

CONFERENCE COMMITTEE SUBSTITUTE

FOR

HOUSE COMMITTEE SUBSTITUTE

FOR

SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 578

AN ACT

To repeal sections 476.083, 478.430, 478.433, 478.705, 513.430, 515.240, 515.250, and 515.260, RSMo, and to enact in lieu thereof thirty-eight new sections relating to judicial proceedings.

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

1 Section A. Sections 476.083, 478.430, 478.433, 478.705,
2 513.430, 515.240, 515.250, and 515.260, RSMo, are repealed and
3 thirty-eight new sections enacted in lieu thereof, to be known as
4 sections 476.083, 478.330, 478.705, 513.430, 515.500, 515.505,
5 515.510, 515.515, 515.520, 515.525, 515.530, 515.535, 515.540,
6 515.545, 515.550, 515.555, 515.560, 515.565, 515.570, 515.575,
7 515.580, 515.585, 515.590, 515.595, 515.600, 515.605, 515.610,
8 515.615, 515.620, 515.625, 515.630, 515.635, 515.640, 515.645,
9 515.650, 515.655, 515.660, and 515.665, to read as follows:

10 476.083. 1. In addition to any appointments made pursuant
11 to section 485.010, the presiding judge of each circuit
12 containing one or more facilities operated by the department of
13 corrections with an average total inmate population in all such

1 facilities in the circuit over the previous two years of more
2 than two thousand five hundred inmates or containing, as of
3 January 1, 2016, a diagnostic and reception center operated by
4 the department of corrections and a mental health facility
5 operated by the department of mental health which houses persons
6 found not guilty of a crime by reason of mental disease or defect
7 under chapter 552 and provides sex offender rehabilitation and
8 treatment services (SORTS) may appoint a circuit court marshal to
9 aid the presiding judge in the administration of the judicial
10 business of the circuit by overseeing the physical security of
11 the courthouse, serving court-generated papers and orders, and
12 assisting the judges of the circuit as the presiding judge
13 determines appropriate. Such circuit court marshal appointed
14 pursuant to the provisions of this section shall serve at the
15 pleasure of the presiding judge. The circuit court marshal
16 authorized by this section is in addition to staff support from
17 the circuit clerks, deputy circuit clerks, division clerks,
18 municipal clerks, and any other staff personnel which may
19 otherwise be provided by law.

20 2. The salary of a circuit court marshal shall be
21 established by the presiding judge of the circuit within funds
22 made available for that purpose, but such salary shall not exceed
23 ninety percent of the salary of the highest paid sheriff serving
24 a county wholly or partially within that circuit. Personnel
25 authorized by this section shall be paid from state funds or
26 federal grant moneys which are available for that purpose and not
27 from county funds.

28 3. Any person appointed as a circuit court marshal pursuant

1 to this section shall have at least five years' prior experience
2 as a law enforcement officer. In addition, any such person shall
3 within one year after appointment, or as soon as practicable,
4 attend a court security school or training program operated by
5 the United States Marshal Service. In addition to all other
6 powers and duties prescribed in this section, a circuit court
7 marshal may:

8 (1) Serve process;

9 (2) Wear a concealable firearm; and

10 (3) Make an arrest based upon local court rules and state
11 law, and as directed by the presiding judge of the circuit.

12 478.330. 1. When an annual judicial performance report
13 submitted pursuant to section 477.405 indicates for three
14 consecutive calendar years the need for two or more full-time
15 judicial positions in any judicial circuit there shall be one
16 additional circuit judge position authorized in such circuit,
17 subject to appropriations made for that purpose.

18 2. Except in circuits where circuit judges are selected
19 under the provisions of article V of sections 25(a) to 25(g) of
20 the Missouri Constitution, the election of circuit judges
21 authorized by this section shall be conducted in accordance with
22 chapter 115.

23 478.705. 1. There shall be [~~two~~] three circuit judges in
24 the twenty-sixth judicial circuit consisting of the counties of
25 Camden, Laclede, Miller, Moniteau and Morgan. These judges shall
26 sit in divisions numbered one [~~and~~], two, and three.

27 2. The circuit judge in division two shall be elected in
28 1980. The circuit judge in division one shall be elected in

1 1982. The governor shall appoint a judge for division three and
2 notwithstanding the provisions of section 105.030, that judge
3 shall serve until January 1, 2021. A judge for division three
4 shall be elected in 2020.

5 513.430. 1. The following property shall be exempt from
6 attachment and execution to the extent of any person's interest
7 therein:

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

13 (2) A wedding ring not to exceed one thousand five hundred
14 dollars in value and other jewelry held primarily for the
15 personal, family or household use of such person or a dependent
16 of such person, not to exceed five hundred dollars in value in
17 the aggregate;

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

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

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

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

28 (7) Any one or more unmatured life insurance contracts

1 owned by such person, other than a credit life insurance
2 contract, and up to fifteen thousand dollars of any matured life
3 insurance proceeds for actual funeral, cremation, or burial
4 expenses where the deceased is the spouse, child, or parent of
5 the beneficiary;

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

27 (9) Professionally prescribed health aids for such person
28 or a dependent of such person;

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

2 (a) A Social Security benefit, unemployment compensation or
3 a public assistance benefit;

4 (b) A veteran's benefit;

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

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

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

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

21 b. Such payment is on account of age or length of service;
22 and

23 c. Such plan or contract does not qualify under Section
24 401(a), 403(a), 403(b), 408, 408A or 409 of the Internal Revenue
25 Code of 1986, as amended, (26 U.S.C. Section 401(a), 403(a),
26 403(b), 408, 408A or 409);

27

28 except that any such payment to any person shall be subject to

1 attachment or execution pursuant to a qualified domestic
2 relations order, as defined by Section 414(p) of the Internal
3 Revenue Code of 1986, as amended, issued by a court in any
4 proceeding for dissolution of marriage or legal separation or a
5 proceeding for disposition of property following dissolution of
6 marriage by a court which lacked personal jurisdiction over the
7 absent spouse or lacked jurisdiction to dispose of marital
8 property at the time of the original judgment of dissolution;

9 (f) Any money or assets, payable to a participant or
10 beneficiary from, or any interest of any participant or
11 beneficiary in, a retirement plan, profit-sharing plan, health
12 savings plan, or similar plan, including an inherited account or
13 plan, that is qualified under Section 401(a), 403(a), 403(b),
14 408, 408A or 409 of the Internal Revenue Code of 1986, as
15 amended, whether such participant's or beneficiary's interest
16 arises by inheritance, designation, appointment, or otherwise,
17 except as provided in this paragraph. Any plan or arrangement
18 described in this paragraph shall not be exempt from the claim of
19 an alternate payee under a qualified domestic relations order;
20 however, the interest of any and all alternate payees under a
21 qualified domestic relations order shall be exempt from any and
22 all claims of any creditor, other than the state of Missouri
23 through its department of social services. As used in this
24 paragraph, the terms "alternate payee" and "qualified domestic
25 relations order" have the meaning given to them in Section 414(p)
26 of the Internal Revenue Code of 1986, as amended. If proceedings
27 under Title 11 of the United States Code are commenced by or
28 against such person, no amount of funds shall be exempt in such

1 proceedings under any such plan, contract, or trust which is
2 fraudulent as defined in subsection 2 of section 428.024 and for
3 the period such person participated within three years prior to
4 the commencement of such proceedings. For the purposes of this
5 section, when the fraudulently conveyed funds are recovered and
6 after, such funds shall be deducted and then treated as though
7 the funds had never been contributed to the plan, contract, or
8 trust;

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

14 (12) Firearms, firearm accessories, and ammunition, not to
15 exceed one thousand five hundred dollars in value in the
16 aggregate.

