public Safety, PO Box 749, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 11—DEPARTMENT OF PUBLIC SAFETY  
Division 75—Peace Officer Standards and  
Training Program  
Chapter 13—Peace Officer Licenses**

**PROPOSED AMENDMENT**

**11 CSR 75-13.030 Procedure to Upgrade Peace Officer License Classification.** The department is adding a new section (2), and renumbering sections (3), (4), (5) and (6).

*PURPOSE:* This amendment gives a limit of time for those with a Class R license to upgrade their license.

(2) Individuals with a Class R license who attend an upgrade basic training course to obtain a Class B license shall be required to complete the training requirement within three (3) years of the date they obtained their Class R license.

[(2)](3) An applicant shall submit to the Director a peace officer license application.

[(3)](4) An applicant must achieve a qualifying score on the Missouri Peace Officer License Exam (MPOLE) within one hundred twenty (120) days of application.

[(4)](5) The Director shall examine the qualifications of each applicant and determine whether the applicant has met all requirements for a license upgrade. The Director may investigate or request additional information from an applicant pursuant to section 590.110.1, RSMo.

[(5)](6) The Director shall grant the appropriate license reclassification or deny the applicant's request. An applicant aggrieved by the decision of the Director may appeal pursuant to section 590.100.3, RSMo.

*AUTHORITY:* section 590.030.4, RSMo Supp. 2003. Original rule filed May 1, 2002, effective Oct. 30, 2002. Amended: Filed Jan. 15, 2004, effective July 30, 2004. Amended: Filed Nov. 1, 2004.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with Jeremy Spratt, POST Program, Missouri Department of Public Safety, PO Box 749, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 11—DEPARTMENT OF PUBLIC SAFETY  
Division 75—Peace Officer Standards and  
Training Program  
Chapter 13—Peace Officer Licenses**

**PROPOSED AMENDMENT**

**11 CSR 75-13.060 Veteran Peace Officer Point Scale.** The department is amending sections (5) and (6).

*PURPOSE:* This amendment identifies the point system for qualifying for a peace officer license on the veteran peace officer point scale.

(5) The Director shall score each applicant according to the following point system.

(A) For basic training:

1. 120 to 179 hours, 1 point;
2. 180 to 299 hours, 3 points;
3. 300 to [479] 469 hours, 5 points;
4. [480] 470 to 599 hours, 8 points;
5. 600 hours or more, 14 points.

(B) For years of experience as an active commissioned peace officer:

1. [One to three years, 2 points;] **At least one year, up to two years: 1 point;**

2. [Three to four years, 3 points;] Over two years, up to three years: **2 points;**
3. [Four to five years, 4 points;] Over three years, up to four years: **3 points;**
4. [Five to ten years, 5 points;] Over four years, up to five years: **4 points;**
5. [Ten to fifteen years, 6 points;] Over five years, up to six years: **5 points;**
6. [Fifteen to twenty years, 7 points;] Over six years, up to seven years: **6 points;**
7. [Twenty or more years, 8 points.] Over seven years, up to eight years: **7 points;**
8. Over eight years, up to nine years: **8 points;**
9. Over nine years, up to ten years: **9 points;**
10. Over ten years, up to sixteen years: **10 points;**
11. Over sixteen years: **12 points.**

(6) The Director shall recognize the applicant's qualification on the following scale:

- (A) **Three through nine points, class R license;**  
[(A)] (B) Ten through fifteen total points, class B license;  
[(B)] (C) Sixteen or more total points, class A license.

*AUTHORITY: section 590.030.3, RSMo Supp. 2003. Original rule filed May 1, 2002, effective Oct. 30, 2002. Amended: Filed Jan. 15, 2004, effective July 30, 2004. Amended: Filed Nov. 1, 2004.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Jeremy Spratt, POST Program, Missouri Department of Public Safety, PO Box 749, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 107—Sales/Use Tax—Exemption Certificates**

**PROPOSED RULE**

**12 CSR 10-107.100 Use of and Reliance on Exemption Certificates**

*PURPOSE: Section 144.210, RSMo, requires sellers to obtain and maintain an exemption certificate when a purchaser claims a sale is exempt from tax. Section 32.200, RSMo, relieves a seller from liability for tax if the seller receives and accepts an exemption certificate in good faith. This rule describes procedures for sellers to follow when accepting exemption certificates.*

(1) In general, a seller that receives and accepts an exemption certificate in good faith is not required to collect and remit tax on a sale covered by the exemption certificate. If the exemption certificate accepted in good faith is not valid, the purchaser is liable for the tax.

