

SECOND REGULAR SESSION

# SENATE BILL NO. 888

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR KOSTER.

Read 1st time January 17, 2006, and ordered printed.

TERRY L. SPIELER, Secretary.

3296S.04I

## AN ACT

To repeal sections 381.003, 381.009, 381.011, 381.015, 381.018, 381.021, 381.022, 381.025, 381.028, 381.031, 381.032, 381.035, 381.038, 381.041, 381.042, 381.045, 381.048, 381.051, 381.052, 381.055, 381.058, 381.061, 381.062, 381.065, 381.068, 381.072, 381.075, 381.078, 381.081, 381.085, 381.088, 381.091, 381.092, 381.095, 381.098, 381.101, 381.102, 381.105, 381.108, 381.111, 381.112, 381.115, 381.118, 381.121, 381.122, 381.125, 381.131, 381.141, 381.151, 381.161, 381.171, 381.181, 381.191, 381.201, 381.211, 381.221, 381.231, and 381.241, RSMo, and section 381.410 as enacted by conference committee substitute for senate bill no. 664, eighty-eighth general assembly, second regular session, and section 381.412 as enacted by house committee substitute for senate bill no. 148, eighty-ninth general assembly, first regular session, and sections 381.410 and 381.412 as enacted by conference committee substitute for house substitute for house committee substitute for senate committee substitute for senate bill no. 894, ninetieth general assembly, second regular session, and to enact in lieu thereof thirty-nine new sections relating to title insurance, with an effective date.

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

Section A. Sections 381.003, 381.009, 381.011, 381.015, 381.018, 381.021,  
2 381.022, 381.025, 381.028, 381.031, 381.032, 381.035, 381.038, 381.041, 381.042,  
3 381.045, 381.048, 381.051, 381.052, 381.055, 381.058, 381.061, 381.062, 381.065,  
4 381.068, 381.072, 381.075, 381.078, 381.081, 381.085, 381.088, 381.091, 381.092,  
5 381.095, 381.098, 381.101, 381.102, 381.105, 381.108, 381.111, 381.112, 381.115,  
6 381.118, 381.121, 381.122, 381.125, 381.131, 381.141, 381.151, 381.161, 381.171,  
7 381.181, 381.191, 381.201, 381.211, 381.221, 381.231, and 381.241, RSMo, and

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

8 section 381.410 as enacted by conference committee substitute for senate bill no.  
9 664, eighty-eighth general assembly, second regular session, and section 381.412  
10 as enacted by house committee substitute for senate bill no. 148, eighty-ninth  
11 general assembly, first regular session, and sections 381.410 and 381.412 as  
12 enacted by conference committee substitute for house substitute for house  
13 committee substitute for senate committee substitute for senate bill no. 894,  
14 ninetieth general assembly, second regular session, are repealed and thirty-nine  
15 new sections enacted in lieu thereof, to be known as sections 381.003, 381.008,  
16 381.009, 381.015, 381.018, 381.022, 381.025, 381.028, 381.032, 381.035, 381.037,  
17 381.038, 381.042, 381.045, 381.048, 381.052, 381.055, 381.058, 381.062, 381.065,  
18 381.068, 381.072, 381.075, 381.078, 381.085, 381.088, 381.092, 381.095, 381.098,  
19 381.102, 381.105, 381.108, 381.112, 381.115, 381.118, 381.122, 381.125, 381.410,  
20 and 381.412, to read as follows:

**381.003. 1. Sections 381.003 to 381.125 shall be known and may  
2 be cited as the "Missouri Title Insurance Act".**

**3 2. Sections 381.009 to 381.048 shall apply to all persons engaged  
4 in the business of title insurance in this state. Sections 381.052 to  
5 381.112 shall apply to all title insurers engaged in the business of title  
6 insurance in this state. Sections 381.115 to 381.125 shall apply to all  
7 title agencies engaged in the business of title insurance in this state.**

**8 3. Except as otherwise expressly provided in this chapter and  
9 except where the context otherwise requires, all provisions of the  
10 insurance code applying to insurance and insurance companies  
11 generally shall apply to title insurance, title insurers, and title agents.**

**381.008. An employee of a title agency or title insurer is not  
2 required to be licensed if:**

**3 (1) The employee is an escrow processor whose primary  
4 responsibility is to obtain and prepare figures for closing real estate  
5 transactions and does not quote or negotiate title insurance rates nor  
6 determines title insurance policy coverages;**

**7 (2) The employee's primary duties are limited to clerical  
8 functions such as typing, filing, or performing bookkeeping duties and  
9 does not quote or negotiate title insurance rates nor determines title  
10 insurance policy coverages;**

**11 (3) The employee's primary duties are limited to providing  
12 technical support or advice regarding business systems, software, or**

13 other equipment used in the operation of the business and does not  
14 quote or negotiate title insurance rates or determines title insurance  
15 policy coverages.