17 2. Nothing in this section shall be interpreted to exempt
18 from attachment or execution for a valid judicial or
19 administrative order for the payment of child support or
20 maintenance any money or assets, payable to a participant or
21 beneficiary from, or any interest of any participant or
22 beneficiary in, a retirement plan which is qualified pursuant to
23 Section 408A of the Internal Revenue Code of 1986, as amended.

24 515.500. Sections 515.500 to 515.665 may be cited as the
25 "Missouri Commercial Receivership Act".

26 515.505. As used in sections 515.500 to 515.665, the
27 following terms shall mean:

28 (1) "Affiliate":

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

4 a. An entity that holds such securities in a fiduciary or
5 agency capacity without sole discretionary power to vote such
6 interests; or

7 b. Solely to secure a debt, if such entity has not in fact
8 exercised such power to vote;

9 (b) A person whose business is operated under a lease or
10 operating agreement by a debtor, or a person substantially all of
11 whose property is operated under an operating agreement with a
12 debtor; or

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

16 (2) "Claim", a right to payment whether or not such right
17 is reduced to judgment, liquidated, unliquidated, fixed,
18 contingent, matured, unmatured, disputed, undisputed, legal,
19 equitable, secured or unsecured, or a right to an equitable
20 remedy for breach of performance if such breach gives rise to a
21 right to payment, whether or not such right to an equitable
22 remedy is reduced to judgment, fixed, contingent, matured,
23 unmatured, disputed, undisputed, secured, or unsecured;

24 (3) "Court", a circuit court of the state of Missouri
25 before which an application to appoint a receiver under sections
26 515.500 to 515.665 has been made or granted, or before which a
27 receivership action under sections 515.500 to 515.665 is pending;

28 (4) "Creditor", a person that has a claim against the

1 debtor that arose at the time of or before the appointment of a
2 receiver pursuant to sections 515.500 to 515.665;

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

4 (6) "Debtor", a person as to which a receiver is sought to
5 be appointed or a court appoints pursuant to sections 515.500 to
6 515.665, a person who owns property as to which a receiver is
7 sought to be appointed or a court appoints a receiver pursuant to
8 sections 515.500 to 515.665, a person as to which a receiver has
9 been appointed by a court in a foreign jurisdiction, or a person
10 who owns property as to which a receiver has been appointed by a
11 court in a foreign jurisdiction;

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

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

15 (9) "Executory contract", a contract, including a lease,
16 where the obligations of the debtor and the counter party or
17 counter parties to the contract are unperformed to the extent
18 that the failure of either party to complete performance of its
19 obligations would constitute a material breach of the contract,
20 thereby excusing the other party's performance of its obligations
21 under the contract;

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

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

27 (12) "Lien", a charge against property or an interest in
28 property to secure payment of a debt or performance of an

1 obligation whether created voluntarily or by operation of law;

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

7 (14) "Party", a person who is a party to the action,
8 becomes a party to the action, or shall be joined or shall be
9 allowed to intervene in the action pursuant to the rules of the
10 Missouri supreme court, including, without limitation, any person
11 needed for just adjudication of the action;

12 (15) "Party in interest", the debtor, any party, the
13 receiver, any person with an ownership interest in or lien
14 against estate property or property sought to become estate
15 property, any person that, with respect to particular matters
16 presented in the receivership, has an interest that will be
17 affected, and, in a general receivership, any creditor of the
18 debtor;

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

22 (17) "Property", any right, title, and interest, of the
23 debtor, whether legal or equitable, tangible or intangible, in
24 real and personal property, regardless of the manner by which
25 such rights were or are acquired, but does not include property
26 of an individual person exempt from execution under the laws of
27 this state; provided however, that estate property includes any
28 nonexempt interest in property that is partially exempt.

1 Property includes, but is not limited to, any proceeds, products,
2 offspring, rents, or profits of or from property. Property does
3 not include any power that a debtor may exercise solely for the
4 benefit of another person or property impressed with a trust
5 except to the extent that the debtor has a residual interest;

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

8 (19) "Receivership", the estate created pursuant to the
9 court's order or orders appointing a receiver pursuant to
10 sections 515.500 to 515.665, including all estate property and
11 the interests, rights, powers, and duties of the receiver and all
12 parties in interest relating to estate property;

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

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

18 515.510. 1. To the extent the appointment of a receiver is
19 not otherwise provided for pursuant to sections 49.555, 82.1026,
20 91.730, 198.099, 257.450, 276.501, 287.360, 287.875, 351.498,
21 351.1189, 354.357, 354.480, 355.736, 369.354, 370.154, 375.650,
22 375.954, 375.1166, 375.1176, 379.1336, 379.1418, 382.409,
23 393.145, 407.100, 425.030, 441.510, 443.893, 513.105, 513.110,
24 521.310, 537.500, 630.763, or any other statute providing for the
25 appointment of a receiver or administration of a receivership
26 estate in specific circumstances, the court or any judge thereof
27 in vacation, shall have the power to appoint a receiver, whenever
28 such appointment shall be deemed necessary, whose duty it shall

1 be to keep and preserve any money or other thing deposited in
2 court, or that may be subject of a tender, and to keep and
3 preserve all property and protect any business or business
4 interest entrusted to the receiver pending any legal or equitable
5 action concerning the same, subject to the order of the court,
6 including in the following instances:

7 (1) In an action brought to dissolve an entity the court
8 may appoint a receiver with the powers of a custodian to manage
9 the business affairs of the entity and to wind up and liquidate
10 the entity;

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

14 (a) The appointment of a receiver with respect to the
15 property or its revenue-producing potential is necessary to keep
16 and preserve the property or its revenue-producing potential or
17 to protect any business or business interest concerning the
18 property or its revenue-producing potential; or

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

22 (c) The appointment of a receiver is necessary to
23 effectuate or enforce an assignment of rents or other revenues
24 from the property;