(2) Definition of Terms.

(A) Exemption certificate—A certificate signed by the purchaser and provided to the seller that specifies the basis for the purchaser's claim of exemption. A copy of a letter of exemption issued by the department to an exempt entity and delivered to a seller is equivalent to an exemption certificate for purposes of this rule.

(B) Good faith—See 12 CSR 10-101.500(2)(B), Burden of Proof.

(3) Application of Rule.

(A) The seller must obtain and maintain exemption certificates for any exempt sales. If the seller does not have an exemption certificate for a sale it claims was exempt, the seller may be held liable for the tax. Exemption certificates retained by the seller must be updated every five (5) years or when the certificate expires by its terms, whichever is earlier.

(B) The seller must indicate on each invoice or bill of sale the name of the purchaser claiming the exemption.

(C) If a seller has an exemption certificate from the purchaser on file, the seller may rely on the certificate on file for future sales unless:

1. The certificate on file has expired;
2. The certificate, by its terms, does not apply to the transaction; or
3. The seller can no longer rely in good faith on the certificate.

(D) A document issued by the purchaser stating that a specific transaction is subject to tax requires the seller to collect tax on the transaction, even if it contradicts the purchaser's prior claim of exemption. A claim of exemption issued by the purchaser relating to a specific transaction applies only to that transaction and is not a general claim of exemption.

(E) If a purchaser gives the seller an exemption certificate claiming an exemption that the purchaser is not entitled to claim, or if the purchaser subsequently uses the tangible personal property in a manner inconsistent with the purchaser's claim of exemption, then the purchaser is liable for the tax. If sales tax should have been paid on the original purchase, then the purchaser should report and remit sales tax based on the location of the seller. If use tax should have been paid on the original purchase, then the purchaser should report and remit use tax based on the location of the purchaser. If the purchaser cannot determine whether the goods are subject to sales or use tax, the goods are subject to the sales tax rate at the location of the purchaser.

(F) If a seller does not act in good faith when accepting an exemption certificate, the seller and purchaser are jointly liable for the amount due.

(4) Examples.

(A) A Joplin grocery store buys two (2) dozen mops for resale from a seller in St. Joseph, Missouri and delivers an exemption certificate. The grocery store then removes six (6) of these mops from stock for use in cleaning the store. The grocery store is subject to sales tax on the actual cost of the six (6) mops removed from stock based on the rate in effect at the seller's St. Joseph location.

(B) A Missouri seller has an exemption certificate on file from a Missouri purchaser. Therefore, the seller should not collect tax from the purchaser. On a future purchase, the purchaser issues a purchase order stating that the purchase is taxable. The seller must collect and remit tax on the transaction.

(C) A seller claims a number of sales are exempt from tax. The seller's invoices do not identify the purchasers. Unless the seller can otherwise establish the validity of the exemptions, the seller must remit tax on these sales.

(D) A retailer has an unsigned exemption certificate from a customer. The retailer does not charge tax on the sales it makes to that customer. The retailer is liable for tax on the sales to that customer, because an unsigned exemption certificate is not valid.

(E) An out-of-state seller sells to a Missouri customer. The Missouri customer issues an exemption certificate, which is taken in good faith. The out-of-state seller should not collect or remit Missouri tax. The Missouri buyer must report and remit tax if the items are not exempt.

(5) Annotations.

(A) *All Star Amusement, Inc. v. Director of Revenue*, 873 S.W.2d 843 (Mo. banc 1994). A seller that accepts an exemption certificate in good faith is not required to collect and remit tax on the sale. There is no requirement that a seller accept an exemption certificate contemporaneously with the sale or that the certificate be dated to fulfill the good faith requirement. However, the fact that an exemption certificate is received after the sale or is not dated may influence a factual finding on the issue of the seller's good faith.

(B) *Conagra Poultry Co. v. Director of Revenue*, 862 S.W.2d 915 (Mo. banc 1993). In order to accept an exemption certificate in good faith, a seller must act with honesty of intention and freedom from knowledge that ought to put the seller on notice. When seller prepared the exemption certificates two (2) years after the transaction and obtained the buyer's signatures, the seller did not act in good faith.