381.009. As used in this chapter, the following terms mean:

2 (1) "Abstract of title" or "abstract", a written history, synopsis, or  
3 summary of the recorded instruments affecting the title to real  
4 property;

5 (2) "Affiliate", a specific person that, directly or indirectly  
6 through one or more intermediaries, controls or is controlled by or is  
7 under common control with the person specified;

8 (3) "Affiliated business", any portion of a title insurance agency's  
9 business written in this state that was referred to it by a producer of  
10 title insurance business or by an associate of the producer, where the  
11 producer or associate, or both, have a financial interest in the title  
12 agency;

13 (4) "Associate", any:

14 (a) Business organized for profit in which a producer of title  
15 business is a director, officer, partner, employee, or an owner of a  
16 financial interest;

17 (b) Employee of a producer of title business;

18 (c) Franchisor or franchisee of a producer of title business;

19 (d) Spouse, parent, or child of a producer of title insurance  
20 business who is a natural person;

21 (e) Person, other than a natural person, that controls, is  
22 controlled by, or is under common control with a producer of title  
23 business;

24 (f) Person with whom a producer of title insurance business or  
25 any associate of the producer has an agreement, arrangement, or  
26 understanding, or pursues a course of conduct, the purpose or effect of  
27 which is to provide financial benefits to that producer or associate for  
28 the referral of business;

29 (5) "Bona fide employee of the title insurer", an individual who  
30 devotes substantially all of his or her time to performing services on  
31 behalf of a title insurer and whose compensation for those services is  
32 in the form of salary or its equivalent paid by the title insurer;

33 (6) "Control", including the terms "controlling", "controlled by",  
34 and "under common control with", the possession, direct or indirect, of

35 the power to direct or cause the direction of the management and  
36 policies of a person, whether through the ownership of voting  
37 securities, by contract other than a commercial contract for goods or  
38 nonmanagement services, or otherwise, unless the power is the result  
39 of an official position or corporate office held by the person. Control  
40 shall be presumed to exist if a person, directly or indirectly, owns,  
41 controls, holds with the power to vote, or holds proxies representing  
42 ten percent or more of the voting securities of another person. This  
43 presumption may be rebutted by showing that control does not exist in  
44 fact. The director may determine, after furnishing all persons in  
45 interest notice and opportunity to be heard and making specific  
46 findings of fact to support the determination, that control exists in fact,  
47 notwithstanding the absence of a presumption to that effect;

48 (7) "County" or "counties", includes any city not within a county;

49 (8) "Direct operations", that portion of a title insurer's operations  
50 which are attributable to business written by a bona fide employee;

51 (9) "Director", the director of the department of insurance, or the  
52 director's representatives;

53 (10) "Escrow", written instruments, money, or other items  
54 deposited by one party with a depository, escrow agent, or escrowee for  
55 delivery to another party upon the performance of a specified condition  
56 or the happening of a certain event;

57 (11) "Escrow, settlement, or closing fee", the consideration for  
58 supervising or handling the actual execution, delivery, or recording of  
59 transfer and lien documents and for disbursing funds;

60 (12) "Financial interest", a direct or indirect legal or beneficial  
61 interest, where the holder is or will be entitled to five percent or more  
62 of the net profits or net worth of the entity in which the interest is  
63 held;

64 (13) "Foreign title insurer", any title insurer incorporated or  
65 organized pursuant to the laws of any other state of the United States,  
66 the District of Columbia, or any other jurisdiction of the United States;

67 (14) "Geographically indexed or retrievable", a system of keeping  
68 recorded documents which includes as a component a method for  
69 discovery of the documents by:

70 (a) Searching an index arranged according to the description of  
71 the affected land; or

72           (b) An electronic search by description of the affected land;

73           (15) "Net retained liability", the total liability retained by a title  
74 insurer for a single risk, after taking into account any ceded liability  
75 and collateral, acceptable to the director, and maintained by the  
76 insurer;

77           (16) "Non-United States title insurer", any title insurer  
78 incorporated or organized pursuant to the laws of any foreign nation  
79 or any province or territory;