25 (3) After judgment, in order to give effect to the
26 judgment, provided that the party seeking the appointment
27 demonstrates it has no other adequate remedy to enforce the
28 judgment;

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

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

7 (6) If and to the extent that property is subject to
8 execution to satisfy a judgment, to preserve the property during
9 the pendency of an appeal, or when an execution has been returned
10 unsatisfied, or when an order requiring a judgment debtor to
11 appear for proceedings supplemental to judgment has been issued
12 and the judgment debtor fails to submit to examination as
13 ordered;

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

22 (8) In an action by a transferor of real or personal
23 property to avoid or rescind the transfer on the basis of fraud,
24 or in an action to subject property or a fund to the payment of a
25 debt;

26 (9) In an action against any entity if that person is
27 insolvent or is not generally paying the entity's debts as those
28 debts become due unless they are the subject of bona fide

1 dispute;

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

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

7 (12) Pursuant to the terms of a valid and enforceable
8 contract or contract provision providing for the appointment of a
9 receiver, other than pursuant to a contract or contract provision
10 providing for the appointment of a receiver with respect to the
11 primary residence of a debtor who is a natural person;

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

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

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

1 or maintains any office, or any county in which any property over
2 which a receiver is to be appointed is located at the time the
3 action is commenced.

4 3. At least seven days' notice of any application for the
5 appointment of a receiver shall be given to the debtor and to all
6 other parties to the action in which the request for appointment
7 of a receiver is sought, and to all other parties in interest as
8 the court may require. If any execution by a judgment creditor or
9 any application by a judgment creditor for the appointment of a
10 receiver with respect to property over which the appointment of a
11 receiver is sought is pending in any other action at the time the
12 application is made, then notice of the application for the
13 receiver's appointment also shall be given to the judgment
14 creditor in the other action. The court may shorten or expand
15 the period for notice of an application for the appointment of a
16 receiver upon good cause shown.

17 4. The order appointing a receiver shall reasonably
18 describe the property over which the receiver is to take charge,
19 by category, individual items, or both if the receiver is to take
20 charge of less than substantially all of the debtor's property.
21 If the order appointing a receiver does not expressly limit the
22 receiver's authority to designated property or categories of
23 property of the owner, the receiver shall be deemed a general
24 receiver with authority to take charge over all of the debtor's
25 property, wherever located.

26 5. The court may condition the appointment of a receiver
27 upon the giving of security by the person seeking the appointment
28 of a receiver, in such amount as the court may specify, for the

1 payment of costs and damages incurred or suffered by any person
2 should it later be determined that the appointment of the
3 receiver was wrongfully obtained.

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

7 7. Sections 515.500 to 515.665 shall not apply to persons
8 or entities who are, or who should be, regulated as public
9 utilities by the public service commission.

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

1 have the rights, powers, and duties attendant thereto.

2 515.520. 1. Upon entry of an order appointing a receiver
3 or upon conversion of a limited receiver to a general receiver
4 pursuant to section 515.515 and within ten business days thereof,
5 or within such additional time as the court may allow, the
6 receiver shall give notice of the appointment or conversion to
7 all parties in interest, including the secretary of state for the
8 state of Missouri, and state and federal taxing authorities.
9 Such notice shall be made by first class mail and proof of
10 service thereof shall be filed with the court. The content of
11 such notice shall include:

12 (1) The caption reflecting the action in which the receiver
13 is appointed;

14 (2) The date the action was filed;

15 (3) The date the receiver was appointed;

16 (4) The name, address, and contact information of the
17 appointed receiver;

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

19 (6) A description of the estate property;

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

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

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

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

26 2. A general receiver shall also give notice of the
27 receivership by publication in a newspaper of general circulation
28 published in the county or counties in which estate property is

1 known to be located once a week for three consecutive weeks. The
2 first notice shall be published within thirty days after the date
3 of appointment of the receiver. The notice of the receivership
4 shall include the date of appointment of the receiver, the name
5 of the court and the action number, the last day on which claims
6 may be filed, if established by the court, and the name and
7 address of the debtor, the receiver, and the receiver's attorney,
8 if any. For purposes of this section, all intangible property
9 included as estate property is deemed to be located in the county
10 in which the debtor, if a natural person, resides, or in which
11 the debtor, if an entity, maintains its principal administrative
12 offices.

13 3. The debtor shall cooperate with all reasonable requests
14 for information from the receiver for purposes of assisting the
15 receiver in providing notice pursuant to subsection 1 of this
16 section. In the court's discretion, the failure of such debtor
17 to cooperate with any reasonable request for information may be
18 punished as a contempt of court.

19 515.525. Except as provided in sections 515.500 to 515.665
20 or otherwise by statute, any person, whether or not a resident of
21 this state, may serve as a receiver. A person may not be
22 appointed as a receiver, and shall be replaced as receiver if
23 already appointed, if it should appear to the court that the
24 person:

25 (1) Has been found guilty of a felony or other crime
26 involving moral turpitude or is controlled by a person who has
27 been convicted of a felony or other crime involving moral
28 turpitude;

1 (2) Is a party to the action, or is a parent, grandparent,
2 grandchild, sibling, partner, director, officer, agent, attorney,
3 employee, secured or unsecured creditor or lienor of, or holder
4 of any equity interest in, or controls or is controlled by, the
5 debtor, or who is the agent, affiliate, or attorney of any
6 disqualified person;

7 (3) Has an interest materially adverse to the interest of
8 persons to be affected by the receivership generally; or

9 (4) Is a sheriff of any county.

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

19 515.535. As of the time of appointment, and subject to the
20 provisions of subdivision (3) of subsection 3 of section 515.575,
21 the receiver shall have the powers and priority as if it were a
22 creditor that obtained a judicial lien at the time of appointment
23 on all of the debtor's property that is subject to the
24 receivership, subject to satisfaction of recording requirements
25 as to real property pursuant to paragraph (c) of subsection 2 of
26 section 515.545.

27 515.540. 1. Except as otherwise provided for by sections
28 515.500 to 515.665, the court in all cases has exclusive

1 authority over the receiver, and the exclusive possession and
2 right of control with respect to all real property and all
3 tangible and intangible personal property with respect to which
4 the receiver is appointed, wherever located, and the exclusive
5 authority to determine all controversies relating to the
6 collection, preservation, application, and distribution of all
7 property, and all claims against the receiver arising out of the
8 exercise of the receiver's powers or the performance of the
9 receiver's duties. However, the court does not have exclusive
10 authority over actions in which a state agency is a party and in
11 which jurisdiction or venue is vested elsewhere.

