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## Documents As Evidence in Missouri

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In addition to tailormade management structure, close corporations have several other needs that the Missouri statute does not satisfy. The doctrine of *delectus personae* should be recognized for the close corporation by expressly allowing enumerated restrictions on alienation of shares. Somewhat akin to this is the need to protect the minority shareholder who is locked in, either because of restrictions on alienation or because of lack of a market for his stock. Two changes in the Missouri statute are needed to remedy this problem: (1) the parties should be free to arrange by contract the conditions precedent to and the terms of dissolution and liquidation; and (2) the statute should broaden the power of equity courts to decree liquidation on the grounds of "internal dissension." Finally, the statute should allow close corporations to operate free of the cumbersome formality required of larger corporations.

Because the shareholder's agreement is central to almost all of the foregoing proposals, the statute should address itself to the difficult problems of specific performance of shareholder's agreements. Generally the statute should encourage specific performance whenever control is at stake or when damages would otherwise be an inadequate remedy. The problems of specific performance are too complex, however, for mechanical statutory treatment; ultimately the solution must be left largely to judicial discretion.

CHARLES E. BUCHANAN

## DOCUMENTS AS EVIDENCE IN MISSOURI

### I. INTRODUCTION

The use of documents as evidence is both commonplace and complex. Documents taking the form of certificates, records, books, and papers are often useful in litigation. Insurance records, birth certificates, deeds, and even printed statute books are examples of documents whose admission as evidence may be crucial to the trial lawyer. Yet, the use of a document as evidence may raise at least five questions for the attorney. First, what proof is necessary to authenticate the document? Second, are copies admissible, and if so, what weight are they accorded? Third, does the document come within an exception to the hearsay rule? Fourth, if so, does that exception also obviate the objection that the contents of the document were hearsay as to its preparer? Finally, what evidentiary weight will be given the document if admitted?

Missouri has enacted numerous statutes which answer many of the questions outlined above but which may be difficult to find because they are scattered throughout the statute books. This comment is an attempt to collect and index these statutes, and to show how compliance with them can aid the trial lawyer in using documents as evidence.

### II. EVIDENTIARY PROBLEMS ENCOUNTERED IN THE USE OF DOCUMENTS

The following discussion will outline the broad evidentiary problems with which the statutes often deal.

### A. Authentication

To be admissible, evidence must be relevant to the issues in the lawsuit. The relevance of a writing to a particular issue often depends on the existence of a logical connection between the writing and a particular individual.<sup>1</sup> In this situation, a showing of relevance consists of proof of authorship.<sup>2</sup> Such proof is one requirement of authentication.<sup>3</sup>

A second requirement of authentication is proof of what the document is, e.g., a letter, contract, or deed. Thus, to authenticate a deed from X to Y, the proponent must prove not only that X authored the document, but also that it is in fact a deed.

Documents may be authenticated in several ways. The most common is by direct proof, either by the testimony of attesting witnesses or by proof that the signature on the document is in the handwriting of the purported author. This comment is concerned with a third method of authentication: compliance with the terms of an applicable statute.

The Missouri authentication statutes vary in terms of their requirements and effect according to the particular document involved. To the extent compliance with the statutes authenticates the documents, it does so with respect to both requirements, i.e., proof of what the document is and proof of authorship. The statutes differ on the basis for authentication. One type provides for authentication based on the circumstances surrounding the document's production in evidence. This includes statutes that create a presumption of authenticity arising from the age of the document<sup>4</sup> and statutes that authenticate documents held by public officials.<sup>5</sup> The other type of statute provides that the authenticity of a document may be shown by its contents.<sup>6</sup> These statutes deal with documents commonly referred to as "self-identifying" because the document may be admitted without testimony of an authenticating witness.<sup>7</sup>

The Proposed Federal Rules of Evidence<sup>8</sup> eliminate many of the technical common law requirements for authentication of documents. The Proposed Rules provide that authentication is satisfied by proof sufficient to support a finding that the document in question is what its

1. C. McCORMICK, EVIDENCE § 218 (2d ed. 1972).

2. See *Cummins v. Dixon*, 265 S.W.2d 386 (Mo. 1954); *Davison v. Farr*, 273 S.W.2d 500 (Spr. Mo. App. 1954); *United Factories, Inc. v. Brigham*, 117 S.W.2d 662 (St. L. Mo. App. 1938); *Lentz v. New York Life Ins. Co.*, 100 S.W.2d 588 (K.C. Mo. App. 1937); *Dorroh v. Wall*, 297 S.W. 705 (Spr. Mo. App. 1927).

3. Proof of authenticity of a writing is not required where execution of the writing is not in issue, but only the existence of such writing. See *Mincielli v. Sloan's Moving & Storage Co.*, 303 S.W.2d 17 (Mo. 1957).

4. See, e.g., § 490.380, RSMo 1969.

5. An example of custody as proof of authentication is provided by statutes that permit a certified copy from an official custodian to be admitted in evidence. Under these statutes proof of the genuineness of the copy is not required but is presumed from the fact that the copy is from a public official. See, e.g., § 490.180, RSMo 1969.

6. Authentication by contents includes proof of the genuineness of printed statute books and reports of decisions. See, e.g., § 490.010, RSMo 1969.

7. See, e.g., § 490.190 RSMo 1969.

8. PROP. FED. R. EVID. (Rev. Draft 1971).

proponent contends it is.<sup>9</sup> This proposition is illustrated by the following provisions which specify what proof satisfies authentication:

*Public records or reports.* Evidence that a writing authorized by law to be recorded or filed and in fact recorded or filed in a public office, or a purported public record, report, statement, or data compilation, in any form, is from the public office where items of this nature are kept.<sup>10</sup>

*Ancient documents or data compilations.* Evidence that a document or data compilation, in any form, is in such condition as to create no suspicion concerning its authenticity, was in a place where it, if authentic, would likely be, and has been in existence 20 years or more at the time it is offered.<sup>11</sup>

The Proposed Rules further provide that extrinsic evidence of authenticity is not a prerequisite to the admission of certain documents.<sup>12</sup> Also, the Proposed Rules reverse the common law rule on authentication by providing that the testimony of a subscribing witness is unnecessary to authenticate a writing unless required by the jurisdiction whose laws govern the validity of the writing.<sup>13</sup>

### B. Admission of Copies

Admission of copies into evidence poses an additional authentication problem—proof that the copy is a true and accurate representation of the original. Many of the Missouri authentication statutes deal with the use of copies as evidence. Compliance with them makes the copies covered by the statute competent evidence without further proof that the copy is genuine.

The best evidence rule presents another ground for objection to the admission of a copy of a document. It requires that “in proving the terms of a writing, where the terms are material, the original writing must be produced unless it is shown to be unavailable for some reason other than the serious fault of the proponent.”<sup>14</sup> The rationale behind the rule is that the most accurate evidence available should be produced.<sup>15</sup>

Production of the original is sometimes excused. In some instances, a duplicate or carbon copy is treated as an original for evidentiary purposes.<sup>16</sup> Also, where the contents of a writing are not in issue<sup>17</sup> or where

9. *Id.* 901.

10. *Id.* 901 (b) (7).

11. *Id.* 901 (b) (8).

12. *Id.* 902.

13. *Id.* 903.

14. C. McCORMICK, *supra* note 1, at 560. See also PROP. FED. R. EVID. 1002 (Rev. Draft 1971).

15. C. McCORMICK, *supra* note 1, § 229. The best evidence rule is followed in Missouri. See *State v. Elgin*, 391 S.W.2d 341 (Mo. 1965); *Bolling Co. v. Barington Co.*, 398 S.W.2d 28 (St. L. Mo. App. 1965); *Sargent v. Wekenman*, 374 S.W.2d 635 (St. L. Mo. App. 1964).

16. See *Land Clearance for Redevelopment Authority v. Zitko*, 386 S.W.2d 69 (Mo. En Banc 1964); *State v. McCollum*, 377 S.W.2d 379 (Mo. 1964); *Schroer v. Schroer*, 248 S.W.2d 617 (Mo. 1952). See § 109.130 RSMo 1969 (copies of public records deemed originals). See also PROP. FED. R. EVID. 1003 (Rev. Draft 1971).

17. See *State ex rel. State Highway Comm'n v. Galeener*, 402 S.W.2d 336 (Mo. 1966); *State ex rel. Bush v. Elliott*, 363 S.W.2d 631 (Mo. En Banc 1963); *Aviation*

the contents are proved by an independent source,<sup>18</sup> the original is not required. In addition, production of the original will be excused where: (1) it is lost or destroyed;<sup>19</sup> (2) it is in the possession of a third party not a party to the lawsuit;<sup>20</sup> or (3) it is in the possession of an adverse party to the lawsuit who failed to produce it after notice.<sup>21</sup> Missouri recognizes a fourth exception: where the original papers are extremely complex. In this situation, a summary of the originals is sometimes admissible.<sup>22</sup> Finally, some courts have recognized an exception where the original is a public document.<sup>23</sup> This common law exception has been codified in several Missouri statutes.

Once production of the original is excused, the court must determine what secondary evidence will be admissible in its place. Under the English rule, no preference exists among the alternate methods for proving the contents of the writing.<sup>24</sup> The majority view, which is recognized in Missouri,<sup>25</sup> discriminates between types of secondary evidence and prefers a copy to oral testimony and may prefer an immediate copy to a more remote one.<sup>26</sup> The Proposed Rules of Evidence follow the English rule. The drafters of the rules reason that the normal motivation of a party to present the most convincing evidence possible makes it unnecessary to establish an extended scheme of preferences for secondary evidence.<sup>27</sup>

### C. Hearsay

Hearsay objections are frequently raised to bar the introduction of documents in evidence. "Hearsay" refers to evidence that rests on the competency of out-of-court assertions made by someone other than the testifying witness. Such evidence is not admissible to prove the truth of

*Enterprises v. Cline*, 395 S.W.2d 306 (K.C. Mo. App. 1965); *St. Louis Hosp. Equip. Co. v. Superior Refrig. Mfg. Co.*, 246 S.W.2d 532 (St. L. Mo. App. 1952); *Eckner v. Western Hair & Beauty Supply Co.*, 236 Mo. App. 988, 162 S.W.2d 621 (St. L. Ct. App. 1942). See generally PROP. FED. R. EVID. 1004 (Rev. Draft 1971).

18. See *State v. Tyson*, 363 Mo. 1242, 258 S.W.2d 651 (1953); *Central and S. Truck Lines, Inc. v. Westfall G.M.C. Truck, Inc.*, 317 S.W.2d 841 (K.C. Mo. App. 1958).

19. *State v. McDaniel*, 392 S.W.2d 310 (Mo. 1965); *State v. Anderson*, 384 S.W.2d 591 (Mo. En Banc 1964); *Wilson v. Supreme Liberty Life Ins. Co.*, 343 S.W.2d 649 (St. L. Mo. App. 1961); *Welch v. Noah*, 52 S.W.2d 493 (K.C. Mo. App. 1932).

20. *Thurman v. St. Louis Pub. Serv. Co.*, 308 S.W.2d 680 (Mo. 1957).

21. *Baker v. Spears*, 357 Mo. 601, 210 S.W.2d 13 (1948).

22. *Thompson v. Arthur L. Hardin Associates, Inc.*, 219 S.W.2d 860 (St. L. Mo. App. 1949).

23. See C. McCORMICK, *supra* note 1, § 240. See also PROP. FED. R. EVID. 1005 (Rev. Draft 1971).

24. See *Doe d. Gilbert v. Ross*, 7 M. & W. 102, 151 Eng. Rep. 696 (Ex. 1840); *W. C. Beaty & Co. v. Southern Ry.*, 80 S.C. 527, 61 S.E. 1006 (1908); *Rich Furniture Co. v. Smith*, 202 S.W. 99 (Tex. Civ. App. 1918). For general discussions see Birdseye, *Degrees of Secondary Evidence*, 6 WASH. L. REV. 21 (1931); 38 MICH. L. REV. 864 (1940).

25. See *Schriver v. American Car & Foundry Co.*, 330 Mo. 408, 50 S.W.2d 1001 (En Banc 1932).

26. C. McCORMICK, *supra* note 1, § 23.

27. PROP. FED. R. EVID. 1004, Advisory Committee's Note (Rev. Draft 1971).

the matters asserted.<sup>28</sup> Documents that are offered to prove the truth of their contents are subject to a hearsay objection because they necessarily involve the out-of-court statements of a declarant. The business records and official records exceptions to the hearsay rule are particularly applicable to solve hearsay problems involved in the admission of these documents.