80           (17) "Premium", the consideration paid by or on behalf of the  
81 insured for the issuance of a title insurance policy or any endorsement  
82 or special coverage. It does not include consideration paid for  
83 settlement or escrow services or noninsurance-related information  
84 services;

85           (18) "Producer", any person, including any officer, director, or  
86 owner of five percent or more of the equity or capital of any person,  
87 engaged in this state in the trade, business, occupation, or profession  
88 of:

89           (a) Buying or selling interests in real property;

90           (b) Making loans secured by interests in real property; or

91           (c) Acting as broker, agent, representative, or attorney of a  
92 person who buys or sells any interest in real property or who lends or  
93 borrows money with the interest as security;

94           (19) "Qualified depository institution", an institution that is:

95           (a) Organized or, in the case of a United States branch or agency  
96 office of a foreign banking organization, licensed pursuant to the laws  
97 of the United States or any state and has been granted authority to  
98 operate with fiduciary powers;

99           (b) Regulated, supervised, and examined by federal or state  
100 authorities having regulatory authority over banks and trust  
101 companies;

102           (c) Insured by the appropriate federal entity; and

103           (d) Qualified under any additional rules established by the  
104 director;

105           (20) "Referral", the directing or the exercising of any power or  
106 influence over the direction of title insurance business, whether or not  
107 the consent or approval of any other person is sought or obtained with  
108 respect to the referral;

109           (21) "Search", "search of the public records", or "search of title",  
110 a search of those records established by the laws of this state for the  
111 purpose of imparting constructive notice of matters relating to real  
112 property to purchasers for value and without knowledge;

113           (22) "Security" or "security deposit", funds or other property  
114 received by the title insurer as collateral to secure an indemnitor's  
115 obligation under an indemnity agreement pursuant to which the  
116 insurer is granted a perfected security interest in the collateral in  
117 exchange for agreeing to provide coverage in a title insurance policy  
118 for a specific title exception to coverage;

119           (23) "Subsidiary", an affiliate controlled by a person directly or  
120 indirectly through one or more intermediaries;

121           (24) "Title agency", an authorized person who issues title  
122 insurance on behalf of a title insurer. An attorney licensed to practice  
123 law in this state who issues title insurance as a part of his or her law  
124 practice, but does not maintain or operate a title insurance business  
125 separate from such law practice is not a title agency;

126           (25) "Title agent" or "agent", an attorney licensed to practice law  
127 in this state who issues title insurance as part of his or her law  
128 practice, but who is not affiliated with or acting on behalf of a title  
129 agency, or an authorized person who, on behalf of a title agency or on  
130 behalf of a title agent not affiliated with a title agency, performs one  
131 or more of the following acts in conjunction with the issuance of a title  
132 insurance commitment or policy:

133           (a) Determines insurability, based upon a review of a search of  
134 title;

135           (b) Performs searches;

136           (c) Handles escrows, settlements, or closings; or

137           (d) Solicits or negotiates title insurance business;

138           (26) "Title insurance business" or "business of title insurance":

139           (a) Issuing as insurer or offering to issue as insurer a title  
140 insurance policy;

141           (b) Transacting or proposing to transact by a title insurer any of  
142 the following activities when conducted or performed in contemplation  
143 of and in conjunction with the issuance of a title insurance policy:

144           a. Soliciting or negotiating the issuance of a title insurance  
145 policy;

146           b. Guaranteeing, warranting, or otherwise insuring the  
147 correctness of title searches for all instruments affecting titles to real  
148 property, any interest in real property, cooperative units, and  
149 proprietary leases, and for all liens or charges affecting the same;

150           c. Handling of escrows, settlements, or closings;

151           d. Executing title insurance policies;

152           e. Effecting contracts of reinsurance; or

153           f. Abstracting, searching, or examining titles;

154           (c) Guaranteeing, warranting, or insuring searches or  
155 examinations of title to real property or any interest in real property;

156           (d) Guaranteeing or warranting the status of title as to  
157 ownership of or liens on real property by any person other than the  
158 principals to the transaction;

159           (e) Promising to purchase or repurchase for consideration an  
160 indebtedness because of a title defect, whether or not involving a  
161 transfer of risk to a third person;

162           (f) Promising to indemnify the holder of a mortgage or deed of  
163 trust against loss from the failure of the borrower to pay the mortgage  
164 or deed of trust when due if the property fails to yield sufficient  
165 proceeds upon foreclosure to satisfy the debt, when one or both of the  
166 following conditions exist:

167           a. The security has been impaired by the discovery of a  
168 previously unknown property interest in favor of one who is not liable  
169 for the payment of the mortgage or deed of trust; or

170           b. Perfection of the position of the mortgage or deed of trust  
171 which was assured to exist cannot be obtained, notwithstanding timely  
172 recordation with the recorder of deeds of the county in which the  
173 property is located; or

174           (g) Doing or proposing to do any business substantially  
175 equivalent to any of the activities listed in this subdivision in a manner  
176 designed to evade the provisions of this chapter;

177           (27) "Title insurance commitment" or "commitment", a  
178 preliminary report, commitment, or binder issued prior to the issuance  
179 of a title insurance policy containing the terms, conditions, exceptions,  
180 and other matters incorporated by reference under which the title  
181 insurer is willing to issue its title insurance policy. A title insurance  
182 commitment is not an abstract of title;

183           (28) "Title insurance policy" or "policy", a contract insuring or  
184 indemnifying owners of, or other persons lawfully interested in, real  
185 property or any interest in real property, against loss or damage  
186 arising from any or all of the following conditions existing on or before  
187 the policy date and not excepted or excluded:

188           (a) Title to the estate or interest in land being otherwise than as  
189 stated in the policy;

190           (b) Defects in or liens or encumbrances on the insured title;

191           (c) Unmarketability of the insured title;

192           (d) Lack of legal right of access to the land;

193           (e) Invalidity or unenforceability of the lien of an insured  
194 mortgage;

195           (f) The priority of a lien or encumbrance over the lien of any  
196 insured mortgage;

197           (g) The lack of priority of the lien of an insured mortgage over  
198 a statutory lien for services, labor, or material;

199           (h) The invalidity or unenforceability of an assignment of the  
200 insured mortgage; or

201           (i) Rights or claims relating to the use of or title to the land;

202           (29) "Title insurer" or "insurer", a company organized pursuant  
203 to laws of this state for the purpose of transacting the business of title  
204 insurance and any foreign or non-United States title insurer licensed  
205 in this state to transact the business of title insurance;

206           (30) "Underwrite", the authority to accept or reject risk on behalf  
207 of the title insurer.

381.015. 1. A title insurer, title agency, or title agent issuing a  
2 lender's title insurance policy in conjunction with a mortgage loan  
3 made simultaneously with the purchase of all or part of the real estate  
4 securing the loan, where no owner's title insurance policy has been  
5 requested, shall give written notice, on a form prescribed or approved  
6 by the director, to the purchaser-mortgagor at the time the commitment  
7 is prepared. The notice shall explain that a lender's title insurance  
8 policy is to be issued protecting the mortgage-lender, and that the  
9 policy does not provide title insurance protection to the purchaser-  
10 mortgagor as the owner of the property being purchased. The notice  
11 shall explain what a title policy insures against and what possible  
12 exposures exist for the purchaser-mortgagor that could be insured



13 against through the purchase of an owner's policy. The notice shall  
14 also explain that the purchaser-mortgagor may obtain an owner's title  
15 insurance policy protecting the property owner at a specified cost, or  
16 approximate cost, if the proposed coverages or amount of insurance are  
17 not then known. A copy of the notice, signed by the  
18 purchaser-mortgagor, shall be retained in the relevant underwriting  
19 file at least fifteen years after the effective date of the policy.

20 2. Each violation of any provision of this section is a class C  
21 violation as that term is defined in section 381.045.

381.018. 1. The title insurer shall not allow the issuance of its  
2 commitments or policies by a title agency or title agent not affiliated  
3 with a title agency unless there is in force a written contract between  
4 the parties which sets forth the responsibilities of each party or, where  
5 both parties share responsibility for particular functions, specifies the  
6 division of responsibilities.

7 2. For each title agency or title agent not affiliated with a title  
8 agency under contract with the insurer, the title insurer shall have on  
9 file a statement of financial condition of each title agency or title agent  
10 as of the end of the previous calendar or fiscal year setting forth an  
11 income statement of business done during the preceding year and a  
12 balance sheet showing the condition of its affairs as of the close of the  
13 prior year, certified by the agency or agent as being a true and  
14 accurate representation of the agency's or agent's financial  
15 condition. The statement shall be filed with the insurer no later than  
16 the date the agency's or agent's federal income tax return for the same  
17 year is filed. Attorneys actively engaged in the practice of law, in  
18 addition to that related to title insurance business, are exempt from the  
19 requirements of this subsection.