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

14 515.545. 1. A receiver has the following powers and
15 authority:

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

25 (2) If the appointment applies to all or substantially all
26 of the property of an operating business or any revenue-producing
27 property of the debtor, to do all the things which the owner of
28 the business or property may do in the exercise of ordinary

1 business judgment, or in the ordinary course of the operation of
2 the business as a going concern or use of the property including,
3 but not limited to, the purchase and sale of goods or services in
4 the ordinary course of such business, and the incurring and
5 payment of expenses of the business or property in the ordinary
6 course;

7 (3) To assert any rights, claims, or choses in action of
8 the debtor, if and to the extent that the rights, claims, or
9 choses in action are themselves property within the scope of the
10 appointment or relate to any estate property, to maintain in the
11 receiver's name or in the name of the debtor any action to
12 enforce any right, claim, or chose in action, and to intervene in
13 actions in which the debtor is a party for the purpose of
14 exercising the powers under this subsection;

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

24 (5) To assert rights, claims, or choses in action of the
25 receiver arising out of transactions in which the receiver is a
26 participant;

27 (6) To pursue in the name of the receiver any claim under
28 sections 428.005 to 428.059 assertable by any creditor of the

1 debtor, if pursuit of the claim is determined by the receiver to
2 be appropriate in the exercise of the receiver's business
3 judgment;

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

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

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

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

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

21 2. A receiver has the following duties:

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

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

27 (3) If a receiver is appointed with respect to any real
28 property, the duty to record as soon as practicable within the

1 land records in any county in which such real property may be
2 situated a notice of lis pendens as provided in section 527.260,
3 together with a certified copy of the order of appointment,
4 together with a legal description of the real property if one is
5 not included in that order; and

6 (4) Other duties as may be required specifically by
7 sections 515.500 to 515.665, by statute, court rule, or by the
8 court.

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

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

25 2. Should the court after notice and a hearing pursuant to
26 subsection 1 of this section order the turnover of property to
27 the receiver, the party against which such order is made shall
28 have the right to deliver a bond executed by such party as

1 principal together with one or more sufficient sureties providing
2 that the principal and each such surety shall each be bound to
3 the receiver in double the amount of the value of the property to
4 be turned over, should the property not be turned over to the
5 receiver when such order becomes final. Absent such bond, the
6 property ordered to be turned over to the receiver shall be
7 immediately turned over to the receiver within ten days of the
8 entry of such order.

9 515.555. 1. In addition to other duties and requirements
10 set forth in sections 515.500 to 515.665 and as ordered by the
11 court, the debtor shall:

12 (1) Within fourteen days of the appointment of a general
13 receiver, make available for inspection by the receiver during
14 normal business hours all information and data required to be
15 filed with the court pursuant to section 515.560, in the form and
16 manner the same are maintained in the ordinary course of the
17 debtor's business;

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

21 (3) Supply to the receiver information necessary to enable
22 the receiver to complete any schedules or reports that the
23 receiver may be required to file with the court, and otherwise
24 assist the receiver in the completion of the schedules;

25 (4) Upon the receiver's appointment, deliver into the
26 receiver's possession all the property of the receivership estate
27 in the person's possession, custody, or control, including, but
28 not limited to, all accounts, books, papers, records, and other

1 documents; and

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

7 2. When the debtor is an entity, each of the officers,
8 directors, managers, members, partners, or other individuals
9 exercising or having the power to exercise control over the
10 affairs of the entity are subject to the requirements of this
11 section.

12 515.560. 1. Within thirty days after the date of
13 appointment of a general receiver, the debtor shall file with the
14 court and submit to the receiver the following schedules:

15 (1) A true list of all of the known creditors and
16 applicable regulatory and taxing agencies of the debtor,
17 including the mailing addresses for each, the amount and nature
18 of their claims, and whether their claims are disputed; and

19 (2) A true list of all estate property, including the
20 estimated liquidation value and location of the property and, if
21 real property, a legal description thereof, as of the date of
22 appointment of the receiver.

23 2. The Missouri supreme court may from time to time
24 prescribe by court rule the schedules to be filed in
25 receiverships as the supreme court shall deem appropriate to the
26 effective administrations of sections 515.500 to 515.665.

27 515.565. 1. A receiver shall not be obligated to obtain
28 any appraisal or other independent valuation of property in the

1 receiver's possession unless ordered by the court to do so.

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

5 3. Whenever a list or schedule required pursuant to this
6 section is not prepared and filed as required by the debtor, the
7 court may order the receiver, a petitioning creditor, or such
8 other person as the court in its discretion deems appropriate to
9 prepare and file such list or schedule within a time fixed by the
10 court. The court may approve reimbursement of the cost incurred
11 in complying with such order as an administrative expense.

12 515.570. 1. A general receiver shall file with the court a
13 monthly report of the receiver's operations and financial affairs
14 unless otherwise ordered by the court. Except as otherwise
15 ordered by the court, each report of a general receiver shall be
16 due by the last day of the subsequent month and shall include the
17 following:

18 (1) A balance sheet;

19 (2) A statement of income and expenses;

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

21 (4) A statement of accrued accounts receivable of the
22 receiver;

23 (5) A statement disclosing amounts considered to be
24 uncollectable;

25 (6) A statement of accounts payable of the receiver,
26 including professional fees. Such statement shall list the name
27 of each creditor and the amounts owing and remaining unpaid over
28 thirty days; and

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

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

7 515.575. 1. Except as otherwise ordered by the court, the
8 entry of an order appointing a general receiver shall operate as
9 a stay, applicable to all persons, of:

10 (1) The commencement or continuation, including the
11 issuance, employment, or service of process, of a judicial,
12 administrative, or other action or proceeding against the debtor
13 that was or could have been commenced before the entry of the
14 order of appointment, or to recover a claim against the debtor
15 that arose before the entry of the order of appointment;

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

18 (3) Any act to obtain possession of estate property from
19 the receiver, or to interfere with, or exercise control over,
20 estate property;

21 (4) Any act to create, perfect, or enforce any lien or
22 claim against estate property except by exercise of a right of
23 setoff, to the extent that the lien secures a claim against the
24 debtor that arose before the entry of the order of appointment;
25 or

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

1 2. The stay shall automatically expire as to the acts
2 specified in subdivisions (1), (2), and (3) of subsection 1 of
3 this section sixty days after the entry of the order of
4 appointment unless before the expiration of the sixty-day period
5 the debtor or receiver, for good cause shown, obtains an order of
6 the court extending the stay, after notice and a hearing. A
7 person whose action or proceeding is stayed by motion to the
8 court may seek relief from the stay for good cause shown. Any
9 judgment obtained against the debtor or estate property following
10 the entry of the order of appointment is not a lien against
11 estate property unless the receivership is terminated prior to a
12 conveyance of the property against which the judgment would
13 otherwise constitute a lien.