A double hearsay problem arises when the person who prepared the documents did not have personal knowledge of the contents of the statements he recorded. The contents of the document, as well as the document itself, is hearsay; if the document is offered to prove the truth of its contents, a second exception must be found for the hearsay in the original recording. In some instances, the official records and business records exceptions may solve both hearsay problems.

At common law, an exception to the hearsay rule was made for records prepared in the course of business. This business records exception required that the record entries be made by someone with personal knowledge of the information.<sup>29</sup> Thus, the common law business records exception permits the admission of business records to show the truth of their contents only where the information recorded was not hearsay in itself. If the contents of the business records were not within the personal knowledge of the entrant, a separate hearsay exception is required to make them admissible.<sup>30</sup>

Missouri has adopted the Uniform Business Records as Evidence Law.<sup>31</sup> The statute authorizes the admission of business records as an exception to the hearsay rule where: (1) the custodian or other qualified witness testifies to their identity and mode of preparation;<sup>32</sup> (2) the records were made in the regular course of business at or near the time of the act, condition, or event in question;<sup>33</sup> and (3) the court finds that the sources of information and method and time of preparation justify their admission.<sup>34</sup>

28. The theory for excluding hearsay is that the competency of a statement or assertion is not assumed unless the maker of the statement can be cross-examined. For Missouri cases applying the hearsay rule see *Jefferson v. Biggar*, 416 S.W.2d 933 (Mo. 1967); *Shaw v. Terminal R.R. Ass'n*, 344 S.W.2d 32 (Mo. 1961); *Gough v. General Box Co.*, 302 S.W.2d 884 (Mo. 1957); *Meyers v. Smith*, 300 S.W.2d 474 (Mo. 1957); *Cottonseed Delinting Corp. v. Roberts Bros.*, 218 S.W.2d 592 (Mo. 1949); *Johnson v. Thompson*, 241 Mo. App. 1008, 236 S.W.2d 1 (Spr. Ct. App. 1950); *Hughes v. Prudential Ins. Co.*, 179 S.W.2d 630 (K.C. Mo. App. 1944).

29. See *C. McCORMICK*, *supra* note 1, § 310.

30. See *PROP. FED. R. EVID.* 803 (6) (Rev. Draft 1971).

31. In some instances, the use of a document does not involve a hearsay problem because the document is admitted merely to show that it exists, not to prove the truth of its contents. The Uniform Business Records as Evidence Law is contained in §§ 490.660-690, RSMo 1969. For a discussion of the business records exception under this statute see *Lauer, Business Records as Evidence in Missouri*, 1964 WASH. U.L.Q. 24.

32. See *Fontana v. Davis*, 382 S.W.2d 835 (K.C. Mo. App. 1964).

33. See *Bolling Co. v. Barrington Co.*, 398 S.W.2d 28 (St. L. Mo. App. 1965); *Rodenberg v. Nickels*, 357 S.W.2d 551 (K.C. Mo. App. 1962).

34. *Stewart v. Sioux City & N.O. Barge Lines, Inc.*, 431 S.W.2d 205 (Mo. 1968); *Kraus v. Kansas City Pub. Serv. Co.*, 269 S.W.2d 743 (Mo. 1954).

The requirement of first hand knowledge is not enumerated in the uniform act<sup>35</sup> and case law is inconclusive. In *Ryan v. Campbell "66" Express, Inc.*,<sup>36</sup> the Missouri Supreme Court indicated that the hearsay exception provided by the uniform act does not cure all hearsay problems merely because the evidence was in the form of a business record. The court stated that the uniform law "eliminates the hearsay objection when such a record is properly qualified thereunder, but it does not make admissible any evidence which would be incompetent if offered in person."<sup>37</sup> Thus, the statute does not completely eliminate the requirement of first hand knowledge. Under *Ryan*, compliance with the Uniform Business Records as Evidence Law will not, *ipso facto*, be sufficient to survive a double hearsay objection to the admission of business records.

The official records exception to the hearsay rule is related to the business records exception.<sup>38</sup> The official records exception has not been codified in Missouri in the same manner as the business records exception. Instead, many specific statutes qualify particular official records as an exception to the hearsay rule.

The official records exception provides that written statements of public officials made by an official, pursuant to an official duty, upon first hand knowledge of the facts, are admissible as an exception to the hearsay rule to show the truth of their contents.<sup>39</sup> The exception requires that the record be made "pursuant to an official duty," in contrast to the business records exception requirement that the record be made in the "ordinary course of business".<sup>40</sup> Although Missouri apparently follows this requirement strictly, it has not been strictly followed elsewhere when the information contained in the record was reported by one with a professional though not an official or public duty to make the

35. It appears that the first hand knowledge requirement is left to the discretion of the court, under the general provision that the business record be admissible only "if, in the opinion of the court, the sources of information . . . were such as to justify its admission." § 490.680 RSMo 1969. See generally C. McCORMICK, *supra* note 1, § 310.

36. 304 S.W.2d 825 (Mo. En Banc 1957).

37. *Id.* at 828; see *Capra v. Phillips Inv. Co.*, 302 S.W.2d 924 (Mo. En Banc 1957); *Ensminger v. Stout*, 287 S.W.2d 400 (K.C. Mo. App. 1956). In many instances, the record is clearly admissible although the entrant lacks personal knowledge of the information he is recording. It appears that the double hearsay problem will only bar the admission of a business record where neither the entrant nor any employee who had a duty to report to the entrant had personal knowledge of the facts. Lauer, *supra* note 31; cf. *Kansas City Stockyards Co. v. A. Reich & Sons, Inc.*, 250 S.W.2d 692 (Mo. 1952). However, Professor Lauer's conclusion that in some instances business records containing double hearsay are admissible under the uniform law is based on cases involving the official records exception to the hearsay rule.

38. Lauer, *supra* note 31, at 45.

39. See *Capra v. Phillips Inv. Co.*, 302 S.W.2d 924 (Mo. En Banc 1957); *State v. Tarwater*, 293 Mo. 273, 239 S.W. 480 (1922). For a general discussion see C. McCORMICK, *supra* note 1, § 315.

40. The purpose of these two requirements is to insure the trustworthiness of the written statements.

report.<sup>41</sup> The drafters of the Proposed Rules deleted the official duty requirement completely.<sup>42</sup>

In Missouri, the requirement that the official have first hand knowledge of the contents has been relaxed in one instance—where the official record includes conclusions or summaries of an investigating official or agency.<sup>43</sup> This requirement has been eased because the existence of a public, official, or professional duty assures the reliability of statements, conclusions, or summaries.<sup>44</sup> To the extent that this requirement of first hand knowledge is relaxed, the official records exception permits the admission of documents that contain conclusions of the author and would otherwise be subject to a double hearsay objection.

### III. MISSOURI STATUTES RELATING TO THE ADMISSION OF DOCUMENTS AS EVIDENCE

Missouri has enacted numerous statutes dealing with the admission of documents in evidence. Depending on the language of the particular statute and its interpretation, those statutes may facilitate admission of documents in evidence. The statute may satisfy the requirements of authentication. The statutes outline procedures and requirements that, if followed closely, will avoid the requirement that the document's preparer authenticate it in court.

Most of these statutes deal with the admission of copies of documents, also. They usually require the signature and/or seal of an official with the responsibility of safekeeping, preparing, or recording the original document. This certification will normally satisfy all authentication requirements for the admission of copies. For example, section 446.350 states:

Copies of plats, surveys, entries, New Madrid certificates and locations, and of all other papers which are by law required to be deposited or kept in the office of the surveyor of the lands of

41. 5 J. WIGMORE, EVIDENCE, § 1633a (3d ed. 1940). *Contra*, White v. Hasburgh, 124 S.W.2d 560 (K.C. Mo. App. 1939); Gass v. United Rys. Co., 232 S.W. 160 (St. L. Mo. App. 1920).

42. PROP. FED. R. EVID. 803 (a) (Rev. Draft 1971).

43. See Simpson v. Wells, 292 Mo. 301, 237 S.W. 520 (1922). *But see* Kansas City Stock Yards Co. v. A. Reich & Sons, Inc., 250 S.W.2d 692 (Mo. 1952); King v. New Empire Ins. Co., 364 S.W.2d 40 (K.C. Mo. App. 1962); Schmidt v. Supreme Council of Royal Arcanum, 207 S.W. 874 (St. L. Mo. App. 1919).

44. A skilled investigator can be presumed to report as accurate or rely on a hearsay statement only after inquiry into its accuracy. Often such an inquiry by one professionally equipped to make it well and on the scene at a time when events are fresh and inquiry is more likely to be fruitful, could be relied upon to assure the reliability of those hearsay statements upon which he relies. Much the same could be said of his conclusions. In both cases, it is clear that the report and its conclusions are recognized by all concerned to lay the foundation for future official action, which is likely to stimulate the same habitual accuracy in reporting facts known that underlies the exception for official records generally. C. McCORMICK, *supra* note 1, § 317 at 738. The Proposed Federal Rules of Evidence follow this theory in allowing the admission of "factual findings" in a public record or statement. PROP. FED. R. EVID. 803 (8) (Rev. Draft 1971).



the United States in this state, duly certified by such surveyor, shall be received as evidence.<sup>45</sup>

This statute makes copies of these documents admissible in evidence (assuming they are not inadmissible on other grounds) if properly certified, without further authentication (*i.e.*, testimony of the surveyor that the document is what it purports to be and that it is a true and accurate copy).

Statutes that satisfy authentication requirements and allow the use of copies as evidence usually state that such documents "shall be received in evidence" or "shall be received in evidence the same as originals." Where the statute refers to the admission of copies and specifies that such documents "shall be received in evidence," the production of the original may be required to satisfy the best evidence rule.

Many statutes go a step further and bring statements contained in the documents within an exception to the hearsay rule. For example, where the document is an official record, the statute dealing with the use of the document as evidence will generally establish those facts necessary to bring the document within the official records exception to the hearsay rule. Thus, strict compliance with the statute will allow the admission of the document as evidence, without further proof of authentication, to prove the truth of those facts therein stated that were within the personal knowledge of the public official in charge of the document. In addition, some statutes deal with documents that are not official records. In some instances, the statutes reflect a relaxation of the requirement that the document be prepared pursuant to an official duty, thus facilitating the admission of hearsay statements contained in records kept by persons who are not public officials. Other statutes deal with business records and either restate the requirements of the statutory business records hearsay exception or make business records not so qualifying admissible under limited circumstances. In either instance, once the requirements of the statute have been met, further proof to bring the documents within the Uniform Business Records as Evidence Law is not required.

Whether these statutes aid in the admission in evidence of documents involving double hearsay problems is unclear. Arguably, in some limited circumstances (see tables), statements not within the personal knowledge of the person who prepared the document are admissible without further proof.

The following pages contain a compilation of the numerous statutes that aid in the admission of documents as evidence. The statutes are organized alphabetically under specific headings. The statutes are arranged in tables within each heading. The tables first show the documents covered by the statute and the section number. The reader should refer to the specific language of the statute and the applicable case law as these tables are not exhaustive. Following the statute number is a series of four columns. An X in one of these columns indicates that a specific evidentiary problem presented by admission of the document in evidence

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45. § 446.350, RSMo 1969.

is satisfied by compliance with the statute. An X in the column headed *Auth.* indicates that the document is admissible without further authentication. An X in the column headed *Copies* indicates that under the statute, copies are competent evidence and are admissible without further proof that they are true and accurate copies of the original document. Use of a copy, however, is likely to remain subject to a best evidence objection unless the language of the statute indicates that the copy will be treated as an original or will be given like weight as the original for evidentiary purposes. The comments in the tables will indicate where the statute thus dispenses with the best evidence requirement. Appropriate designation in the column headed *Hrsy.* signifies that the document qualifies for an exception to the hearsay rule. Where the language of the statute indicates that the document falls within the official records exception, the abbreviation *Off Rec* will appear in the column. Where the business records exception seems applicable, *Bus Rec* will be indicated. Where the document is used in evidence only to show that it exists, no hearsay problems are presented. The fourth column, headed by *Dbl. Hrsy.* pertains to admission of documents containing double hearsay statements under the provisions of the statute. Figures in this column indicate that a statement not within the personal knowledge of the document declarant is admissible under the statute. Where the language of the statute is not clear but there is case law interpreting the statutory language, this will be indicated in the appropriate column by a footnote.