20 3. The title insurer shall conduct reviews of the underwriting,  
21 claims, and escrow practices of its agencies and agents which shall  
22 include a review of the agency's or agent's policy bank inventory and  
23 processing operations. If any such title agency or title agent does not  
24 maintain separate bank or trust accounts for each title insurer it  
25 represents, the title insurer shall verify that the funds held on its  
26 behalf are reasonably ascertainable from the books of account and  
27 records of the title agency or title agent not affiliated with a title  
28 agency. The title insurer shall conduct a review of each of its agencies

29 and agents at least triennially commencing January first of the year  
30 first following January 1, 2007.

31 4. Within thirty days of executing or terminating a contract with  
32 a title agency or title agent not affiliated with a title agency, the  
33 insurer shall provide notification of the appointment or termination to  
34 the director. Notices of appointment of a title agency or title agent  
35 shall be made on a form promulgated by the director.

36 5. The title insurer shall maintain an inventory of all policy  
37 numbers allocated to each title agency or title agent not affiliated with  
38 a title agency.

39 6. The title insurer shall have on file proof that the title agency  
40 or title agent is licensed by this state.

41 7. The title insurer shall establish the underwriting guidelines  
42 and, where applicable, limitations on title claims settlement authority  
43 to be incorporated into contracts with its title agencies and title agents  
44 not affiliated with a title agency.

45 8. Each violation of any provision of this section is a class B  
46 violation as that term is defined in section 381.045.

381.022. 1. A title insurer, title agency, or title agent not  
2 affiliated with a title agency may operate as an escrow, security,  
3 settlement, or closing agent, provided that:

4 (1) All funds deposited with the title insurer, title agency, or title  
5 agent not affiliated with a title agency in connection with any escrow,  
6 settlement, closing, or security deposit shall be submitted for collection  
7 to or deposited in a separate fiduciary trust account or accounts in a  
8 qualified depository institution no later than the close of the next  
9 business day after receipt, in accordance with the following  
10 requirements:

11 (a) The funds shall be the property of the person or persons  
12 entitled to them under the provisions of the escrow, settlement,  
13 security deposit, or closing agreement and shall be segregated for each  
14 depository by escrow, settlement, security deposit, or closing in the  
15 records of the title insurer, title agency, or title agent not affiliated  
16 with a title agency, in a manner that permits the funds to be identified  
17 on an individual basis and in accordance with the terms of the  
18 individual instructions or agreements under which the funds were  
19 accepted; and

20           **(b) The funds shall be applied only in accordance with the terms**  
21 **of the individual instructions or agreements under which the funds**  
22 **were accepted;**

23           **(2) Funds held in an escrow account shall be disbursed only**  
24 **pursuant to a written instruction or agreement specifying under what**  
25 **conditions and to whom such funds may be disbursed or pursuant to an**  
26 **order of a court of competent jurisdiction;**

27           **(3) Funds held in a security deposit account shall be disbursed**  
28 **only pursuant to a written agreement specifying:**

29           **(a) What actions the indemnitor shall take to satisfy his or her**  
30 **obligation under the agreement;**

31           **(b) The duties of the title insurer, title agency, or title agent not**  
32 **affiliated with a title agency with respect to disposition of the funds**  
33 **held, including a requirement to maintain evidence of the disposition**  
34 **of the title exception before any balance may be paid over to the**  
35 **depositing party or his or her designee; and**

36           **(c) Any other provisions the director may require;**

37           **(4) Any interest received on funds deposited in connection with**  
38 **any escrow, settlement, security deposit, or closing may be retained by**  
39 **the title insurer, title agency, or title agent not affiliated with a title**  
40 **agency as compensation for administration of the escrow or security**  
41 **deposit, unless the instructions for the funds or a governing statute**  
42 **provides otherwise;**

43           **(5) Each violation of this subsection is a class A violation as that**  
44 **term is defined in section 381.045.**

45           **2. The title agency or title agent not affiliated with an agency**  
46 **shall cooperate with its underwriters in the conduct by the**  
47 **underwriters of reviews of the agency's or agent's escrow, settlement,**  
48 **closing, and security deposit accounts. The title insurer shall provide**  
49 **a copy of the report of each such review it performs to the**  
50 **director. The director may promulgate rules setting forth the minimum**  
51 **threshold level at which a review would be required, the standards**  
52 **thereof and the form of report required.**

53           **3. If the title agency or title agent not affiliated with an agency**  
54 **is appointed by two or more title insurers and maintains fiduciary trust**  
55 **accounts in connection with providing escrow or closing settlement**  
56 **services, the title agency or title agent shall allow each title insurer**

57 reasonable access to the accounts and any or all of the supporting  
58 account information in order to ascertain the safety and security of the  
59 funds held by the title agency or title agent.