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

16 (1) The commencement or continuation of a criminal
17 proceeding against the debtor;

18 (2) The commencement or continuation of an action or
19 proceeding to establish paternity, or to establish or modify an
20 order for alimony, maintenance, or support, or to collect
21 alimony, maintenance, or support under any order of a court;

22 (3) Any act to perfect or to maintain or continue the
23 perfection of an interest in estate property pursuant to any
24 generally applicable Missouri law that permits perfection of an
25 interest in property to be effective against an entity that
26 acquires rights in such property before the date of perfection.
27 Such right to perfect an interest in estate property includes any
28 act to perfect an interest in purchase money collateral pursuant

1 to sections 400.9-301 to 400.9-339, perfection of a lien that may
2 be placed against real property under the provisions of chapter
3 429, or the assertion of a right to continue in possession of any
4 estate property that is in the possession of a person entitled to
5 retain possession of such property pending payment for work
6 performed with respect to such property. If perfection of an
7 interest would otherwise require seizure of the property involved
8 or the commencement of an action, the perfection shall instead be
9 accomplished by filing, and by serving upon the receiver, or
10 receiver's counsel, if any, notice of the interest within the
11 time fixed by law for seizure or commencement;

12 (4) The commencement or continuation of an action or
13 proceeding by a governmental unit to enforce its police or
14 regulatory power;

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

19 (6) The exercise of a right of setoff, including but not
20 limited to, any right of a commodity broker, forward contract
21 merchant, stockbroker, financial institution, or securities
22 clearing agency to set off a claim for a margin payment or
23 settlement payment arising out of a commodity contract, forward
24 contract, or securities contract against cash, securities, or
25 other property held or due from the commodity broker, forward
26 contract merchant, stockbroker, financial institution, or
27 securities clearing agency to margin, guarantee, secure, or
28 settle the commodity contract, forward contract, or securities

1 contract, and any right of a swap participant to set off a claim
2 for a payment due to the swap participant under or in connection
3 with a swap agreement against any payment due from the swap
4 participant under or in connection with the swap agreement or
5 against cash, securities, or other property of the debtor held by
6 or due from the swap participant to guarantee, secure, or settle
7 the swap agreement;

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

10 (8) Any action pending in a court other than that in which
11 the receiver is appointed until transcription of the order
12 appointing the receiver or extending the stay is made to the
13 other court in which an action against the debtor is pending.

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

22 515.580. 1. A public utility, as defined in section
23 386.020, providing service to estate property may not alter,
24 refuse, or discontinue service to the property without first
25 giving the receiver fifteen days' notice, or such other notice as
26 may be required by the rules of the public service commission for
27 a customer of that class, of any default or intention to alter,
28 refuse, or discontinue service to estate property. This section

1 does not prohibit the court, upon motion by the receiver, to
2 prohibit the alteration or cessation of utility service if the
3 receiver can furnish adequate assurance of payment in the form of
4 deposit or other security for service to be provided after entry
5 of the order appointing the receiver.

6 2. Any public utility regulated by the public service
7 commission which violates this section shall be subject to
8 appropriate remedial measures by the commission upon receiving
9 notice that the utility has violated the provisions of this
10 section.

11 3. When a utility service provider not regulated by the
12 public service commission violates this section, upon direction
13 of the court, an action may be brought by the receiver against
14 the utility to enforce compliance with the provisions of this
15 section.

16 515.585. 1. A receiver may assume or reject any executory
17 contract or unexpired lease of the debtor upon order of the court
18 following notice and a hearing, which shall include notice to
19 persons party to the executory contract or unexpired lease to be
20 assumed or rejected. The court may condition assumption or
21 rejection of any executory contract or unexpired lease on the
22 terms and conditions the court believes are just and proper under
23 the particular circumstances of the action. Such terms and
24 conditions may include a requirement that the receiver cures or
25 provides adequate assurance that the receiver will promptly cure
26 any default. A general receiver's performance of an executory
27 contract or unexpired lease prior to the court's authorization of
28 its assumption or rejection shall not constitute an assumption of

1 the executory contract or unexpired lease, or an agreement by the
2 receiver to assume it, nor otherwise preclude the receiver
3 thereafter from seeking the court's authority to reject it.

4 2. Any person party to an executory contract or unexpired
5 lease may by motion seek to compel the rejection thereof at any
6 time, such rejection the court shall order in its discretion, and
7 as the interests of justice may require. In determining a motion
8 to compel the rejection of an executory contract or unexpired
9 lease, the court may consider, among other factors:

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

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

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

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

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

22 3. Any obligation or liability incurred by a general
23 receiver on account of the receiver's assumption of an executory
24 contract or unexpired lease shall be treated as an expense of the
25 receivership. A receiver's rejection of an executory contract or
26 unexpired lease shall be treated as a breach of the contract or
27 lease occurring immediately prior to the receiver's appointment;
28 and the receiver's right to possess or use property pursuant to

1 any executory contract or unexpired lease shall terminate upon
2 rejection of such contract or lease. A non-debtor party to an
3 executory contract or unexpired lease that is rejected by a
4 receiver may take such steps as may be necessary under applicable
5 law to terminate or cancel such contract or lease. The claim of
6 a non-debtor party to an executory contract or unexpired lease
7 resulting from a receiver's rejection of it shall be served upon
8 the receiver within thirty days following the date the receiver
9 gives notice of such rejection to such person, which notice shall
10 indicate the right to file a claim within the thirty day period.

11 4. A receiver's power under this section to assume an
12 executory contract or unexpired lease shall not be affected by
13 any provision in such contract or lease that would effect or
14 permit a forfeiture, modification, or termination of it on
15 account of either the receiver's appointment, the financial
16 condition of the debtor, or an assignment for the benefit of
17 creditors by the debtor.

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

21 (1) Applicable law would excuse a person, other than the
22 debtor, from accepting performance from or rendering performance
23 to anyone other than the debtor even in the absence of any
24 provisions in the contract or lease expressly restricting or
25 prohibiting an assignment of the person's rights or the
26 performance of the debtor's duties;

27 (2) The contract or lease is a contract to make a loan or
28 extend credit or financial accommodations to or for the benefit

1 of the debtor, or to issue a security of the debtor; or

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

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

8 7. If the receiver rejects an executory contract or
9 unexpired lease for:

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

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

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

16 (4) The lease of real property in which the debtor is the
17 lessor;

18
19 then the purchaser, licensee, or lessee may treat the rejection
20 as a termination of the contract, license agreement, or lease, or
21 alternatively, the purchaser, licensee, or lessee may remain in
22 possession in which circumstance the purchaser, licensee, or
23 lessee shall continue to perform all obligations arising
24 thereunder as and when they may fall due, but may offset against
25 any payments any damages occurring on account of the rejection
26 after it occurs. The purchaser of real property in such a
27 circumstance is entitled to receive from the receiver any deed or
28 any other instrument of conveyance which the debtor is obligated

1 to deliver under the executory contract when the purchaser
2 becomes entitled to receive it, and the deed or instrument has
3 the same force and effect as if given by the person. A
4 purchaser, licensee, or lessee who elects to remain in possession
5 under the terms of this subsection has no rights against the
6 receiver on account of any damages arising from the receiver's
7 rejection except as expressly provided for by this subsection. A
8 purchaser of real property who elects to treat rejection of an
9 executory contract as a termination has a lien against the
10 interest in that real property of the debtor for the recovery of
11 any portion of the purchase price that the purchaser has paid.