#### IV. STATUTES WHICH RELATE GENERALLY TO THE USE OF DOCUMENTS AS EVIDENCE

Finally, there are statutes dealing with the production of documents into evidence. Sections 510.030 and 510.060 deal with the discovery rules which relate to compelling the production of documents into evidence.<sup>46</sup> In addition, numerous statutes give various officials power to compel the production of documents and deal with other specific problems in this area.<sup>47</sup>

46. For a general discussion of this area see Robert, *Production of Books and Papers in Civil Cases*, 6 St. Louis L. Rev. 20 (1921).

47. The following sections of the Missouri Revised Statutes, 1969, give various officials power to compel the production of documents into evidence: § 138.040 (county board of equalization); § 139.260 (circuit court in tax proceedings against the county collector); § 136.090 (state collector of revenue); § 85.500 (civil service commission—second class cities); § 41.640 (courts martial); § 147.100 (tax commission corporate franchise tax); § 145.160 (inheritance tax appraiser); § 144.340 (director of revenue—sales tax—no exemption from production of documents for investigation); § 144.645 (use tax); § 78.370 (city council—third class cities—commission form of government); § 288.230 (industrial commission—employment security hearings); § 381.140 (superintendent of insurance—hearing under title insurance law); § 369.500 (superintendent of insurance—examination of savings and loan association); § 491.100 (subpoena duces tecum); & Mo. R. CRIM. P. 25.19 (subpoena duces tecum, criminal cases); § 492.280 (court—production of documentary evidence on taking depositions); § 510.030 (pretrial examination order); §§ 515.130, .140 (referees in civil action); § 490.650 (court—account book—action on account); §§ 416.230, .330, .400 (antitrust proceedings—production not excused); § 79.180 (board of alderman proceedings—fourth class cities); §§ 73.270, 75.170, 77.100 (city council proceedings); § 139.260 (county  
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Other statutes aim at simplifying the use of documentary evidence at trial. For example, section 510.010 provides for a pretrial conference, one of the functions of which is to obtain the admission of documents. An alternative approach is provided by section 510.050, which deals with requests for admission of relevant documents.

Where the document sought to be admitted in evidence is written in a foreign language, section 490.620 provides that a written translation by a competent translator, verified by his affidavit, may be read in evidence if the original would be competent evidence.

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collector default proceedings); § 50.160 (county courts—audit and settlement of claims); § 332.340 (dental examiner); §§ 374.190, 380.420 (examination of insurance company); § 107.150 (governor—official bond investigations); §§ 336.110, .130 (board of optometry); §§ 386.320, .420, .460, .470, 393.140 (public service commission).

The statutes are arranged under the headings in the table as follows:

## **Type of Document**

### **I. OFFICIAL RECORDS**

- A. *Constitutions, Statutes, Case Law and Legislative History*
- B. *Documents Filed in or Issuing from Public Offices*
- C. *Records of Official Proceedings and Court-Approved Documents*
- D. *Documents Relating to Specific Subjects*
  - 1. Bonds
  - 2. Registered Trademarks, Brands, Union Labels, Etc.
  - 3. Deeds and Other Instruments Affecting Real Estate
  - 4. Documents Relating to Decedents' Estates
  - 5. Documents Relating to Business Organizations
  - 6. Miscellaneous Documents

### **II. BUSINESS RECORDS**

### **III. STATEMENTS AND AFFIDAVITS: DOCUMENTS IN THE NATURE OF RECORDED TESTIMONY**

## I. OFFICIAL RECORDS

### A. Constitutions, Statutes, Ordinances, Case Law, and Legislative History

#### 1. City

DOCUMENT	SECTION	Auth.	Copies	Hrsy.	Dbl. Hrsy.	COMMENTS
Charter and ordinances, published—first class cities	73.240	X	X	Off. Rec.		Section requires publication under city authority. Such documents admissible for the purpose of proving the charter and ordinances therein contained, and for same purpose as original ordinances would be received.
Ordinances, resolutions, and proceedings—constitutional charter cities	82.200	X	X	Off. Rec.		Section requires document to be attested by the officer in charge of the document under seal of the city and publication by authority of the city. Documents admissible without further proof.
Ordinances, resolutions, orders, and by-laws—any city or incorporated town	490.240	X	X	Off. <sup>48</sup> Rec.		Section requires publication or certification by the officer in charge of the document under seal of the city. Scope of section has been extended by case law to cover documents outside specific statutory language. <sup>49</sup>
Ordinances—second class cities	75.200	X	X	Off. Rec.		Any ordinance may be proved by a copy thereof certified by the clerk, under seal of the city; or when printed in book or pamphlet form and purporting to be published by authority of the city, the same shall be received in evidence without further proof of authenticity.

#### 2. Foreign States<sup>50</sup>

Acts, laws, constitutions, or resolutions contained in any certified statute book of a sister state or territory, copies of	490.030	X	X	Off. Rec.		This section requires certification of the copy by the secretary of state of the sister state or territory or of Missouri.
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DOCUMENT	SECTION	Auth.	Copies	Hrsy.	DbL. Hrsy.	COMMENTS
Reports of other states, printed	490.060	X	X	Off. Rec.		Reports admitted as evidence of unwritten or common law of such state. <sup>61</sup>
Statutes of other states or territories of the United States or foreign jurisdictions, printed	490.020	X	X	Off. Rec.		This section represents Missouri's adoption of the Uniform Proof of Statutes Act. Documents are admitted as prima facie evidence of such statutes.
<b>3. Missouri</b>						
Journals, reports, or documents of the house and senate or by order of the state, printed	490.160	X	X	Off. Rec.	<sup>62</sup>	Such material is prima facie evidence to the same extent that authenticated copies of the originals would be.
Missouri Revised Statutes, printed	3.090	X	X	Off. Rec.		Missouri Revised Statute books, certified by the revisor of statutes, filed with the secretary of state, are prima facie evidence of such statutes. <sup>63</sup>
Statute books of Missouri, printed	490.010	X	X	Off. Rec.		Statute books printed under state authority are evidence of private acts therein contained. <sup>64</sup>
<b>4. United States</b>						
Acts of Congress, books containing	490.040	X	X	Off. Rec.		Such books, purporting to be published by authority of Congress or United States, are evidence of the laws therein contained.
Federal acts, printed	490.050	X	X	Off. Rec.		Copies of any act, law, or resolution contained in any such book, deposited in the office of the secretary of state, and certified under the hand and seal of said secretary are admissible.
Public documents edited or printed by authority of Congress	490.150	X	X	Off. Rec.		Such documents are evidence to the same extent that authenticated copies would be.

I. OFFICIAL RECORDS (cont'd)  
 B. Documents Filed in or Issuing from Public Offices

1. Cities, Towns, and Villages

DOCUMENT	SECTION	Auth.	Copies	Hrsy.	Dbl. Hrsy.	COMMENTS
Boat certificate issued by city tax assessor	154.020	X		Off. Rec.		Certificates issued under this section are conclusive evidence of the statements and facts therein.
Charter, by-laws, ordinances, rules, and orders						See: OFFICIAL RECORDS: <i>Constitutions, Statutes, Case Law, and Legislative History</i>
Contracts of a city, town, village, school township, school district, or other municipal corporation, copies of	432.080	X	X	Off. Rec.		This section requires certification by the city clerk. In case of variance in the copies the one on file shall control in the construction of the contract.
Ordinances, resolutions, rules, orders, and by-laws, copies of	490.240	X	X	Off. <sup>56</sup> Rec.		This section requires publication or certification by the officer in charge of the document under seal of the city. Such copies are evidence. The scope of this section has been extended by case law to the admissibility of documents outside the specific statutory language. <sup>56</sup>
Park board records, copies of—first class cities	90.040	X	X	Off. Rec.		Copies, authenticated by the secretary of the park board, are evidence of the board's proceedings.
Public health records, documents, rules, and regulations, copies of—second class cities	96.100	X	X	Off. Rec.		Authenticated copies under this section are presumptive evidence.
Public utilities commission records or papers, copies of—first class cities	73.690	X	X	Off. Rec.		Copies, authenticated by the president and attested by the secretary under seal of the commission, are admissible.

DOCUMENT	SECTION	Auth.	Copies	Hrsy.	Dbl Hrsy.	COMMENTS
Resolution creating housing authority, copies of	99.040	X	X	Off. Rec.		This section requires certification by the city clerk. The resolution is conclusive evidence of the establishment of the housing authority and its authority to transact business.
Special tax bills Cities less than 30,000	88.903			Off. Rec.		Such tax bills are prima facie evidence of the regularity of the proceedings for such special assessment, of the validity of the bill, of the doing of the work, of the furnishing of the materials charged for, and of the liability of the property to the charge stated in the bill.
Third class cities	88.854			Off. Rec.		
Tax bills approved by the board of trustees of a town, copies of	80.480	X	X	Off. Rec.		This section requires certification by the county collector. A copy of a tax bill is prima facie evidence that the amount therein specified is due from the party against whom the tax bill is made out, and that all provisions of the law and ordinances have been complied with and that the same is a lien on the property therein described.
Tax books and records, copies of						These sections require certification by the auditor or officer in charge of the documents. Tax books and records relating to any tax are admissible as evidence of the facts stated therein and of the validity of the tax costs, interests, and penalty thereon appearing and a certified copy is admissible in like manner and with like effect.
First class cities	93.380	X	X	Off. Rec.		
Second class cities	93.500	X	X	Off. Rec.		
<b>2. County</b>						
Clerk of the County Court Accounts, vouchers, and papers pertaining to the settlement of any account with the county, copies of	51.150	X	X	Off. Rec.		Copies, certified by the county clerk under seal of office, are admissible.



**I. OFFICIAL RECORDS (cont'd)**

**B. Documents Filed in or Issuing from Public Offices (cont'd)**

**2. County (cont'd)**

DOCUMENT	SECTION	Auth.	Copies	Hrsy.	Dbl. Hrsy.	COMMENTS
County contracts, copies of	432.080	X	X	Off. Rec.		This section requires certification by the county clerk. In case of variance in the copies the one on file shall control in construction of the contract.
County seat commissioner's bond, copies of	47.180	X	X	Off. Rec.		Such copies, certified under the seal of the county court, are admissible with the same effect as the original.
Dockets, files, books, and papers of justice of peace courts, copies of	490.140	X	X	Off. Rec.		Copies, certified by the county court, are evidence.
Fee bills in criminal cases, copies of	550.200	X	X	Off. Rec.		Copies, certified by the clerk, are prima facie evidence of the facts therein stated.
Resolution creating housing authority, copies of	90.040	X	X	Off. Rec.		This section requires certification by the county clerk. The resolution is conclusive evidence of the establishment of the housing authority and its authority to transact business <sup>57</sup> and is competent evidence of the board's proceedings.
Surveyor's return	46.025			Off. Rec.		The surveyor's return, if approved by the county courts, is recordable evidence of the county boundary.
County Collector Merchant's inventory statement, copy of	150.280	X	X	Off. Rec.		Copies, certified by the county collector under seal of office, are evidence of the amount of taxes due. This section relates only to suits on merchant's tax bonds.

DOCUMENT	SECTION	Auth.	Copies	Hrsy.	Dbl. Hrsy.	COMMENTS
Tax bills of towns and villages	80.480	X	X	Off. Rec.		This section requires certification by the county collector. A certified copy of a tax bill is prima facie evidence that the amount therein specified is due from the party against whom such tax bill is made out, and that all provisions of the law and ordinances have been duly complied with and that the same is a lien on the property therein described.
County Recorder Affidavit of a witness as proof of marriage	451.190	X	X	Off. Rec.		See: STATEMENTS AND AFFIDAVITS: <i>Documents in the Nature of Recorded Testimony</i>
Business organizations- certificates of incorporation and other related documents						See: OFFICIAL RECORDS: <i>Documents Relating to Specific Subjects: Documents Relating to Business Organizations</i>
County surveyor's records, copies of	60.340	X	X	Off. <sup>58</sup> Rec.		This section requires certification by the county recorder under seal of his office. Such copies are admissible the same as the originals. <sup>59</sup> Section 60.150 deals with the use of surveys as evidence and qualifies them for admission where the survey is made by the county surveyor or his deputy under the authority of the United States or by mutual consent of the parties.
Court decree determining heirship						See: OFFICIAL RECORDS: <i>Documents Relating to Specific Subjects: Documents Relating to Decedents' Estates</i>
Court decree in quiet title suit	527.230	X	X	Off. Rec.		This section requires the decree to be recorded in the county where the lands are situate. A certified copy of the decree or of the record thereof may be read as evidence.