(C) *Director of Revenue v. Armco, Inc.*, 787 S.W.2d 722 (Mo. banc 1993). Failure by seller to provide exemption certificates at time of department audit forfeited the right to claim the sales were exempt.

(D) *Cadwell Supermarket, Inc. v. Director of Revenue* (AHC 1997). When seller's employees personally knew the buyers were purchasing for exempt purposes, failure to obtain exemption certificates did not defeat the exemption claim.

*AUTHORITY: section 144.270, RSMo 2000. Original rule filed Oct. 25, 2004.*

*PUBLIC COST: This proposed rule is estimated to cost the Missouri Department of Revenue twenty-three thousand six dollars (\$23,006) with that cost recurring annually over the life of the rule.*

*PRIVATE COST: This proposed rule is estimated to cost private entities \$1,400,000 in the aggregate.*

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



**FISCAL NOTE  
PUBLIC COST**

**I. RULE NUMBER**

<b>Rule Number and Name:</b>	12 CSR 10-107.100 Use of and Reliance on Exemption Certificates
<b>Type of Rulemaking:</b>	Proposed Rule

**II. SUMMARY OF FISCAL IMPACT**

<b>Affected Agency or Political Subdivision</b>	<b>Estimated Cost of Compliance in the Aggregate</b>
Missouri Department of Revenue	\$23,006

**III. WORKSHEET**

The Department of Revenue provides an average of 5,000 Form 149, Exemption Certificates each year at a cost to print and mail of \$.405 per form. The Department of Revenue issues approximately 3,780 exemption letters a year at a cost to print and mail of \$.43 per exemption. The Department of Revenue has one FTE dedicated to issuing exemption letters.

**IV. Assumptions**

The costs assume no postal discounts for mailing are realized. It also assumes an annual salary for a Tax Processing Technician of \$23,006.

**FISCAL NOTE  
PRIVATE COST**

**I. RULE NUMBER**

Rule Number and Name:	12 CSR 10-107.100 Use of and Reliance on Exemption Certificates
Type of Rulemaking:	Proposed Rule

**II. SUMMARY OF FISCAL IMPACT**

Estimate of the number of entities by class which would likely be affected by adoption of the proposed rule	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
140,000	Retail sales and use tax businesses – Annual cost of \$10 per business to maintain exemption certificates/letters.	\$1,400,000

**III. WORKSHEET**

The Department of Revenue receives returns from approximately 140,000 taxpayers. The estimated cost to maintain exemption certificates per business is \$10. Therefore, the cost to businesses to comply with this rule is \$1,400,000.

**IV. ASSUMPTIONS**

The rule does not change existing practice. The department cannot determine the actual costs of obtaining and maintaining exemption certificates. The department assumes for purposes of this fiscal note that it costs \$10 for each taxpayer annually. Failure to maintain proof of exemption might result in liability for the tax, which would result in substantial costs to taxpayers. Therefore, maintaining these certificates is the more cost effective alternative.

The figure above is based on the assumption every seller makes at least one exempt sale each year and the incremental cost of maintaining additional certificates is negligible.

**Title 20—DEPARTMENT OF INSURANCE  
Division 500—Property and Casualty  
Chapter 2—Automobile Insurance**

**PROPOSED AMENDMENT**

**20 CSR 500-2.300 Cancellation and Nonrenewal of Automobile Insurance.** The department is amending subsections (2)(A) and (3)(A).

*PURPOSE: This rule is being amended to implement the legislative changes enacted by Senate Bill 1299 in the 2004 legislative session of the 92nd General Assembly by changing the designated policy period for automobile insurance policies with less than a six (6)-month term or a term without a fixed expiration date.*

(2) Statutory Standards for Applicants.

(A) Any insurer *[which]* **that** insures only a particular class of persons or operates within a specific geographical area must file with the Missouri Department of Insurance (MDI) a statement signed by an officer which specifies the exact criteria for membership in that class or defines by inclusion or exclusion that specific geographical area.

(3) Cancellation.

(A) A cancellation occurs whenever an insurer, directly or indirectly, terminates an automobile insurance contract or policy prior to its expiration date. If a contract or policy has a period of less than *[twelve (12)]* **six (6)** months or no fixed expiration date, it shall be considered as if written for successive periods of *[twelve (12)]* **six (6)** months. Any attempt by the insurer to terminate the contract or policy on a date other than its anniversary date is a cancellation.