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

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

19 515.590. 1. If a receiver is authorized to operate the
20 business of a debtor or manage a debtor's property, the receiver
21 may obtain unsecured credit and incur unsecured debt in the
22 ordinary course of business as an administrative expense of the
23 receiver without order of the court.

24 2. The court after notice and a hearing may authorize a
25 receiver to obtain credit or incur debt other than in the
26 ordinary course of business. The court may allow the receiver to
27 mortgage, pledge, hypothecate, or otherwise encumber estate
28 property as security for repayment of any debt that the receiver

1 may incur, including that the court may provide that additional
2 credit extended to a receiver by a secured creditor of the debtor
3 be afforded the same priority as the secured creditor's existing
4 lien.

5 3. When determining the propriety of allowing a receiver to
6 obtain credit or incur debt pursuant to subsection 2 of this
7 section, the court shall consider the likely impact on the
8 interests of unsecured creditors of the debtor.

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

17 2. An action by or against a receiver is adjunct to the
18 receivership action. The clerk of the court may assign or refer
19 a case number that reflects the relationship of any action to the
20 receivership action. All pleadings in an adjunct action shall
21 include the case number of the receivership action as well as the
22 adjunct action case number assigned by the clerk of the court.
23 All adjunct actions shall be referred to the judge, if any,
24 assigned to the receivership action.

25 3. A receiver may be joined or substituted as a party in
26 any action or proceeding that was pending at the time of the
27 receiver's appointment and in which the debtor is a party, upon
28 application by the receiver to the court, agency, or other forum

1 before which the action or proceeding is pending.

2 4. Venue for adjunct actions by or against a receiver shall
3 lie in the court in which the receivership is pending, if the
4 court has jurisdiction over the action. Actions in other courts
5 in this state shall be transferred to the court upon the
6 receiver's filing of a motion for change of venue, provided that
7 the receiver files the motion within thirty days following
8 service of original process upon the receiver. However, actions
9 in other courts or forums in which a state agency is a party
10 shall not be transferred on request of the receiver absent
11 consent of the affected state agency or grounds provided under
12 other applicable law.

13 5. An action by or against a receiver does not abate by
14 reason of death or resignation or removal of the receiver, but
15 continues against the successor receiver or against the debtor,
16 if a successor receiver is not appointed.

17 6. Whenever the assets of any domestic or foreign
18 corporation, that has been doing business in this state, has been
19 placed in the hands of any general receiver and the receiver is
20 in possession of its assets, service of all process upon the
21 corporation may be made upon the receiver.

22 7. A judgment against a general receiver or the debtor is
23 not a lien on estate property, nor shall any execution issue
24 thereon. Upon entry of a judgment against a general receiver or
25 the debtor in the court in which a general receivership is
26 pending, or upon filing in a general receivership of a certified
27 copy of a judgment against a general receiver or the debtor
28 entered by another court in this state or a foreign jurisdiction,

1 the judgment shall be treated as an allowed claim in the
2 receivership. A judgment against a limited receiver shall be
3 treated and has the same effect as a judgment against the debtor,
4 except that the judgment is not enforceable against estate
5 property unless otherwise ordered by the court upon notice and a
6 hearing.

7 515.600. 1. A receiver appointed pursuant to sections
8 515.500 to 515.665, and the agents, attorneys, and employees of
9 the receivership employed by the receiver pursuant to section
10 515.605 shall enjoy judicial immunity for acts and omissions
11 arising out of and performed in connection with his or her
12 official duties on behalf of the court and within the scope of
13 his or her appointment. A person other than a successor receiver
14 duly appointed by the court does not have a right of action
15 against a receiver under this section to recover property or the
16 value thereof for or on behalf of the estate except as provided
17 in subsection 2 of this section. A successor receiver may
18 recover only actual damages incurred by the receivership estate
19 from a prior receiver.

20 2. A person, other than a successor receiver duly appointed
21 by the court, shall not have the right to bring an action against
22 a receiver or the agents, attorneys, and employees of the
23 receivership employed by the receiver pursuant to section 515.605
24 for any act or omission while acting in the performance of their
25 functions and duties in connection with the receivership unless
26 such person first files a verified application with the
27 appointing court requesting leave to bring such action and the
28 court grants such application after notice and hearing. The

1 appointing court shall only approve the application to bring
2 claims against the receiver under this section upon a prima facie
3 showing by the person making such request that the receiver's
4 actions are not protected by the grant of immunity set forth in
5 subsection 1 of this section. No other court apart from the
6 appointing court shall have the authority to review or approve
7 the application to bring claims against the receiver under this
8 section.

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

14 515.605. 1. The receiver, with the court's approval, may
15 employ one or more attorneys, accountants, appraisers,
16 auctioneers, or other professional persons that do not hold or
17 represent an interest adverse to the receivership to represent or
18 assist the receiver in carrying out the receiver's duties.

19 2. A person is not disqualified for employment under this
20 section solely because of the person's employment by,
21 representation of, or other relationship with a creditor or other
22 party in interest, if the relationship is disclosed in the
23 application for the person's employment and if the court
24 determines that there is no actual conflict of interest or
25 inappropriate appearance of a conflict.

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

1 4. The receiver and any professionals employed by the
2 receiver shall maintain itemized billing records containing a
3 description of services, the time spent, billing rates of all who
4 perform work to be compensated, and a detailed list of expenses.
5 The receiver, and any professionals employed by the receiver may
6 file a motion requesting the allowance of fees and expenses.
7 Notice of the motion shall be served on all persons required to
8 be identified on the master mailing list maintained pursuant to
9 section 515.610, advising that objections to the application
10 shall be filed within ten days from the date of the notice, and
11 if objections are not timely filed, the court may approve the
12 motion without further notice or hearing. If an objection is
13 filed, the receiver or professional whose compensation is
14 affected may notice the objection for a hearing. Upon request of
15 any person required to receive notice pursuant to this
16 subsection, the receiver and any professionals employed by the
17 receiver shall provide a copy of their itemized billing records
18 upon which their motion for fees and expenses is based within
19 five days of the date of the request.

20 515.610. 1. Creditors and parties in interest to whom are
21 given notice as provided by sections 515.500 to 515.665 and
22 creditors or other persons submitting written claims in the
23 receivership or otherwise appearing and participating in the
24 receivership are bound by the acts of the receiver and the orders
25 of the court relating to the receivership whether or not the
26 person is a party to the receivership action.