**I. OFFICIAL RECORDS (cont'd)**  
**B. Documents Filed in or Issuing from Public Offices (cont'd)**

**2. County (cont'd)**

DOCUMENT	SECTION	Auth.	Copies	Hrsy.	Dbl. Hrsy.	COMMENTS
Recorded deeds and instruments, copies and originals of						<i>See: OFFICIAL RECORDS: Documents Relating to Specific Subjects: Deeds and Other Instruments Affecting Real Estate</i>
Marriage record books, copies of	490.580	X	X	Off. Rec.		This section requires certification by the county recorder under his official seal. Such copies are admissible.
Statements and accounts of election receipts and expenditures of a political committee, copies of	129.240	X	X	Off. Rec.		Copies, certified by the county recorder under official seal, are admissible with like effect as the original.
Trademarks, insignia, brands, names, etc. filed with the county recorder						<i>See: OFFICIAL RECORDS: Documents Relating to Specific Subjects: Trademarks, Brands, Union Labels, Etc.</i>
County Tax Assessor Boat certificate	154.020	X		Off. Rec.		The section requires the county tax assessor to issue a certificate on the payment of property taxes assessed against boats. The certificate shall set forth the name of the boat, the owner's name and address, and the fact of the return. The certificate is conclusive evidence of the statements and facts therein.
Drainage Districts Organized in Circuit Court Drainage tax books	242.560, .600			Off. Rec.		Such documents are prima facie evidence in all courts of all matters therein.
Petitions filed under this section, maps, profiles, and reports of the chief engineer	242.050			Off. Rec.		Such documents are prima facie evidence in proceedings under this section.

DOCUMENT	SECTION	Auth.	Copies	Hrsy.	Dbl. Hrsy.	COMMENTS
Tax return by the county collector				Off. Rec.		
<b>3. Foreign States</b>						
Exemplifications from the books of the executive department of a state or territory	490.230	X	X	Off. Rec.		Section requires the document to be attested by the governor or secretary of state under official seal. Such documents are evidence.
Records and exemplifications of office books of a public office in a sister state	490.220	X	X	Off. Rec.		Section requires the document to be attested by the keeper of the record or books and seal of his office. <sup>60</sup> For official records of a sister state to be admissible, proof that the records were kept pursuant to an official duty is required. <sup>61</sup> Documents are evidence.
<b>4. Missouri</b>						
Auditor Certified bonds Auditor's certificate, copy of	108.240	X X	X	Off. Rec.		Section pertains to bonds issued by a county, township, city, town, village, school, or special road district. These bonds must be presented to the state auditor for registration. Auditor will certify that laws have been complied with in the issue of the bonds and that conditions of contract under which they were ordered to be issued have been complied with; and evidence of that fact shall be filed with and preserved by auditor. <sup>62</sup> Certified bonds are prima facie binding obligations. <sup>63</sup> Auditor's certificate or a copy thereof shall be admitted and received in evidence of validity of bonds, together with attached coupons.
Judicial notice by the Missouri Supreme Court of the state auditor's public records of registration is proper. <sup>64</sup>						

## OFFICIAL RECORDS (cont'd)

## B. Documents Filed in or Issuing from Public Offices (cont'd)

## 4. Missouri (cont'd)

DOCUMENT	SECTION	Auth.	Copies	Hrsy.	Dbf. Hrsy.	COMMENTS
Papers and documents lawfully deposited, copies of	490.190	X	X	Off. Rec.		Copies, certified by the treasurer under the seal of his office, are admissible in same manner and with like effect as originals.
Papers on file, copies of	490.180	X	X	Off. Rec.		Copies, certified under seal of the treasurer's office, are evidence.
Boat Commission Accident Reports	306.140					This section requires boat accidents to be reported to the commission, but no such report is admissible in any judicial or administrative proceeding relating to the accident.
Collector of Revenue Certificate of the director of revenue of sales tax delinquency	144.390	X		Off. Rec.		Certificate is prima facie evidence of levy of sales tax, of delinquency, of liability of the person and the nonpayment thereof, and of compliance with statutory provisions with respect to computation and levy of the tax.
Certificate of the director of revenue of the failure of a county clerk to transmit an abstract of his county's tax book	137.320	X		Off. Rec.		Section requires authentication by seal of the director of revenue's office. Such certificate is prima facie evidence of facts certified.
Collector of revenue's motor fuel tax assessment filed with the attorney general	142.180	X		Off. Rec.		Tax assessment dealt with is a statement by the collector of revenue under his signature that taxes are due from the named individual. In any action to collect taxes, assessment is admissible and is prima facie evidence of all statements therein.

DOCUMENT	SECTION	Auth.	Copies	Hrsy.	DbI.	COMMENTS
Motor vehicle safety responsibility laws Accident reports or action taken by the director of revenue	303.310					Such reports are not admissible as evidence of negligence.
Suspension orders, copies of	303.315	X	X	Off. Rec.		Such copies, certified by the director of revenue, are evidence.
Commissioner of Agriculture Official analysis of feed lot, copies of	266.271	X	X	Off. Rec.		A certified copy of the official analysis, signed by the commissioner, is prima facie evidence of the composition.
Commissioner of Finance Papers executed by the commissioner of finance	361.030	X		Off. Rec.		This section pertains to papers executed by the commissioner of finance under seal pursuant to his legal duty. Such papers are admissible in evidence and may be recorded in the proper office in the same manner and with the same effect as a deed regularly acknowledged.
Report of finance commissioner to the attorney general specifying the delinquencies of a corporation	361.350	X		Off. Rec.		This section requires certification under seal by the commissioner of finance. Such report is presumptive evidence of the facts therein in any action or proceeding instituted by the attorney general against a corporation of which the commissioners are entitled to take possession under section 361.310.
Comptroller Accounts, vouchers, and documents approved by the comptroller, copies of	133.150			Off. Rec.		Section requires the comptroller to preserve the originals of these documents and to provide copies of the documents for use as evidence. However, the statute does not make the documents admissible. Thus, the statute's utility is unclear.
Fee bills in criminal cases, copies of						See: OFFICIAL RECORDS: <i>Records of Official Proceedings and Court-Approved Documents</i>

**I. OFFICIAL RECORDS (cont'd)**

**B. Documents Filed in or Issued from Public Offices (cont'd)**

**4. Missouri (cont'd)**

DOCUMENT	SECTION	Auth.	Copies	Hrsy.	Dbl. Hrsg.	COMMENTS
Department of Labor and Industrial Relations Work certificate for children under 16	294.080	X		Off. Rec.		Under RSMo chapter 294 work certificates for minors are to be issued by the superintendent of schools. Copies of all certificates are to be retained by the issuing officer with a copy to be forwarded to the department of labor and industrial relations. The certificate is conclusive evidence of the child's age. Although this section does not so provide, the work certificate would likely be admissible as official records upon proper certification and authentication.
Health Department Birth and death certificates	193.170	X <sup>65</sup>		Off. <sup>66</sup> Rec.	67	Such certificates are prima facie evidence of facts therein stated. Certificates carry a presumption of validity. <sup>68</sup>
Copies	193.180		X			Such copies are in effect the same as the originals.
Insurance Superintendent Certificates and papers executed pursuant to any authority conferred by law and copies of papers in the insurance superintendent's office	374.050	X	X	Off. Rec.		This section requires certification by the superintendent and authentication by his seal. Such documents are evidence in like manner as the originals and have the same force and effect as the originals would.
Certificates of organization of insurance associations and other related documents						See: OFFICIAL RECORDS: Documents Relating to Specific Subjects: Documents Relating to Business Organizations

DOCUMENT	SECTION	Auth.	Copies	Hrsy.	Dbl. Hrsy.	COMMENTS
Public Service Commission All official documents and orders, copies of	386.290	X	X	Off. Rec.		This section pertains to documents and orders filed or deposited according to law in the office of the commission, and requires copies to be certified as true copies under official seal of the commission. Such certified copies are evidence in like manner as the originals.
Commission findings as to valuation of common carriers	387.300	X		Off. Rec.		This section requires certification under seal of the commission. Such findings are conclusive evidence of the acts therein stated, as of the date therein stated, under conditions then existing.
Commission findings as to valuation of property of gas, electrical, and water corporations	393.230	X		Off. Rec.		This section requires certification under seal of the commission. Such findings are conclusive evidence of the facts therein stated, as of the date therein stated, under conditions then existing, in any proceeding in which the state or its political subdivisions and a utility corporation are parties.
Real Estate Commission Records, papers, and proceedings, copies of	399.130	X	X	Off. Rec.		Copies, certified under the commission seal, are admissible.
State Recorder of Deeds Marks and brands of flour and meal	417.130					See: OFFICIAL RECORDS: <i>Documents Relating to Specific Subjects</i> : Trademarks, Brands, and Union Labels, Etc.
Official records relating to real estate titles						See: OFFICIAL RECORDS: <i>Documents Relating to Specific Subjects</i> : Deeds and Other Instruments Affecting Real Estate
Registry of Lands Instruments relating to land titles						See: OFFICIAL RECORDS: <i>Documents Relating to Specific Subjects</i> : Deeds and Other Instruments Affecting Real Estate



**OFFICIAL RECORDS (cont'd)**

**B. Documents Filed in or Issuing from Public Offices (cont'd)**

**4. Missouri (cont'd)**

DOCUMENT	SECTION	Auth.	Copies	Hrsy.	Dbl. Hrsy.	COMMENTS
Letters received from the United States land office concerning the official action of the register or receiver, copies of	490.210	X	X	Off. Rec.		Copies, certified by the register or receiver, are evidence.
Papers on file, copies of	490.180	X	X	Off. Rec.		This section requires certification under seal of the registry of lands. <sup>69</sup> Such copies, when properly certified, are evidence.
Secretary of State All papers filed with the secretary of state, copies of	490.180	X	X <sup>70</sup>	Off. Rec.		Section requires certification under seal of the office of the secretary of state. Such copies are evidence.
Articles of incorporation, documents, and records of corporations, railroads, insurance companies, partnerships, and other business organizations, copies of						<i>See: OFFICIAL RECORDS: Documents Relating to Specific Subjects: Documents Relating to Business Organizations</i>
Federal acts, copies of	490.050	X	X	Off. Rec.		Section requires certification by the secretary of state under seal of his office. Such copies are evidence.
Official acts, copies of	28.090	X	X	Off. Rec.		Section requires certification by the secretary of state under seal of his office. Such copies are evidence.

DOCUMENT	SECTION	Auth.	Copies	Hrsy.	Dbl. Hrsy.	COMMENTS
Trademarks, emblems, insignia, names, etc., filed with the secretary of state						See: OFFICIAL RECORDS: <i>Documents Relating to Specific Subjects</i> : Registered Trademarks, Brands, and Union Labels, Etc.
Collector of Revenue						
Securities Commissioner						
Official records, copies of	409.414	X	X	Off. Rec.		Copies, certified under the commissioner's seal of office, are prima facie evidence of the entry or document certified.
Transcript of testimony before the commissioner	409.412	X		Off. Rec.		A transcript, certified by the commissioner, is admissible on review under this section.
State Board of Registration for the Healing Arts Records and Register	334.123			Off. Rec.		The records and register of the board are prima facie evidence of all matters therein recorded.
State Land Survey Authority						
Instruments relating to land titles						See: OFFICIAL RECORDS: <i>Documents Relating to Specific Subjects</i> : Deeds and Other Instruments Affecting Real Estate
Records, copies of	60.150	X	X	Off. Rec.		Copies, certified by the state land surveyor or a designated assistant, are admissible as the original.
State Oil and Gas Council						
Any rule, regulation, or order, copies of	259.140	X	X	Off. Rec.		Copies, when certified by the state geologist or any officer of the council, are admissible with the same effect as the original.
Tax Commission						
Certificate of proceedings of tax commission regarding valuation of railroad property	151.090	X	X	Off. Rec.		This section requires certification by the chairman and secretary of the commission. The certificate is prima facie evidence of the facts therein and that every act required of the commission under this chapter has been performed. The party using or offering the certificate in evidence is required to produce the record of the proceedings or decisions

**I. OFFICIAL RECORDS (cont'd)**

**B. Documents Filed in or Issuing from Public Offices (cont'd)**

**4. Missouri (cont'd)**

DOCUMENT	SECTION	Auth.	Copies	Hrsy.	Dbl. Hrsy.	COMMENTS
Treasurer Papers and documents lawfully deposited, copies of	490.190	X	X	Off. Rec.		of the commission, or a copy thereof, nor any other matter or thing as evidence to sustain the certificate.
Papers on file, copies of	490.180	X	X	Off. Rec.		Copies, certified by the treasurer under seal of his office, are admissible in the same manner and with like effect as originals.
						Copies, certified under seal of the treasurer's office, are evidence.