60 4. (1) The settlement agent shall record all deeds and security  
61 instruments for real estate closings handled by it within five business  
62 days after completion of all conditions precedent thereto.

63 (2) Each violation of this subsection is a class C violation as that  
64 term is defined in section 381.045.

381.025. 1. A title insurer, title agency, title agent, or other  
2 person shall not give or receive, directly or indirectly, any  
3 consideration for the referral of title insurance business or escrow or  
4 other service provided by a title insurer, title agency, or title  
5 agent. Each violation of this subsection is a class A violation as that  
6 term is defined in section 381.045.

7 2. Any title insurer, title agency, or title agent doing business in  
8 the same county as a title insurer, title agency, or title agent who may  
9 be in violation of the prohibitions or limitations of this section shall  
10 have standing to seek injunctive relief against the violating title  
11 insurer, title agency, or title agent in the event the department declines  
12 or fails to enforce this section within forty-five days following receipt  
13 of written notice of such violation. In any action pursuant to this  
14 subsection, the court may award to the successful party the court costs  
15 of the action together with reasonable attorney fees.

381.028. No title insurer, title agency, or title agent shall  
2 participate in any transaction in which it knows that a producer or  
3 other person requires, directly or indirectly or through any trustee,  
4 director, officer, agent, employee, or affiliate as a condition, agreement,  
5 or understanding to selling or furnishing any other person a loan or  
6 loan extension, credit, sale, property, contract, lease, or service, that  
7 the other person shall place a title insurance policy of any kind with  
8 the title insurer or through a particular title agency or agent. Each  
9 violation of this section is a class A violation as that term is defined in  
10 section 381.045.

381.032. 1. No title insurer may charge any rates regulated by  
2 the state after January 1, 2007, except in accordance with the premium  
3 rate schedule and manual filed with and approved by the director in  
4 accordance with applicable statutes and regulations governing rate

5 filings. Premium rate schedules in effect prior to January 1, 2007, may  
6 be used until new rate schedules have been approved by the  
7 director. Title insurers shall file their premium rate schedules within  
8 sixty days after January 1, 2007. Each violation of this subsection is a  
9 class C violation as that term is defined in section 381.045. Nothing in  
10 this section shall prevent an agent not affiliated with an agency from  
11 charging for services that constitute the practice of law at the  
12 customary fee charged by such person for legal services. To the extent  
13 the premium fails to compensate the agent at such rate, the agent may  
14 render an additional bill for such services on behalf of the agent's law  
15 practice or law firm. The acceptance of any part of the premium by the  
16 law firm of said agent shall not be a violation of any provision of the  
17 Missouri title insurance act or the general insurance statutes,  
18 regulations, or bulletins regarding payment of commissions to  
19 nonlicensed entities.

20       2. The director may establish rules, including rules providing  
21 statistical plans, for use by all title insurers, title agencies, and title  
22 agents in the recording and reporting of revenue, loss, and expense  
23 experience in such form and detail as is necessary to aid the director  
24 in the establishment of rates and fees.

25       3. The director may require that the information provided  
26 pursuant to this section be verified by oath of the insurer's or agency's  
27 president or vice president or secretary or actuary, as applicable. The  
28 director may further require that the information required pursuant to  
29 this section be subject to an audit conducted at the expense of the title  
30 insurer or title agency by an independent certified public  
31 accountant. The director shall have the authority to establish a  
32 minimum threshold level at which an audit would be required.

33       4. Information filed with the director relating to the experience  
34 of a particular agency shall be kept confidential unless the director  
35 finds it in the public interest to disclose the information required of  
36 title insurers or title agencies pursuant to this section. Prior to any  
37 such disclosure of confidential information, the director shall provide  
38 notice and opportunity to be heard to the title insurers and title  
39 agencies who would be affected.

      381.035. No title insurance company, title agency, or title agent  
2 shall willfully withhold information from, or knowingly give false or

3 misleading information to, the director, or to any title insurance rating  
4 organization of which the title insurance company is a member or  
5 subscriber, which will affect the rates or fees chargeable pursuant to  
6 this chapter. Each violation of this section is a class A violation as that  
7 term is defined in section 381.045.