27 2. Creditors and parties in interest have a right to notice
28 and a hearing as provided in sections 515.500 to 515.665 whether

1 or not the person is a party to the receivership action.

2 3. Any party in interest may appear in the receivership in
3 the manner prescribed by court rule and shall file with the court
4 a written notice including the name and mailing address of the
5 party in interest, and the name and address of the party in
6 interest's attorney, if any, with the clerk, and by serving a
7 copy of the notice upon the receiver and the receiver's attorney
8 of record, if any. The receiver shall maintain a master mailing
9 list of all parties and of all parties in interest that file and
10 serve a notice of appearance in accordance with this subsection
11 and such parties in interest's attorneys, if any. The receiver
12 shall make a copy of the current master mailing list available to
13 any party or upon request.

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

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

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

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

25 (2) Abandonment, disposition, or distribution of estate
26 property, other than an emergency disposition of property subject
27 to eroding value or a disposition of estate property in the
28 ordinary course of business;

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

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

7 (5) Any opposition to any motion to authorize any of the
8 actions under subdivisions (1) to (4) of this subsection shall be
9 filed and served upon all persons required to be identified on
10 the master mailing list at least ten days before the date of the
11 proposed action.

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

17 515.615. 1. The claims administration process identified
18 in this section shall be administered by a general receiver and
19 may be ordered by the court to be administered by a limited
20 receiver.

21 2. All claims, other than claims of duly perfected secured
22 creditors, arising prior to the receiver's appointment shall be
23 in the form required by this section and served and noticed as
24 required by this section. Any claim not in the form required by
25 this section and so served and noticed is barred from
26 participating in any distribution to creditors.

27 3. Claims shall be served on the receiver within thirty
28 days from the date notice is given under this section, unless the

1 court reduces or extends the period for cause shown, except that
2 a claim arising from the rejection of an executory contract or an
3 unexpired lease of the debtor may be served within thirty days
4 after the rejection. Claims by state agencies shall be served by
5 such state agencies on the receiver within sixty days from the
6 date notice is given by mail under this section.

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

18 5. Notices of claim shall be filed with the court. A
19 notice shall be filed with the court relating to each served
20 claim. A notice of claim shall not include the claim or
21 supporting documentation served upon the receiver. A notice of
22 claim shall include the name and address of the creditor
23 asserting the claim, together with the name and address of the
24 attorney, if any representing the creditor, the amount of the
25 claim, whether or not the claim is secured or unsecured, and if
26 secured, a brief description of any estate property and other
27 collateral securing the claim.

28 6. A claim properly noticed, executed, and served in

1 accordance with this section constitutes prima facie evidence of
2 the validity and amount of the claim.

3 515.620. 1. At any time prior to the entry of an order
4 approving the general receiver's final report, the receiver or
5 any party in interest may file with the court an objection to a
6 claim, such objection shall be in writing and shall set forth the
7 grounds for the objection to the claim. A copy of the objection
8 shall be mailed to the creditor who shall have thirty days to
9 file with the court any suggestions in support of the claim.
10 Upon the filing of any suggestions in support of the claim, the
11 court may adjudicate the claim objection or set a hearing
12 relating to the claim objection. Claims that comply with the
13 requirements of section 515.615 that are not disallowed by the
14 court are entitled to share in distributions from the
15 receivership in accordance with the priorities provided for by
16 sections 515.500 to 515.665 or otherwise by law.

17 2. Upon order of the court, the general receiver, or any
18 party in interest objecting to the creditor's claim, an objection
19 may be subject to mediation prior to adjudication of the
20 objection. However, state claims are not subject to mediation
21 absent agreement of the state.

22 3. Upon motion of the general receiver or other party in
23 interest, the following claims may be estimated for purpose of
24 allowance under this section under the rules or orders applicable
25 to the estimation of claims under this section:

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

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

3 Claims subject to this subsection shall be allowed in the
4 estimated amount thereof.

5 515.625. 1. Claims not disallowed by the court shall
6 receive distribution under sections 515.500 to 515.665 in the
7 order of priority under subdivisions (1) to (8) of this section
8 and, with the exception of subdivisions (1) to (3) of this
9 subsection, on a pro rata basis:

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

25 (2) Actual, necessary costs and expenses incurred during
26 the administration of the receivership, other than those expenses
27 allowable under subdivision (1) of this subsection, including
28 allowed fees and reimbursement of reasonable charges and expenses

1 of the receiver and professional persons employed by the
2 receiver. Notwithstanding subdivision (1) of this subsection,
3 expenses incurred during the administration of the estate have
4 priority over the secured claim of any secured creditor obtaining
5 or consenting to the appointment of the receiver;

6 (3) A secured creditor that is not duly perfected under
7 applicable law shall receive the proceeds from the disposition of
8 the estate property that secures its claim if and to the extent
9 that unsecured claims are made subject to those liens under
10 applicable law;

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

18 (5) Unsecured claims, to the extent of two thousand four
19 hundred twenty-five dollars for each natural person, arising from
20 the deposit with the person debtor before the date of appointment
21 of the receiver of money in connection with the purchase, lease,
22 or rental of estate property or the purchase of services for
23 personal, family, or household use that were not delivered or
24 provided;

25 (6) Claims for a marital, family, or other support debt,
26 but not to the extent that the debt is assigned to another
27 person, voluntarily, by operation of law, or otherwise; or
28 includes a liability designated as a support obligation unless

1 that liability is actually in the nature of a support obligation;

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

4 (8) Other unsecured claims.

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

7 515.630. Except as otherwise provided for by statute,
8 estate property acquired by the estate, the receiver, or the
9 debtor of the receiver is subject to an allowed secured claim to
10 the same extent as would exist in the absence of a receivership.

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

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

1 constitutes estate property.

2 515.645. 1. The receiver with the court's approval after
3 notice and a hearing may use, sell, or lease estate property
4 other than in the ordinary course of business.

5 2. The court may order that a general receiver's sale of
6 estate property either under subsection 1 of this section, or
7 consisting of real property that the debtor intended to sell in
8 its ordinary course of business, be effected free and clear of
9 liens, claims, and of all rights of redemption, whether or not
10 the sale will generate proceeds sufficient to fully satisfy all
11 claims secured by the property, unless either:

12 (1) The property to be sold is real property used
13 principally in the production of crops, livestock, or
14 aquaculture, or the property is a homestead, and the owner of the
15 property has not consented to the sale following the appointment
16 of the receiver; or

17 (2) A party in interest, including but not limited to, an
18 owner of the property to be sold or a secured creditor as regards
19 to the property to be sold serves and files a timely opposition
20 to the receiver's sale, and the court determines that the amount
21 likely to be realized by the receiver's sale is less than the
22 amount that may be realized within a reasonable time in the
23 absence of the receiver's sale.