**5. United States**

Certificate of the United States Secretary of State that a foreign government is exempt from unemployment compensation tax	288.034	X		Off. Rec.		Such certificates are prima facie evidence of such equivalent exemption.
Exemplifications of books or papers from the executive office of the United States	490.230	X	X	Off. Rec.		Section requires attestation by the President or the chief of the department. Such exemplifications are evidence.
Land survey field notes of United States public surveys, copies of	60.370	X	X	Off. Rec.		This section refers to copies of United States land survey field notes filed in county surveyor's office where the land surveyed is located. Copies when certified by county surveyor are evidence.

DOCUMENT	SECTION	Auth.	Copies	Hrsy.	Db'l Hrsy.	COMMENTS
Letters received by the register or receiver of any United States land office, Copies of	490.210	X	X	Off. Rec.		Section pertains to letters received from any superior officer in the land department of the United States, concerning official action of the register and receiver. Copies of such letters, when certified by the register or receiver, are evidence.
Office records and explanations of office books of the United States	490.220	X	X	Off. Rec.	<sup>71</sup>	Section requires attestation by the keeper of the record or books and seal of his office. Such records are evidence. <sup>72</sup>
Public documents edited by authority of Congress	490.150	X	X	Off. Rec.		Such documents are evidence to the same extent authenticated copies would be.
Surveys as evidence	60.150					No survey is evidence unless made by the county surveyor or his deputy, under authority of the United States, or by mutual consent of the parties. <sup>73</sup>
United States land office books, copies from	490.200	X	X	Off. Rec.		Section requires certification by the register or receiver of the United States land office. Copies are admissible.

*C. Records of Official Proceedings and Court-Approved Documents*

1. Court Decrees

Court decree determining heirship	473.663	X	X	Off. Rec.		A certified copy of the decree shall be recorded in each county in which any real property described therein is situated, and is conclusive evidence of the facts therein as against all parties to the proceedings.
Court decree in a quiet title suit	527.210			Off. Rec.		The decree is conclusive against all persons who may appear and answer or who shall have been personally served with notice, and is prima facie evidence against all other persons claiming the premises from the time of entering said decree.

**I. OFFICIAL RECORDS (cont'd)**  
**C. Records of Official Proceedings and Court-Approved Documents (cont'd)**

**1. Court Decrees (cont'd)**

DOCUMENT	SECTION	Auth.	Copies	Hrsy.	Dbl.	COMMENTS
Modification of decree	527.220				Hrsy.	
Copies of decree	527.230	X	X	Off. Rec.		A certified copy of the decree, or of the record thereof, may be read as evidence.

**2. Court-Approved Documents**

Fee bill of costs in criminal cases	550.200	X	X	Off. Rec.		This section requires the original fee bill, signed by the judge and prosecuting attorney, to be sent to the comptroller or the clerk of the county court. Copies certified by the clerk are prima facie evidence of the facts therein.
Letters of administration	473.130	X	X	Off. Rec.		Letters or copies of the record thereof, duly certified under seal of the proper court, are evidence. Case law indicates that the issuance of letters of administration is prima facie evidence of the death of the person on whose estate they are issued. <sup>74</sup> The presumption is rebuttable. <sup>75</sup>
Letters of guardianship	475.105	X	X	Off. Rec.		The original or duly certified copies of the letters of guardianship are prima facie evidence of the facts therein.

**3. Records of Official Proceedings**

Certificate of probate	473.080					See: OFFICIAL RECORDS: Documents Relating to Specific Subjects: Documents Relating to Decedents' Estates
Coroner's Inquest	287.210		X	Off. Rec.		Copies of the proceedings before any coroner holding an inquest are admissible in any workmen's compensation proceeding.

DOCUMENT	SECTION	Auth.	Copies	Hrsy.	Dbl. Hrsy.	COMMENTS
Docket, files, books, and papers of a justice of the peace delivered to the county clerk, copies of	490.140	X	X	Off. Rec.		Copies certified by the county clerk are evidence.
Proceedings and orders of state commissions, councils, and agencies						See: OFFICIAL RECORDS: Documents Filed in or Issuing from Public Offices: Missouri
Record of conviction in a criminal case	542.100			Off. Rec.		In an action on a breach of the peace bond, the offense stated in the record of conviction may be assigned as a breach, and such record is conclusive evidence of the matters therein.
Record of proceedings of any court of Missouri, copies from	490.130	X	X	Off. <sup>76</sup> Rec.		Copies must be attested by the clerk of the court with seal of the court annexed. Such copies are admissible as evidence of the court's acts or proceedings in any court of this state.
Records and judicial proceedings of any court of the United States or of any state	490.130	X				Such records when certified by the judge under seal of the court are given full faith and credit.
Transcript of record for appeal	512.110					See: Mo. Sup. Ct. R. 1.04.
<i>D. Documents Relating to Specific Subjects</i>						
<i>I. Bonds</i>						
Bonds of administrators, executors, guardians, curators, and commissioners, copies of	490.480	X	X	Off. Rec.		Copies of such bonds, duly certified by and attested with the seal of office of the officer to whom their custody is committed, are evidence the same as the originals. <sup>77</sup>
County seat commissioner's bond, copies of	47.190	X	X	Off. Rec.		See: OFFICIAL RECORDS: Documents Filed in or Issuing from Public Offices: County

**I. OFFICIAL RECORDS (cont'd)**  
**D. Documents Relating to Specific Subjects (cont'd)**

**1. Bonds (cont'd)**

DOCUMENT	SECTION	Auth.	Copies	Hrsy.	Dbl. Hrsy.	COMMENTS
Merchant's tax bond, copies of	150.280	X	X	Off. Rec.		See: OFFICIAL RECORDS: Documents Filed in or Issuing from Public Offices: County
Official bonds, copies of	490.470	X	X	Off. Rec.		Copies of official bonds, certified by seal of office of the officer in whose custody the bond is required to be kept, are admissible the same as the originals. <sup>78</sup>
Public administrator's bond, copies of	473.733	X	X	Off. Rec.		A copy of such bond, certified under seal of the probate court, is evidence.
Public works contractor's bond, copies of	522.300	X	X	Off. Rec.		A copy of such bond, certified by the party or parties in whose charge the bond shall be, is, unless execution thereof be denied under oath, prima facie evidence of the execution and delivery of the original.

**2. Deeds and Other Instruments Affecting Real Estate**

Abstract of title to land	446.210	X	X	Bus. Rec.		An abstract of title, when fair on its face and shown to have been made in the ordinary course of business, is competent evidence, when the original is lost, destroyed, illegible, or not within the power of the party to produce.
Acknowledged instruments	490.410	X				Acknowledged instruments together with the certificates of acknowledgment or proof, and relinquishment, are admissible without further proof. <sup>79</sup>
Certified copy	490.420	X	X	Off. Rec.		Upon proof that such instrument is lost or not within the power of the party wishing to use it, the record thereof, or the transcript of the record, certified by the recorder under seal of his office, is admissible without further proof.

DOCUMENT	SECTION	Auth.	Copies	Hrsy.	Dbl. Hrsy.	COMMENTS
Court decree establishing title to land	527.210-.220					See: OFFICIAL RECORDS: <i>Records of Official Proceedings and Court-Approved Documents</i>
Deed acknowledged under former law	490.290	X		Off. Rec.		Such deed is admissible, if it appears to have been duly recorded in the proper office within 1 year from its date, and more than 20 years from the time it is offered. <sup>80</sup>
Deed contained in a court transcript where original recorded more than 20 years but not properly proved or acknowledged, copies of	490.320	X	X	Off. Rec.		Upon proof that the deed or conveyance has been lost or destroyed, the copy contained in such transcript, duly certified under hand and seal of the clerk of the proper court, is admissible. <sup>81</sup>
Deeds recorded 30 years	490.380	X		Off. Rec.		Such deeds are, together with the certificate of acknowledgment or proof, admissible without further proof of execution.
Copies	490.390	X	X	Off. Rec.		Copies of such an instrument, on proof that it is lost or is not within the power of the party wishing to use it, are admissible with like effect and on the same conditions as the original.
Evidence establishing land boundaries Plats and certificates of surveyed and depositions	446.150	X	X	Off. Rec.		Certified copies of the record are admissible subject to exceptions for irrelevancy or incompetency. <sup>82</sup>
Evidence of title to land Lost or destroyed official records	446.190	X	X	Off. Rec.		Upon certification by the county or circuit court of the circumstances surrounding the loss or destruction, and that in their opinion the documents show a connected chain of title to the lands, abstracts, minutes, copies, and extracts or authenticated copies thereof are prima facie evidence.



**I. OFFICIAL RECORDS (cont'd)**  
**D. Documents Relating to Specific Subjects (cont'd)**  
**2. Deeds and Other Instruments Affecting Real Estate (cont'd)**

DOCUMENT	SECTION	Auth.	Copies	Hrsy.	Dbl.	COMMENTS
Judge's certificate, certified copy of	446.200	X	X	Off. Rec.		A certified copy of the judge's certificate, under hand and official seal of the clerk of the circuit court of the county, is prima facie evidence of the facts and recitals contained in the certificate.
French and Spanish archives	446.310	X		Off. Rec.		Such archives, recorded in the office of the recorder of any county, duly certified by such recorder, are admissible without further proof.
Archives in St. Louis recorder's office, copies of	446.340	X	X	Off. Rec.		Copies of archives received from the French or Spanish authorities of Louisiana, and which have or may be recorded, are admissible.
Record or conveyance, copies of	446.320	X	X	Off. Rec.		Such copy when certified by the county recorder is admissible with like effect as the original.
Record of original archives, copies of	446.330	X	X	Off. Rec.		Such copy, duly certified by the officer having charge of such record, is admissible when the original has been lost or destroyed or cannot be obtained by the party wishing to use it.
French and Spanish land grants, warrants, orders, plats, and certificates of survey, deeds, conveyances, and other evidences of title	446.290	X		Off. Rec.		All such documents signed by the proper officers of the French or Spanish government, filed in the office of the recorder of land titles, by virtue of any law of the United States, certified by the recorder, are admissible without further proof.
Any land book, copies including copies of	446.300	X	X	Off. Rec.		Copies duly certified by the recorder are admissible with like effect as the original.
Guardians' deeds	475.245	X		Off. Rec.		All deeds and conveyances executed by guardians, when acknowledged and recorded as other instruments conveying real estate, are admissible without further proof.

DOCUMENT	SECTION	Auth.	Copies	Hrsy.	Dbl. Hrsy.	COMMENTS
Instrument under repealed law	490.280					Such instruments are evidence to the same extent and with like effect as if such law remained in full force.
Instruments conveying bounty lands, copies of	442.250	X	X	Off. Rec.		Copies of such instruments or of the record of them, duly certified by the recorder of the county in which they may have been recorded, are, upon proof of loss or destruction of the original, admissible with like effect and on the same conditions as the original.
Land patents, copies of	59.390	X	X	Off. Rec.		Copies of patents, certified by the county recorder in whose office the patent is recorded, are prima facie evidence of the contents of the patents.
Land title confirmations before state board of commissioners or before the recorder of land titles, copies of	446.280	X	X	Off. Rec.		Copies of confirmations, duly certified by the recorder of land titles, or by the person who by law has custody of the books and papers containing such confirmations, are admissible.
Lists and plats of swamp and overflowed lands	241.020			Off. Rec.		Lists and plats furnished by the secretary of state to the county courts, are prima facie evidence of the title in said counties to said lands.
Lost instruments, recorded copies of	490.500	X	X	Off. Rec.		When the original of any instrument for which provision for recording has been made by law shall appear to be lost, or not within control of the party wishing to use it, the record thereof, or a transcript of the record, certified by the custodian thereof, under seal of his office, is admissible without further proof, in like manner and with like effect as duly recorded instruments affecting real estate.
New Madrid certificates and patents	446.250	X		Off. Rec.		Such documents are only prima facie evidence of title in the grantee therein named. Under section 446.260, RSMo 1969, such certificates are rebuttable.