381.037. After January 1, 2008, all title insurers, title agencies,  
2 and title agents shall issue the title insurance policy within one  
3 hundred twenty days of the date that all commitment requirements to  
4 insure have been met or, if the title insurer, title agency, or title agent  
5 performs the closing, then within one hundred twenty days from the  
6 date of closing, as that term is defined in section 381.410. After  
7 January 1, 2009, such title insurance policy shall be issued within  
8 ninety days after commitment requirements have been met or the date  
9 of closing as provided in this section, and after January 1, 2010, such  
10 title insurance policy shall be issued within sixty days after  
11 commitment requirements have been met or the date of closing as  
12 provided in this section. Each violation of this section is a class C  
13 violation as that term is defined in section 381.045.

381.038. 1. Evidence of the examination of title and  
2 determination of insurability generated by a title insurer engaged in  
3 direct operations, title agency, or title agent shall be preserved and  
4 maintained by such insurer, agency, or agent for as long as appropriate  
5 to the circumstances but in no event less than fifteen years after the  
6 title insurance policy has been issued.

7 2. Records relating to escrow and security deposits shall be  
8 preserved and retained by a title insurer engaged in direct operations,  
9 title agency, and title agent for as long as appropriate to the  
10 circumstances but in no event less than five years after the escrow or  
11 security deposit account has been closed.

12 3. This section shall not apply to a title insurer acting as  
13 coinsurer if one of the other coinsurers has complied with this section.

14 4. Each violation of any provision of this section is a class C  
15 violation as that term is defined in section 381.045.

381.042. 1. The director may issue rules, regulations, and orders  
2 necessary to carry out the provisions of this chapter.

3 2. Any rule or portion of a rule, as that term is defined in section  
4 536.010, RSMo, that is created under the authority delegated in this

5 section shall become effective only if it complies with and is subject to  
6 all of the provisions of chapter 536, RSMo, and, if applicable, section  
7 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable  
8 and if any of the powers vested with the general assembly pursuant to  
9 chapter 536, RSMo, to review, to delay the effective date, or to  
10 disapprove and annul a rule are subsequently held unconstitutional,  
11 then the grant of rulemaking authority and any rule proposed or  
12 adopted after August 28, 2006, shall be invalid and void.

381.045. 1. If the director determines that the title insurer or  
2 any other person has violated this chapter, or any regulation or order  
3 promulgated thereunder, after notice and opportunity to be heard, the  
4 director may order:

5 (1) For each violation a monetary penalty which shall take into  
6 account the harm the violation caused or could have caused or  
7 potential harm to the public and which shall not exceed:

- 8 (a) One thousand dollars per violation for a class A violation;  
9 (b) Five hundred dollars per violation for a class B violation; and  
10 (c) One hundred dollars per violation for a class C violation;  
11 (2) Revocation or suspension of the title insurer's license; or  
12 (3) Both monetary penalty and revocation or suspension.

13 2. Nothing contained in this section shall affect the right of the  
14 director to impose any other penalties provided for in the insurance  
15 code.

16 3. Nothing contained in this chapter is intended to or shall in  
17 any other manner limit or restrict the rights of policyholders,  
18 claimants, and creditors.

381.048. The director may bring an action in a court of  
2 competent jurisdiction to enjoin violations of the Real Estate  
3 Settlement Procedures Act, 12 U.S.C. Section 2607, as amended.

381.052. No person other than a domestic, foreign, or non-United  
2 States title insurer organized on the stock plan and duly licensed by  
3 the director shall transact title insurance business as an insurer in this  
4 state.

381.055. Subject to the exceptions and restrictions contained in  
2 this chapter, a title insurer shall have the power to:

- 3 (1) Do only title insurance business;  
4 (2) Reinsure title insurance policies; and

5           (3) Perform ancillary activities, unless prohibited by the  
6 director, including examining titles to real property and any interest  
7 in real property and procuring and furnishing related information and  
8 information about relevant personal property, when not in  
9 contemplation of, or in conjunction with, the issuance of a title  
10 insurance policy.

381.058. 1. No insurer that transacts any class, type, or kind of  
2 business other than title insurance shall be eligible for the issuance or  
3 renewal of a license to transact the business of title insurance in this  
4 state nor shall title insurance be transacted, underwritten, or issued by  
5 any insurer transacting or licensed to transact any other class, type, or  
6 kind of business.

7           2. A title insurer shall not engage in the business of guaranteeing  
8 payment of the principal or the interest of bonds or mortgages.

