

# SENATE BILL NO. 1546

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR TRENT.

6159S.02I

KRISTINA MARTIN, Secretary

## AN ACT

To amend chapters 361 and 362, RSMo, by adding thereto two new sections relating to financial institutions.

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

Section A. Chapters 361 and 362, RSMo, are amended by  
2 adding thereto two new sections, to be known as sections  
3 361.1200 and 362.1200, to read as follows:

361.1200. 1. As used in this section, the following  
2 terms mean:

3 (1) "Financial services", any service or product  
4 offered to the consumer or business market by a bank, trust  
5 company, building and loan association, credit union, or any  
6 other entity regulated by the division of finance;

7 (2) "Person", one or more individuals, partnerships,  
8 associations, limited liability companies, corporations,  
9 unincorporated organizations, mutual companies, joint stock  
10 companies, trusts, agents, legal representatives, trustees,  
11 trustees in bankruptcy, receivers, labor organizations,  
12 public bodies, and public corporations and the state of  
13 Missouri and all political subdivisions and agencies  
14 thereof. Such term shall include federally chartered  
15 banking institutions that accept state deposits;

16 (3) "Trade association", any corporation,  
17 unincorporated association, federation, business league, or

18 professional or business organization not organized or  
19 operated for profit and no part of the net earnings of which  
20 inures to the benefit of any private shareholder or  
21 individual that is:

22 (a) An organization described in 26 U.S.C. Section  
23 501(c)(6) and exempt from tax under Section 501(a) of such  
24 title; and

25 (b) Two or more members of which are manufacturers or  
26 sellers of a qualified product as defined by 15 U.S.C.  
27 Section 7903(4).

28 2. It shall be an unlawful discriminatory practice for  
29 any person to refuse to provide financial services, refrain  
30 from continuing to provide existing financial services,  
31 terminate existing financial services with, or otherwise  
32 discriminate in the provision of financial services to, a  
33 person or trade association solely because such person or  
34 trade association is engaged in the lawful commerce of  
35 firearms or ammunition products and is licensed pursuant to  
36 18 U.S.C. Chapter 44 or is a trade association.

37 3. Whenever the attorney general has reason to believe  
38 that any person is engaging, has engaged, or is about to  
39 engage in any act or practice declared unlawful by this  
40 section, the attorney general shall, upon written request or  
41 by his or her own initiative, investigate and, upon finding  
42 a probable violation of this section, bring an action in the  
43 name of the state against such person:

44 (1) To obtain a declaratory judgment that the act or  
45 practice violates the provisions of this section;

46 (2) To enjoin any act or practice that violates the  
47 provisions of this section by issuance of a temporary  
48 restraining order or preliminary or permanent injunction,  
49 without bond, upon the giving of appropriate notice;

50           (3) To recover civil penalties of up to ten thousand  
51 dollars per violation of this section plus reasonable  
52 expenses, investigative costs, and attorney's fees.

          362.1200. 1. As used in this section, the following  
2 terms mean:

3           (1) "Financial institution", a bank, savings and loan  
4 association, trust company, credit union, or any other  
5 entity that directly or indirectly holds an account  
6 belonging to a consumer that is organized and operating  
7 according to the laws of any state, the District of  
8 Columbia, or the United States that is lawfully operating  
9 within this state;

10          (2) "Regulatory agency", any regulatory or  
11 administrative officer or body existing under the laws or  
12 constitution of any state or the United States with  
13 jurisdiction with regard to the activities and operations of  
14 financial institutions. This term includes, but is not  
15 limited to, the following:

16          (a) The Missouri division of credit unions, and any  
17 successor division;

18          (b) The federal Consumer Financial Protection Bureau,  
19 and any successor agency;

20          (c) The National Credit Union Administration, and its  
21 successors;

22          (d) The federal Office of the Comptroller of the  
23 Currency, and its successors;

24          (e) The Federal Deposit Insurance Corporation and its  
25 successors; and

26          (f) The United States Department of Justice, and its  
27 successors;

28          (3) "Written guidance", a record of general  
29 applicability developed by a regulatory agency that states

the regulatory agency's current approach to, or interpretation of, law, or describes how the regulatory agency will exercise discretionary functions, such as promulgated rules and regulations, advisory opinions, regulatory notices, guidance documents, manuals, interpretative memoranda, staff instructions, policy statements, circulars, bulletins, press releases, appendices to any rules and regulations, sample forms provided in such appendices or by a regulatory agency, and a regulatory agency's written response to an inquiry by a financial institution. This term includes records that are publicly available or communicated directly to the financial institution. This definition includes, but is not limited to, written guidance related to:

(a) Mandatory mortgage loan disclosures, as may be required by the federal Truth in Lending Act, 15 U.S.C. Section 1601, et seq., the federal Real Estate Procedures Act, 12 U.S.C. Section 2601, et seq., Regulation X, 12 CFR Section 1024, and Regulation Z, 12 CFR Section 1026, et seq., and any amendments thereto or any regulations promulgated thereunder;

(b) Mandatory overdraft disclosures and opt-in practices, as may be required by the federal Electronic Fund Transfer Act, 15 U.S.C. Section 1693, et seq., Regulation E, 12 CFR Section 1005, et seq., and any amendments thereto or any regulations promulgated thereunder; and

(c) Digital and website accessibility, as may be required by the federal Americans with Disabilities Act, 42 U.S.C. Section 12101, et seq., Section 508 of the federal Rehabilitation Act, 29 U.S.C. Section 794d, and any amendments thereto or regulations promulgated thereunder.

61           2. (1) Notwithstanding any other provision of law to  
62 the contrary, a financial institution shall not be civilly  
63 liable under the laws of this state for any act or omission  
64 made when in compliance with or in good faith reliance on  
65 any applicable rule, regulation, or written guidance issued  
66 by a regulatory agency.

67           (2) This subsection shall be a bar to an action or  
68 proceeding, notwithstanding that after such act or omission,  
69 such rule, regulation, or written guidance is modified,  
70 rescinded, or is held to be invalid by a court.

71           (3) This subsection shall not bar any actions or  
72 proceeding when the act or omission of the financial  
73 institution constituted fraudulent activity, intentional  
74 misconduct, wanton or willful misconduct, or gross  
75 negligence.

76           3. This section does not apply to the extent that any  
77 statute, regulation, or treaty of the United States preempts  
78 it.

79           4. Nothing in this section shall be construed to  
80 impair, limit, or affect the authority of the federal or any  
81 state government, and any regulatory agencies thereof, to  
82 bring any civil, criminal, or administrative enforcement  
83 action.

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