## OFFICIAL RECORDS (cont'd)

## D. Documents Relating to Specific Subjects (cont'd)

## 2. Deeds and Other Instruments Affecting Real Estate (cont'd)

DOCUMENT	SECTION	Auth.	Copies	Dbl.		COMMENTS
				Hrsy.	Hrsy.	
Official records of recorder of land titles, copies of	446.270	X	X	Off. Rec.		Copies of New Madrid certificates, and all other books and papers, which by law are required to be deposited or kept at his office, duly certified by him, are admissible.
Patents to swamp and overflowed lands	241.120	X	X	Off. Rec.		All patents issued, executed, and duly recorded, or a certified copy of the same under the hand of the secretary of state or the recorder of the proper county, is prima facie evidence of title in the counties where such lands severally lie.
Plat not in proper form	445.060	X		Off. Rec.		Such plat, if recorded for 10 years, shall have the same force and effect as though properly and fully made, certified, executed, or acknowledged according to law, and is prima facie evidence of the correctness of the same and the showing thereof.
Plats, surveys, entries, New Madrid certificates, locations, and all other papers, copies of	446.350	X	X	Off. Rec.		Such documents, which are by law required to be deposited or kept in the office of the surveyor of lands of the United States in this state, duly certified by such surveyor, are admissible.
Real estate instrument recorded for 10 years, copies of	490.360	X	X	Off. Rec.		Such certified copy of the instrument and of the time of its record, is prima facie evidence of the execution of such writing, instrument, or deed, and of its genuineness and time of record; provided the record thereof shall have been made at least 10 years before it is offered in evidence.

DOCUMENT	SECTION	Auth.	Copies	Hrsy.	Dbl. Hrsy.	COMMENTS
Recitals in deed-evidence of heirship	490.370					See: OFFICIAL RECORDS: Documents Relating to Specific Subjects: Documents Relating to Decedents' Estates
Record and certificate of acknowledgment or proof, certified copies of	490.310	X	X	Off. Rec.		Whenever the original deed or conveyance appears to be lost or destroyed, or not in the power of the party who wishes to use it, such copy is admissible upon like proof as is required in case of the original, and with like effect.
Record of deeds for land in a different county, certified copies of	59.530	X	X	Off. Rec.		When a certified copy of the record of a deed in one county is recorded in another county, copies of the record, certified by the recorder of the proper county, with seal of office affixed, is admissible in the same manner and shall have the same effect as is or may be given to copies of the record or other deeds and written instruments affecting real estate that have been or may be duly recorded in the county where the real estate is situated.
Record from plat book, copies of	445.040	X	X	Off. Rec.		Such copies, properly certified under hand and official seal of the county recorder of deeds, are evidence.
Registry of lands records, copies of	446.240	X	X	Off. Rec.		Copies of the record, certified by the registry of lands, are prima facie evidence of the facts therein stated.
Re-recorded conveyances	59.640					Such documents are admissible with like effect as the original record.
Sheriff's deed in tax sale	490.400			Off. Rec.		Such deeds are prima facie evidence that the persons named therein as defendants to the suit to enforce the lien for back taxes were the absolute owners of the land conveyed at the time of the institution of the action. <sup>88</sup>

## OFFICIAL RECORDS (cont'd)

## D. Documents Relating to Specific Subjects (cont'd)

## 2. Deeds and Other Instruments Affecting Real Estate (cont'd)

DOCUMENT	SECTION	Auth.	Copies	Hrsy.	Dbl. Hrsy.	COMMENTS
County tax deed	140.460	X		Off. Rec.		Such conveyance shall be executed by the county collector, under his hand and seal, witnessed by the county clerk and acknowledged before the county recorder or any other officer authorized to take acknowledgments and is prima facie evidence of the facts enumerated in the statute.
Tax deeds—first class cities	93.300	X		Off. Rec.		Such deed signed by the city treasurer, in his official capacity, with seal of the city affixed, and acknowledged before an officer authorized to take acknowledgment of deeds, is prima facie evidence of compliance with the statutes.
Tax deeds of first and second class cities	93.305	X		Off. Rec.		Such deeds are admissible without further evidence to sustain such conveyance or the title thereby acquired.
Recorded deed, copies of	513.290	X	X	Off. Rec.		Such copies, certified by the recorder, are admissible without further proof of execution.
Translation of foreign language deeds	442.140					Translations are admissible as if they were originally written in English.

## 2. Documents Relating to Business Organizations

Banking Corporations						This section directs the banking corporation to file an affidavit of change of capital stock with the county recorder of deeds and the commissioner of finance. The certificate or certified copies thereof are evidence of the increase, decrease, or change in capital structure.
Certificate of charter amendment to change capital stock provision, copies of	362.325	X	X	Off. Rec.		

DOCUMENT	SECTION	Auth.	Copies	Hrsy.	Dbl. Hrsy.	COMMENTS
Certificate of incorporation	362.035	X	X	Off. Rec.		This section requires the certificate of incorporation to be filed in the office of the recorder of deeds in the county or city where the corporation is located. The certificate, so recorded, or certified copies thereof, is evidence of the existence of the corporation. <sup>84</sup>
Corporations All records and papers on file, copies of	490.250	X	X	Bus. <sup>85</sup> Rec.		This section requires certification by the secretary or president and authentication by corporate seal. Such copies are admissible as prima facie evidence in the same manner and with like effect as the originals.
Certificate of incorporation from the secretary of state	351.075	X		Off. Rec.		Such certificate is evidence of the existence of the corporation.
Minutes of the respective boards and agreements of the boards for merger of consolidation, copies of	362.650	X	X	Bus. Rec.		These two documents when certified and verified by the cashiers and secretaries of the banks and trust companies are presumptive evidence of the boards' actions.
Reproduced records	362.413	X	X			Such reproductions are deemed to be an original record for all purposes and are admissible whether the original exists or not. Any enlargement or facsimile of such reproduction, when certified by the president, any vice president, the cashier or secretary, and authenticated by the seal of such corporation, is prima facie evidence, with like effect as such reproduction. The introduction of a reproduced record or of an enlargement or a facsimile of a reproduced record does not preclude admission of the original.
Securities commission Official records	409.414					See: OFFICIAL RECORDS: Documents Filed in or Issuing from Public Offices: Missouri

I. OFFICIAL RECORDS (cont'd)

D. Documents Relating to Specific Subjects (cont'd)

2. Documents Relating to Business Organizations (cont'd)

DOCUMENT	SECTION	Auth.	Copies	Hrsy.	Dbl. Hrsy.	COMMENTS
Transcript of proceedings	409.412					See: OFFICIAL RECORDS: Documents Filed in or Issuing from Public Offices: Missouri
Development finance corporation Certificate of incorporation	371.070	X				The certificate of incorporation is conclusive evidence, except as against the state, that all conditions precedent have been complied with and that the corporation has been incorporated under provision of Missouri law. The certificate is issued by the commissioner of finance and a copy of the articles of incorporation must be filed in the office of the recorder of deeds in the county in which the principal office of the development finance corporation is located. Copies of these two documents, though not covered by this section, would likely be admissible as official records. <sup>86</sup>
Fraternal benefit societies Constitution and laws, copies of	378.090	X	X			This section requires certification by the secretary or corresponding officer of the society. Certified copies of the constitution and laws are prima facie evidence of the adoption thereof. Copies of the constitution and by-laws are required to be filed with the superintendent of insurance, so that they could also be admissible under section 374.050, RSMO 1969, as official records.
Certificate of superintendent of insurance	378.050	X	X			Upon presentation of satisfactory evidence that the fraternal benefit society has complied with all provisions of law he shall issue a certificate to that effect. Such certificate is prima facie evidence of

DOCUMENT	SECTION	Auth.	Copies	Hrsy.	Dbl. Hrsy.	COMMENTS
						the existence of such society at the date of such certificate. The superintendent of insurance shall cause a record of such certificate to be made, and a certified copy of such record is admissible with like effect as the original certificate.
	379.075	X	X			The certificates and copies referred to in these sections are issued by the superintendent of insurance and, when recorded in the office of the recorder in the county in which the association is to be located, constitute its authority to commence business and issue policies. Certified copies are evidence with the same effect as the originals.
Insurance associations other than life, joint stock companies, and mutual companies	376.090	X	X			
	376.130	X	X			
Declaration and certificate of association's authority to commence business and certificate of deposit of statutory requirements for commencing business, certified copies of						
Partnership Affidavit of a witness	490.520		87	88		See: STATEMENTS AND AFFIDAVITS: DOCUMENTS IN THE NATURE OF RECORDED TESTIMONY. Such affidavit are prima facie evidence of the facts therein stated.
Railroad corporations Articles of incorporation, copies of	388.050	X	X	Off. Rec.		A copy of any articles of association filed and recorded, or of the record thereof, with the affidavit of three directors that the requisite amount of stock has been subscribed, endorsed thereon or annexed thereto, and certified to be a copy by the secretary of state, is presumptive evidence of the company's incorporation and of the facts therein stated.
Findings of public service commission as to value of common carriers	387.300	X		Off. Rec.		See: OFFICIAL RECORDS: Documents Filed in or Issuing From Public Offices: Missouri



**OFFICIAL RECORDS (cont'd)**  
**D. Documents Relating to Specific Subjects (cont'd)**  
**2. Documents Relating to Business Organizations (cont'd)**

DOCUMENT	SECTION	Auth.	Copies	Hrsy.	Dbl. Hrsy.	COMMENTS
Religious and charitable associations						
Charter of incorporation	352.060	X	X	Off. Rec.		The secretary of state shall issue a certified copy of the articles of agreement with a copy of the pro forma decree of the court approving the association attached, which shall be the charter of incorporation. Such charter, together with Missouri Revised Statutes chapter 352, is admissible as evidence of the association's incorporation.
Reorganization Insurance associations; joint companies and mutual companies—certificate of secretary of state of extension of association after expiration of charter term or reorganization	379.550	X		Off. Rec.		A certificate by the secretary of state, under seal of the state, that said corporation has been duly organized and its corporate existence extended and continued for such period is evidence of the company's continued corporate existence.
Certificate of incorporation of secretary of state of special charter company after reorganization under Missouri General Insurance Statutes	379.620	X		Off. Rec.		A certificate by the secretary of state, under seal of the state, that said corporation has been duly organized, is evidence of the corporate existence of such corporation.
Savings and Loan associations Reproduced records	369.498	X	X			Any such photographic, photostatic, or microfilm copy or reproduction is deemed the original record for all purposes and shall be treated as an original

DOCUMENT	SECTION	Auth.	Copies	Hrsy.	DbI. Hrsy.	COMMENTS
telegraph and telephone companies						record for purposes of admissibility. A facsimile, exemplification or certified copy of any such copy or reproduction reproduced from a film record, is for all purposes, deemed a facsimile, exemplification, or certified copy of the original record.
Articles of incorporation, copies of	392.020	X	X	Off. Rec.		This section requires certification by the secretary of state or his deputy under seal of the state. A certified copy of the articles of association is prima facie evidence of the company's incorporation, and of the facts stated therein.
Findings of public service commission on valuation of property of telegraph and telephone companies	392.270	X		Off. Rec.		The findings of the commission, when certified under seal of the commission, is admissible.
<b>3. Documents Relating to Decedents' Estates</b>						
Affidavit of claimant against decedent's estate	473.380					See: STATEMENTS AND AFFIDAVITS: DOCUMENTS IN THE NATURE OF RECORDED TESTIMONY
Bonds of administrators and executors, copies of	490.480	X	X	Off. Rec.		See: OFFICIAL RECORDS: Documents Relating to Specific Subjects: Bonds
Certificate of Veterans Administration as proof of necessity of appointment of a guardian						
Incompetency	475.410	X		Off. Rec.		The administrator's certificate is prima facie evidence of the necessity of such appointment.
Minority	475.405	X		Off. Rec.		

## 1. OFFICIAL RECORDS (cont'd)

## D. Documents Relating to Specific Subjects (cont'd)

## 3. Documents Relating to Decedents' Estates (cont'd)

DOCUMENT	SECTION	Auth.	Copies	Hrsy.	Db'l. Hrsy.	COMMENTS
Court decree determining heirship	473.663	X	X	Off. Rec.		See: OFFICIAL RECORDS: Records of Official Proceedings and Court-Approved Documents
Guardian's deeds	475.245			Off. Rec.		See: OFFICIAL RECORDS: Documents Relating to Specific Subjects: Deeds and Other Instruments Affecting Real Estate
Inventories and appraisements.	473.253					Inventories and appraisements are admissible but not conclusive.
Letters of Guardianship	475.105	X	X	Off. Rec.		See: OFFICIAL RECORDS: Records of Official Proceedings and Court-Approved Documents
Letters testamentary or of administration	473.130	X	X	Off. Rec.		See: OFFICIAL RECORDS: Records of Official Proceedings and Court-Approved Documents
Recorded testimony of a witness in probate	473.063	X				See: STATEMENTS AND AFFIDAVITS: DOCUMENTS IN THE NATURE OF RECORDED TESTIMONY
Wills Wills—admitted to probate—on record for 10 years	474.530	X		Off. Rec.		Wills admitted to probate, where the court record does not show approval or acceptance and probate, which have been on the record for 10 years, have the same effect and are admissible in all courts of this state as though properly approved and probate confirmed in term time.
Wills—probated in a foreign state	474.370	X	X	Off. Rec.		Authenticated copies of wills recorded in this state are admissible in the same manner and with like effect as wills executed and proved in this state.