24
25 Upon any sale free and clear of liens authorized by this section,
26 all liens encumbering the property sold shall transfer and attach
27 to the proceeds of the sale, net of reasonable expenses incurred
28 in the disposition of the property sold, in the same order,

1 priority, and validity as the liens had with respect to the
2 property sold immediately before the conveyance. The court may
3 authorize the receiver at the time of sale to satisfy, in whole
4 or in part, any lien on the property sold out of the proceeds of
5 its sale if the interest of any other creditor having a lien
6 against the proceeds of the sale would not thereby be impaired.

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

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

25 5. The reversal or modification on appeal of an
26 authorization to sell or lease estate property under this section
27 does not affect the validity of a sale or lease under that
28 authorization to any person that purchased or leased the property

1 in good faith, whether or not the person knew of the pendency of
2 the appeal, unless the authorization and sale or lease were
3 stayed pending the appeal.

4 6. The notice of a proposed use, sale, or lease of estate
5 property required by subsection 1 of this section shall include
6 the time and place of any public sale, the terms and conditions
7 of any private sale and the time fixed for filing objections, and
8 shall be mailed to all parties in interest, and to such other
9 persons as the court in the interests of justice may require.

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

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

16 (2) Whether an independent appraisal supports the purchase
17 price to be paid;

18 (3) Whether creditors and parties in interest received
19 adequate notice of the sale, sale procedures, and details of the
20 proposed sale;

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

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

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

25 515.650. 1. A receiver appointed in any action pending in
26 the courts of this state, without first seeking approval of the
27 court, may apply to any court outside of this state for
28 appointment as receiver with respect to any property or business

1 of the person over whose property the receiver is appointed
2 constituting estate property which is located in any other
3 jurisdiction, if the appointment is necessary to the receiver's
4 possession, control, management, or disposition of property in
5 accordance with orders of the court.

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

24 515.655. 1. The court shall remove or replace the receiver
25 on application of the debtor, the receiver, or any creditor, or
26 any party or on the court's own motion if the receiver fails to
27 perform the receiver's duties or obligations under sections
28 515.500 to 515.665, as ordered by the court.

1 2. Upon removal, resignation, or death of the receiver the
2 court shall appoint a successor receiver if the court determines
3 that further administration of the estate is required. The
4 successor receiver shall immediately take possession of the
5 estate and assume the duties of receiver.

6 3. Whenever the court is satisfied that the receiver so
7 removed or replaced has fully accounted for and turned over to
8 the successor receiver appointed by the court all of the property
9 of the estate and has filed a report of all receipts and
10 disbursements during the person's tenure as receiver, the court
11 shall enter an order discharging that person from all further
12 duties and responsibilities as receiver after notice and a
13 hearing.

14 515.660. 1. Upon distribution or disposition of all
15 property of the estate, or the completion of the receiver's
16 duties with respect to estate property, the receiver shall move
17 the court to be discharged upon notice and a hearing.

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

21 3. Upon approval of the final report, the court shall
22 discharge the receiver.

23 4. The receiver's discharge releases the receiver from any
24 further duties and responsibilities as receiver under sections
25 515.500 to 515.665.

26 5. Upon motion of any party in interest, or upon the
27 court's own motion, the court has the power to discharge the
28 receiver and terminate the court's administration of the property

1 over which the receiver was appointed. If the court determines
2 that the appointment of the receiver was wrongfully procured or
3 procured in bad faith, the court may assess against the person
4 who procured the receiver's appointment all of the receiver's
5 fees and other costs of the receivership and any other sanctions
6 the court determines to be appropriate.

7 6. A certified copy of an order terminating the court's
8 administration of the property over which the receiver was
9 appointed shall operate as a release of any lis pendens notice
10 recorded pursuant to section 515.545 and the same shall be
11 recorded within the land records in any county in which such real
12 property may be situated, together with a legal description of
13 the real property if one is not included in that order.

14 515.665. Orders of the court pursuant to sections 515.500
15 to 515.665 are appealable to the extent allowed under existing
16 law, including subdivision (2) of section 512.020.

17 [478.430. Each circuit judge of the circuit court
18 of the city of St. Louis who is visually impaired or
19 otherwise physically handicapped is hereby authorized
20 to appoint one janitor-messenger whose duty it shall be
21 to keep in an orderly and cleanly manner the chambers
22 and other rooms used by such judge and his reporter in
23 the performance of their respective duties, and
24 equipment in use therein, and also the halls,
25 stairways, and jury rooms used in connection with the
26 courtroom over which such judge presides, and to
27 perform such other duties as said judge shall direct
28 from time to time. And the judge making said
29 appointment shall report the same to the circuit court
30 in general session for certification, and such
31 janitor-messenger shall hold his appointment during the
32 pleasure of the judge making the same.]
33

34 [478.433. The janitor-messenger appointed under
35 section 478.430 shall receive and be paid, after proper
36 appointment and certification by said court, or the
37 presiding judge thereof, an annual salary of not less
38 than two thousand two hundred dollars. Said salary

1 shall be payable at the end of each and every month, in
2 equal monthly installments, by the treasurer of the
3 city of St. Louis out of any moneys appropriated
4 therefor by the municipal assembly upon warrants drawn
5 and countersigned by the proper officers of said city,
6 pursuant to the charter thereof. It shall be the duty
7 of the municipal assembly of said city to appropriate
8 the money necessary for the payment of such salaries;
9 provided further, that the court may, when sitting in
10 general session, recommend to the St. Louis board of
11 estimate and apportionment an increase in salary of
12 janitor-messengers not exceeding two hundred dollars
13 per annum, subject to the approval of said board.
14 If said board of estimate and apportionment concur in
15 such salary increase, the municipal assembly shall
16 appropriate additional moneys for such salaries.]
17

18 [515.240. The court, or any judge thereof in
19 vacation, shall have power to appoint a receiver,
20 whenever such appointment shall be deemed necessary,
21 whose duty it shall be to keep and preserve any money
22 or other thing deposited in court, or that may be
23 subject of a tender, and to keep and preserve all
24 property and protect any business or business interest
25 entrusted to him pending any legal or equitable
26 proceeding concerning the same, subject to the order of
27 the court.]
28

29 [515.250. Such receiver shall give bond, and have
30 the same powers and be subject to all the provisions,
31 as far as they may be applicable, enjoined upon a
32 receiver appointed by virtue of the law providing for
33 suits by attachment.]
34

35 [515.260. The court shall allow such receiver
36 such compensation for his services and expenses as may
37 be reasonable and just, and cause the same to be taxed
38 as costs, and paid as other costs in the cause.]
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46 _____
Joseph Keaveny

Caleb Jones