*AUTHORITY: sections 303.170–303.210, 374.045 and 379.470, RSMo 2000 and 379.110–379.120, RSMo 2000 and Supp. 2004. This rule was previously filed as 4 CSR 190-17.050. Original rule filed Feb. 26, 1975, effective March 8, 1975. Amended: Filed March 6, 1975, effective March 16, 1975. For intervening history, please consult the Code of State Regulations. Amended: Filed Oct. 29, 2004.*

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

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

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed amendment at 10 a.m. on January 6, 2005. The public hearing will be held at the Harry S Truman State Office Building, Room 530, 301 West High Street, Jefferson City, Missouri. Opportunities to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a written statement in support of or in opposition to this proposed amendment, until 5:00 p.m. on January 6, 2005. Written statements shall be sent to Kimberly A. Grinston, Department of Insurance, PO Box 690, Jefferson City, MO 65102.*

*SPECIAL NEEDS: If you have any special needs addressed by the Americans With Disabilities Act, please notify us at (573) 751-6798 or (573) 751-2619 at least five (5) working days prior to the hearing.*

**T**his section will contain the final text of the rules proposed by agencies. The order of rulemaking is required to contain a citation to the legal authority upon which the order of rulemaking is based; reference to the date and page or pages where the notice of proposed rulemaking was published in the *Missouri Register*; an explanation of any change between the text of the rule as contained in the notice of proposed rulemaking and the text of the rule as finally adopted, together with the reason for any such change; and the full text of any section or subsection of the rule as adopted which has been changed from that contained in the notice of proposed rulemaking. The effective date of the rule shall be not less than thirty (30) days after the date of publication of the revision to the *Code of State Regulations*.

**T**he agency is also required to make a brief summary of the general nature and extent of comments submitted in support of or opposition to the proposed rule and a concise summary of the testimony presented at the hearing, if any, held in connection with the rulemaking, together with a concise summary of the agency's findings with respect to the merits of any such testimony or comments which are opposed in whole or in part to the proposed rule. The ninety (90)-day period during which an agency shall file its order of rulemaking for publication in the *Missouri Register* begins either: 1) after the hearing on the proposed rulemaking is held; or 2) at the end of the time for submission of comments to the agency. During this period, the agency shall file with the secretary of state the order of rulemaking, either putting the proposed rule into effect, with or without further changes, or withdrawing the proposed rule.

the amendment is meant to address would be better addressed through training. In consideration of these comments the department has decided to withdraw the proposed amendment at this time.

RESPONSE: As a result the department is withdrawing the proposed amendment.

**Title 13—DEPARTMENT OF SOCIAL SERVICES  
Division 40—Family Support Division  
Chapter 2—Income Maintenance**

**ORDER OF RULEMAKING**

By the authority vested in the Department of Social Services, Family Support Division under sections 207.020 and 208.145, RSMo 2000, the division amends a rule as follows:

**13 CSR 40-2.375 Medical Assistance for Families is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 15, 2004 (29 MoReg 1104-1105). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 9—DEPARTMENT OF MENTAL HEALTH  
Division 10—Director, Department of Mental Health  
Chapter 5—General Program Procedures**

**ORDER OF RULEMAKING**

By the authority vested in the Department of Mental Health under section 630.050, RSMo 2000, the department withdraws a proposed amendment as follows:

**9 CSR 10-5.200 Report of Complaints of Abuse, Neglect and Misuse of Funds/Property is withdrawn.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 1, 2004 (29 MoReg 1054). This proposed amendment is withdrawn.

SUMMARY OF COMMENTS: The Department of Mental Health received numerous comments regarding the proposed amendment. The majority of the comments were opposed to the proposed discretionary authority to terminate or not to terminate the employment of a person who has committed multiple counts of verbal abuse or class II neglect. The comments stated that this practice is too subjective and would lead to inconsistency in application, and a termination would be too difficult to defend in an administrative hearing and in court. Two (2) persons favored the current practice of an automatic termination if a person commits two (2) counts of class II neglect within a twelve (12)-month period. One person noted that, under the proposed amendment, a person could be terminated if the two (2) counts of neglect were separated by many years. Two (2) persons stated that a single count of neglect ought to result in termination. One person suggested that the current operational difficulties which