DOCUMENT	SECTION	Auth.	Copies	Hrsy.	Dbf. Hrsy.	COMMENTS
Will probated in a foreign state, certified copies of	474.380	X	X	Off. Rec.		Wills admitted to probate in any state, territory, or district of the United States, authenticated according to act of Congress, admitted to probate or filed in the office of a county recorder in this state, and certified copies thereof, are admissible.
Written will with certificate of probate	473.080	X	X	Off. Rec.		Every will certified under this section, or the record thereof, or a duly certified transcript of the record, is admissible without further proof.
<b>4. Miscellaneous Documents</b>						
Commercial paper Documents creating a presumption of dishonor	400.3-510	X		Bus. Rec.		The following are admissible and create a presumption of dishonor and any notice of dishonor therein shown: (a) a document regular in form purporting to be a protest; (b) the purported stamp or writing of the drawee, payor bank, or presenting bank on the instrument or accompanying it stating that acceptance or payment has been refused for reasons consistent with dishonor.
Letters of attorney	490.570	X				Letters of attorney with certificate of acknowledgment or proof are admissible without further proof of execution.
Marriage contracts	490.590	X		Off. Rec.		Marriage contracts, duly proved or acknowledged and certified and recorded, are admissible without further proof of execution.
Certified copy	490.600	X	X	Off. Rec.		When such marriage contract is lost or is not in the power of the party wishing to use it, a copy thereof, duly certified under the hand and seal of the recorder, is admissible.

## OFFICIAL RECORDS (cont'd)

## D. Documents Relating to Specific Subjects (cont'd)

## 4. Miscellaneous Documents (cont'd)

DOCUMENT	SECTION	Auth.	Copies	Hrsy.	Dbl. Hrsy.	COMMENTS
Mortgages and deeds of trust						
Certificate of sale and purchase and deed	443.470	X		Off. Rec.		The certificate of sale and purchase and deed and recitals therein are prima facie evidence of the recitals.
Trustee's deed	443.380	X		Off. Rec.		Recitals in the deed concerning the default advertisement, sale and receipt of the purchase money, and all other facts pertinent thereto, are admissible as prima facie evidence in all courts of the truth thereof.
Negotiable instruments Affidavit of witness as proof of endorsement of notes	490.510	X		X		Such affidavit is prima facie evidence of the facts therein stated. <sup>80</sup> See: STATEMENTS AND AFFIDAVITS: DOCUMENTS IN THE NATURE OF RECORDED TESTIMONY
Notarial protest	401.213	X		Off. Rec.	<sup>90</sup>	A notarial protest is evidence of a demand and refusal to pay a bill of exchange or negotiable instrument, at the time and in the manner stated in such protest.
Public contracts, copies of	490.460	X	X	Off. Rec.		Copies of public contracts duly certified and attested by the official seal of the officer to whom by law the custody of the originals is required to be kept, or, if such officer has no official seal, then verified by the affidavit of such officer, are admissible the same as the originals. <sup>91</sup>
Steamboat enrollment, copies of	490.610	X	X	Off. Rec.		A copy of the enrollment of any steamboat certified by the proper officer is prima facie evidence that the persons described therein are the owners.

DOCUMENT	SECTION	Auth.	Copies	Hrsy.	Dbl. Hrsy.	COMMENTS
Uniform Commercial Code Documents required by contract to be issued by a third party	400.1-202	X		X		Such documents are prima facie evidence of their own authenticity and genuineness and of the facts stated in the document by the third party.
<b>5. Registered Trademarks, Brands, Union Labels, Etc.</b>						
Dairy products containers Certificate of secretary of state	417.300	X		Off. Rec.		Such certificate of the record, attested by the secretary of state, is prima facie evidence of the adoption and ownership of such name, mark, or device and of the right of the person named therein to adopt and use the same in all prosecutions under this section.
Emblems, insignia and names Certificate of secretary of state	417.170	X		Off. Rec.		The certificate of the secretary of state issued on registration is proof of the adoption of such badge, button, emblem, decoration, insignia, or charm, and the component parts thereof, and of the right of such person, society, association, or corporation to adopt the same.
Marks and brands of flour and meal State recorder's certificate, copies of	417.130	X		Off. Rec.		The recorder of deeds within the state shall keep a book in his office in which to record the flour brands. A certified copy of any such record, by the recorder, is evidence of the making and filing and contents thereof.
Marks of bottles of containers of liquid Description and proof of publication, copies of	417.260	X		Off. Rec.		A copy of the description of the mark and proof of publication of said description certified by the recorder of deeds or the secretary of state, is evidence of the filing and publication.

**OFFICIAL RECORDS (cont'd)**

**D. Documents Relating to Specific Subjects (cont'd)**

**5. Registered Trademarks, Brands, Union Labels, Etc. (cont'd)**

DOCUMENT	SECTION	Auth.	Copies	Hrsy.	Dbl. Hrsy.	COMMENTS
Trademark Certificate of the secretary of state	417.010	X		Off. Rec.		The secretary of state shall issue a duly attested certificate of the filing of the trademark. Such certificate is proof of the adoption of such label, trademark, or form of advertisement, and of the right of such mechanic, manufacturer, association, or union of workmen or other persons to adopt the same. <sup>92</sup>

**H. BUSINESS RECORDS**

Account books	490.650			Bus. <sup>93</sup> Rec.		This section specifies when books of account must be produced in an action for recovery on the account.
Records and papers of corporations, copies of	490.250	X	X	Bus. <sup>94</sup> Rec.		This section requires certification by the secretary or president and authentication by the seal of the corporation. Such copies are prima facie evidence in the same manner and with like effect as the originals.
Register of religious society	490.260			Bus. <sup>95</sup> Rec.		When, by the ordinance or custom of any religious society or congregation in Missouri a register is required to be kept of marriages, births, baptisms, deaths, or interments, such register is admissible.
Copies	490.270	X	X	Bus. Rec.		Copies certified by the pastor or other head of any society or congregation, or by the clerk or other keeper of such register, and verified by his affidavit, are admissible.

DOCUMENT	SECTION	Auth.	Copies	Hrsy.	Dbl Hrsy.	COMMENTS
Uniform Business Records act	490.680			Bus. <sup>90</sup> Rec.		A record of an act, condition, or event is competent evidence if: (1) the custodian or other qualified witness testifies to its identity and the mode of its preparation; (2) if it was made in the regular course of business, at or near the time of the act, condition, or event; and (3) if in the opinion of the court the sources of information and method and time of preparation justify its admission.
Workmen's compensation cases						Certified copies of hospital records are admissible.
Hospital records, copies of	287.140	X	X		97	
Coroner's inquest proceedings, copies of	287.210	X	X	Off. Rec.		See: OFFICIAL RECORDS: Records of Official Proceedings and Court-Approved Documents
Written statement of injured employee	287.215					The injured employee's written statement is not admissible unless a copy thereof is furnished by the employee, his dependents in case of death, or their attorney.
Insurance application	376.783					If the insurance company refuses to deliver or mail the insured a copy of the application after being so requested, the insurer is precluded from introducing such application as evidence in any action or proceeding based upon or involving the policy or its reinstatement or renewal. The insured is not bound by any statement made in an application for a policy unless a copy of such application is attached to or indorsed on the policy when issued, or the insurer furnishes a true copy of such application at the time of any denial of liability or reduction of benefits based thereon.



### III. STATEMENTS AND AFFIDAVITS: DOCUMENTS IN THE NATURE OF RECORDED TESTIMONY

DOCUMENT	SECTION	Auth.	Copies	Hrsy.	Dbl. Hrsy.	COMMENTS
Affidavits in lieu of testimony						
Affidavit of a claimant against decedent's estate	473.380					The affidavit is evidence of the claim.
Affidavit of maker of deed admissible in proceeding to determine heirship	490.370	X				Such affidavit is admissible only under the limited circumstances outlined in the statute.
Affidavit of printer, editor, or publisher	493.060	X			X	The affidavit with a copy of any notice or other advertisement attached, is sufficient evidence of the publication.
Affidavit of witness as proof of endorsement of notes	490.510	X			X	The affidavit is admissible as prima facie evidence of the facts therein stated. An undated endorsement is prima facie evidence of a transfer in good faith before due and for a valuable consideration.
Affidavit of witness as proof of marriage	451.190	X	X		Off. Rec.	An affidavit is proof of the marriage where other evidence is unavailable. The affidavit shall state the names of the witness the name of the minister or officer officiating, the date of the marriage, and shall be filed in the county recorder's office. The affidavit or a certified copy thereof is prima facie evidence of the marriage.
Affidavit of witness as proof of partnership	490.520	X			X	An affidavit setting forth the names and places of residence of all the partners, the name of the firm, the general nature of the business and where transacted, and the time of the commencement or existence of such partnership, is prima facie evidence of the facts therein stated.

DOCUMENT	SECTION	Auth.	Copies	Hrsy.	Dbl. Hrsy.	COMMENTS
Affidavits taken in another state Before a notary or magistrate	490.530					The affidavit must be accompanied by a certificate under seal of the official character of the officer taking the affidavit.
Before a clerk or judge	490.540					
Notarial protest as evidence of demand	401.213	X		X		A notarial protest is evidence of a demand and refusal to pay a bill of exchange or negotiable instrument, at the time and in the manner stated in the protest.
Notary's certificate of protest	490.560	X		X		The certificate of a notary public, protesting a bill of exchange or negotiable promissory note, setting forth the demand of payment, refusal, protest therefor, and notice of dishonor to parties thereto, and the manner of each of said acts, and verified by his affidavit, is prima facie evidence of such acts, if timely filed in the cause.
Proof of service of process- affidavit of officer	506.180	X		X		Where service is made in person, this section requires the person serving process to make a return in writing under his signature, when an officer, or an affidavit, when process is made by another person, stating the time, place, and manner of service. Service by mail is provable by a certificate of the clerk that he has mailed a copy of the summons and the petition and by the return registered mail receipt. Service by publication is provable by an affidavit showing the dates of publication, a copy of the notice, and a certificate of the clerk that notice has been mailed to all defendants whose address was stated in the motion and the date of

**II. STATEMENTS AND AFFIDAVITS: DOCUMENTS IN THE NATURE OF RECORDED TESTIMONY**  
(cont'd)

DOCUMENT	SECTION	Auth.	Copies	Hrsy.	Dbl. Hrsy.	COMMENTS
Service of process on non-resident motorists—proof by affidavit	506.270	X				the mailing. The return of an officer is prima facie evidence of the facts stated therein <sup>98</sup> and conclusive as to service. <sup>99</sup>  Proof of the mailing or personal delivery of the notification to the nonresident by any adult person not an officer serving same shall be made by affidavit of the party doing said act. All affidavits shall be endorsed upon or attached to the original papers.
Coroner's inquest reduced to writing	58.350					This section requires the statements of witnesses to be taken down in writing and subscribed by them. A recognizance bond may be required where the testimony relates to the trial of any person concerned in the death.
Deposition, interrogatories, and perpetuation of testimony	Chapter 492					Missouri Revised Statutes chapter 492 deals with obtaining statements of witnesses that in some circumstances may be admitted at trial in written form. Section 492.570 outlines when depositions are admissible.
Preliminary examination of witnesses in homicide	Mo. Sup. Ct. R. 23.12					The evidence given by the witnesses shall be reduced to writing and signed by the witnesses.
Testimony of a witness in probate	473.063	X			X	The testimony in support of a will shall be reduced to writing, signed by the witness, and certified by the clerk. The record of the testimony of any witness so certified is admissible in any action involving the validity of a will upon a showing that the subscribing witness is dead, insane, or cannot be found.

48. See *Phillips v. Board of Adjustment*, 308 S.W.2d 765 (St. L. Mo. App. 1958) where the court stated:

It is the law that a record kept or prepared by a person whose public duty it is to record the facts stated in the document is admissible as evidence of such facts. And where no formal manner of keeping or attesting such records is prescribed by statute the records are competent evidence when a foundation for their admission is laid by the clerk's testimony that they are the records which they purport to be and were prepared by the clerk in the performance of the clerk's official duty.

*Id.* at 768 (citations omitted).

49. The following documents have been held admissible under this section when duly certified: Municipal records, *Kansas City v. Brown*, 286 Mo. 1, 227 S.W. 89 (1920); *State v. Heffernan*, 243 Mo. 442, 148 S.W. 90 (1912); *but see City of Hannibal v. Richards*, 35 Mo. App. 15 (St. L. Ct. App. 1889); birth certificates, *Finer v. Nichols*, 122 Mo. App. 497, 99 S.W. 808 (St. L. Ct. App. 1907); death certificates, *Ohmeyer v. Supreme Forest Woodmen Circle*, 91 Mo. App. 189 (St. L. Ct. App. 1901); *Reynolds v. Prudential Ins. Co. of America*, 88 Mo. App. 679 (K.C. Ct. App. 1901); minutes of city council meetings, *State ex rel. Johnson v. Badger*, 90 Mo. App. 183 (St. L. Ct. App. 1901); books of account, *St. Louis Gaslight Co. v. City of St. Louis*, 11 Mo. App. 55 (St. L. Ct. App. 1881), *aff'd*, 84 Mo. 202 (1884); school district records, *Mansur ex rel. Fowler v. McKown*, 315 Mo. 1336, 290 S.W. 123 (1926). Hospital records made pursuant to a city ordinance are not public records within the terms of this section. See *Connor v. Metropolitan Life Ins. Co.*, 78 Mo. App. 131 (St. L. Ct. App. 1899).

50. The Uniform Judicial Notice of Foreign Law Act has been enacted in Missouri. The provisions are located in §§ 490.070-120, RSMo 1969. Section 490.080 of the Missouri enactment states: "Every court of this state shall take judicial notice of the common law and statutes of every state, territory and other jurisdiction of the United States."

51. In connection with this statute see § 509.220, RSMo 1969.

52. Hearsay evidence contained in a printed legislative journal is inadmissible, notwithstanding this section. See *Julian v. Kansas City Star Co.*, 209 Mo. 35, 107 S.W. 496 (1907), *appeal dismissed*, 215 U.S. 589 (1909), *rev'd on other grounds*, *Houston v. Pulitzer Pub. Co.*, 249 Mo. 332, 155 S.W. 1068 (1913).

53. See *State v. Wray*, 109 Mo. 594, 19 S.W. 86 (1891); *City of Poplar Bluff v. Meadows*, 187 Mo. App. 450, 173 S.W. 11 (Spr. Ct. App. 1915).

54. See *Selders v. Kansas City, Ft. S. & G.R.R.*, 19 Mo. App. 334 (K.C. Ct. App. 1885). *But see Brannock v. St. Louis, M. & S.E.R.R.*, 200 Mo. 561, 98 S.W. 604 (1907).

55. See note 46 *supra*.

56. See note 47 *supra*.

57. In connection with this section, see § 99.150, RSMo 1969, which creates a presumption of validity of housing authority bonds.

58. See *Jones v. Eaton*, 307 Mo. 172, 270 S.W. 105 (En Banc 1925).

59. Records under this section are prima facie evidence.

60. For further interpretation of the scope of this requirement see *State v. Hendrix*, 331 Mo. 658, 56 S.W.2d 76 (1932).

61. See *State v. Warren*, 317 Mo. 843, 297 S.W. 397 (1927). *But see State v. Hendrix*, 331 Mo. 658, 56 S.W.2d 76 (1932), which overrules this case in part. See also *Florschiem & Co. v. Fry*, 109 Mo. App. 487, 84 S.W. 1023 (St. L. Ct. App. 1904); *State v. Pagels*, 92 Mo. 300, 4 S.W. 931 (1887).

62. This provision of the statute means that the auditor must file and preserve authenticated copies of the record made by the bond issuer showing that all conditions of the law were complied with in the issuance of the bond. This is required because the auditor is not authorized to hold hearings and take and preserve evidence dehors the record for the purpose of determining the fact. See *State ex rel. School Dist. v. Smith*, 336 Mo. 703, 80 S.W.2d 858 (1935).

63. See *Lewis W. Thompson & Co. v. Conran-Gideon Special Road Dist.*, 323 Mo. 953, 20 S.W.2d 1049 (1929).

64. See *Kansas City v. City of Raytown*, 421 S.W.2d 504 (Mo. 1967).

65. In *O'Donnell v. Wells*, 323 Mo. 1170, 21 S.W.2d 762 (1929), the court required that the certificate be executed by a person with a duty to so act to be admissible in evidence.

66. See *State v. Worden*, 331 Mo. 566, 56 S.W.2d 595 (1932). There, the court stated:

Since original certificates of that character are required by the statute, section 9058, Revised Statutes 1929, to be permanently kept, such a certificate becomes an official record, which is always admissible in evidence. A copy of a public paper required to be filed, certified by the officer intrusted with its custody, is admissible in evidence if the original is admissible.

*Id.* at 572-73, 56 S.W.2d at 598.

67. In Missouri, the general rule is that the certificate is prima facie evidence only of statements of fact contained therein, required by statute to be included in the certificate, which are within the issuer's personal knowledge. See *Randolph v. Supreme Liberty Life Ins. Co.*, 215 S.W.2d 82 (St. L. Mo. App. 1948), *aff'd*, 359 Mo. 251, 221 S.W.2d 155 (En Banc 1949); *Key v. Cosmopolitan Life Ins. Co.*, 102 S.W. 797 (St. L. Mo. App. 1937). *But see Simpson v. Wells*, 292 Mo. 301, 237 S.W. 520 (1922).

68. See *Crollard v. Northern Life Ins. Co.*, 240 Mo. App. 355, 200 S.W.2d 375 (1947).

69. A copy of a survey is admissible under this section. See *Wood v. Norton*, 85 Mo. 298 (1884).

70. See *State v. Elam*, 21 Mo. App. 290 (K.C. Ct. App. 1886), *rev'd on other grounds*, *State v. Martin*, 44 Mo. App. 45 (St. L. Ct. App. 1891).

71. Records of temperature kept by officials of the United States Weather Bureau are competent prima facie evidence although the official had no personal knowledge of the matter recited if the document was intended to be kept as a memorial. See *Wheeler v. Fidelity & Cas. Co.*, 298 Mo. 619, 251 S.W. 924 (En Banc 1923).

72. Case law suggests that office records of the United States are prima facie evidence. *Id.*

73. Surveys made in accordance with this section are prima facie evidence without further proof of their correctness. See *State v. Turpin*, 196 S.W.2d 798 Mo. 1948); *Clark v. McAtee*, 227 Mo. 152, 127 S.W. 37 (1910); *Watson v. Matson*, 183 Mo. App. 298, 166 S.W. 828 (St. L. Ct. App. 1914).

74. See *State ex rel. Gott v. Fidelity & Deposit Co.*, 317 Mo. 1078, 298 S.W. 83 (1927); *Bergman v. Supreme Tent, Knights of Maccabees*, 203 Mo. App. 685, 220 S.W. 1029 (St. L. Ct. App. 1920); *Davis v. Gillman*, 71 Mo. App. 498 (1897), *rev'd*, *State ex rel. Gott v. Fidelity & Deposit Co.*, *supra*.

75. See *Lancaster v. Washington Life Ins. Co.*, 62 Mo. 121 (1876), *rev'd*, *State ex rel. Gott v. Fidelity & Deposit Co.*, 317 Mo. 1078, 298 S.W. 83 (1927); *In re Buck's Estate*, 204 Mo. App. 1, 220 S.W. 716 (St. L. Ct. App. 1920).

76. Records and proceedings of common law courts are admissible to prove the existence of such records and proceedings, but they are not evidence of the truth of the facts therein recited. See *Carney v. Carney*, 95 Mo. 353, 8 S.W. 729 (1888).

77. Under § 490.490, RSMo 1969, the original may be required in some circumstances. Section 490.500 provides for the admission of a record copy where the original is lost.

78. See note 77 *supra*.

79. Acknowledgment of a deed and certification of the acknowledgment under this section is prima facie proof of signing and delivery. See *Keener v. Williams*, 307 Mo. 682, 271 S.W. 489 (1925); *Harrison v. Edmonston*, 248 S.W. 586 (Mo. 1923); *Barbee v. Farmers Bank*, 240 Mo. 297, 144 S.W. 839 (1912); *Burk v. Pence*, 206 Mo. 315, 104 S.W. 23 (1907). Under § 490.430, RSMo 1969, documents covered by this section are not conclusive evidence. And § 490.440, RSMo 1969 provides that when proof of such instrument is contested, neither such instrument nor the record thereof shall be received in evidence until established by other competent evidence.

80. Under § 490.300, RSMo 1969, such deed is admissible in evidence, though § 490.290 is not complied with, if the court is satisfied that the person who executed the instrument is the person named as grantor.

81. Section 490.330, RSMo 1969, provides the procedure to be followed by the courts when evidence is offered to reject such copy.

82. See § 60.370, RSMo 1969, which deals with the admission in evidence of certified copies of surveyor's field notes and § 60.150, RSMo 1969 relates to the use of surveys as evidence.

83. Section 141.610, RSMo 1969, provides that sheriff's deeds falling within its provisions are presumptively valid.

84. See § 546.300, RSMo 1969, which deals with proof of the existence of a banking corporation in criminal cases.

85. See *State v. Wagner*, 311 Mo. 391, 279 S.W. 23 (1925), where the court held that manufacturer's records were admissible in evidence although the entries were not made by the witness or under his immediate direction.

86. See § 361.030, RSMo 1969.

87. The best evidence of the existence of a partnership consists of the agreement or contract between the parties, but a partnership may be proved by any competent evidence. See *Ehrlicher v. Turner*, 232 S.W. 743 (St. L. Mo. App. 1921).

88. In an action against alleged partners, letters from a defendant, against whom the case had been dismissed, held incompetent against a co-defendant as hearsay and mere legal conclusions. See *Hely v. Hinerman*, 303 Mo. 147, 260 S.W. 471 (1924).

89. Section 400.3-414, RSMo 1969, provides that endorsers of negotiable instruments are prima facie liable in the order in which they endorse.

90. A notarial protest is not evidence that the reason for nonpayment of a check was that the drawee held no funds of the drawer. *Nelson v. Kastle*, 105 Mo. App. 187, 79 S.W. 730 (K.C. Ct. App. 1904).

91. See note 76 *supra*.

92. Under § 417.090, RSMo 1969, no evidence admitted in any civil action under this section may be used in any criminal prosecutions.

93. See *Anchor Milling Co. v. Walsh*, 108 Mo. 277, 18 S.W. 904 (1892); *Negley B. Calvin Inc. v. Cornet*, 427 S.W.2d 741 (St. L. Mo. App. 1968); *Wagoner Undertaking Co. v. Jones*, 134 Mo. App. 101, 114 S.W. 1049 (St. L. Ct. App. 1908).

94. In *State v. Wagner*, 311 Mo. 391, 279 S.W. 23 (1926), manufacturer's records were held admissible even though entries were not made by the witness or under his immediate direction.

95. In *Arnold v. Brotherhood of Locomotive Firemen*, 231 Mo. App. 508, 101 S.W.2d 729 (K.C. Ct. App. 1937), the court held that records of births and baptisms of the church were admissible where the minister identified the documents and testified that the record was kept according to the laws and customs of the church.

96. The Uniform Business Records Law has eliminated the hearsay objection in that it dispenses with the necessity of producing in court the person who has made the record. Nevertheless, the statute does not ordinarily make a statement admissible which is not within the personal knowledge of the issuer. See *Baugh v. Life & Cas. Ins. Co.*, 307 S.W.2d 660 (Mo. 1957).

97. In *Schaefer v. Lowell-Krekeler Grocery Co.*, 49 S.W.2d 209 (St. L. Mo. App. 1932), the court permitted the introduction of hospital records containing an injured employee's admissions that he suffered from epilepsy prior to the accident.

98. See *State ex rel. Carroll v. Dewitt*, 107 Mo. 573, 17 S.W. 900 (1891); *Hill-Behan Lumber Co. v. Sellers*, 149 S.W.2d 465 (St. L. Mo. App. 1941).

99. An officer's return is conclusive upon parties to a suit, and an injured party must seek his remedy for a false return against the officer on his bond. See *Johnson v. Wilson Estate, Inc.*, 256 S.W.2d 297 (St. L. Mo. App. 1953); *Shannon v. Del-Home Light Co.*, 43 S.W.2d 872 (St. L. Mo. App. 1931).