9           3. (1) Notwithstanding subsection 1 of this section, and to the  
10 extent such coverage is lawful within this state, a title insurer shall  
11 issue closing or settlement protection to a proposed insured if the title  
12 insurer issues a commitment, binder, or title insurance policy. Such  
13 closing or settlement protection shall conform to the terms of coverage  
14 and form of instrument as required by the director and may indemnify  
15 a proposed insured solely against loss of settlement funds only because  
16 of the following acts of a title insurer's named title agency or title  
17 agent:

18           (a) Theft of settlement funds; and

19           (b) Failure to comply with written closing instructions by the  
20 proposed insured when agreed to by the title agency or title agent  
21 relating to title insurance coverage.

22           (2) The director shall promulgate or approve a required charge  
23 for providing the coverage.

24           (3) A title insurer, title agency, or title agent shall not provide  
25 any other coverage which purports to indemnify against improper acts  
26 or omissions of a person with regard to escrow, settlement, or closing  
27 services.

381.062. Before being licensed to do any insurance business in  
2 this state, a title insurer shall establish and maintain a minimum  
3 paid-in capital of not less than four hundred thousand dollars and, in  
4 addition, paid-in initial surplus of at least four hundred thousand



5   dollars.

381.065. 1. The net retained liability of a title insurer for a single  
2 risk in regard to property located in this state, whether assumed  
3 directly or as reinsurance, shall not exceed the aggregate of fifty  
4 percent of surplus as regards policyholders plus the statutory premium  
5 reserve less the company's investment in title plants, all as shown in  
6 the most recent annual statement of the insurer on file with the  
7 director.

8       2. For purposes of this chapter:

9       (1) A single risk shall be the insured amount of any title  
10 insurance policy, except that, where two or more title insurance  
11 policies are issued simultaneously covering different estates in the  
12 same real property, a single risk shall be the sum of the insured  
13 amounts of all the title insurance policies; and

14       (2) A policy under which a claim payment reduces the amount of  
15 insurance under one or more other title insurance policies shall be  
16 included in computing the single risk sum only to the extent that its  
17 amount exceeds the aggregate amount of the policy or policies whose  
18 amount of insurance is reduced.

19       3. A title insurer may obtain reinsurance for all or any part of its  
20 liability under its title insurance policies or reinsurance agreements  
21 and may also reinsure title insurance policies issued by other title  
22 insurers on single risks located in this state or elsewhere. Reinsurance  
23 on policies issued on properties located in this state may be obtained  
24 from any title insurers licensed to transact title insurance business in  
25 this state, any other state, or the District of Columbia and which have  
26 a combined capital and surplus of at least eight hundred thousand  
27 dollars.

28       4. The director may waive the limitation of this section for a  
29 particular risk upon application of the title insurer and for good cause  
30 shown.

381.068. In determining the financial condition of a title insurer  
2 doing business pursuant to this chapter, the general investment  
3 provisions of sections 376.300 to 376.305, RSMo, shall apply; except that,  
4 an investment in a title plant or plants in an amount equal to the actual  
5 cost shall be allowed as an admitted asset for title insurers. The  
6 aggregate amount of the investment shall not exceed fifty percent of

7 surplus to policyholders as shown on the most recent annual statement  
8 of the title insurer on file with the director.

381.072. In determining the financial condition of a title insurer  
2 doing business pursuant to this chapter, the general provisions of the  
3 insurance code requiring the establishment of reserves sufficient to  
4 cover all known and unknown liabilities, including allocated and  
5 unallocated loss adjustment expense, shall apply; except that, a title  
6 insurer shall establish and maintain:

7 (1) (a) A known claim reserve in an amount estimated to be  
8 sufficient to cover all unpaid losses, claims, and allocated loss  
9 adjustment expenses arising under title insurance policies for which  
10 the title insurer may be liable, and for which the insurer has  
11 discovered or received notice by or on behalf of the insured or escrow  
12 or security depositor;

13 (b) Upon receiving notice from or on behalf of the insured of a  
14 title defect in or lien or adverse claim against the title of the insured  
15 that may result in a loss or cause expense to be incurred in the proper  
16 disposition of the claim, the title insurer shall determine the amount  
17 to be added to the reserve, which amount shall reflect a careful  
18 estimate of the loss or loss expense likely to result by reason of the  
19 claim;

20 (c) Reserves required pursuant to this section may be revised  
21 from time to time and shall be redetermined at least once each year;

22 (2) A statutory or unearned premium reserve established and  
23 maintained as follows:

24 (a) A domestic title insurer shall establish and maintain an  
25 unearned premium reserve computed in accordance with this section,  
26 and all sums attributed to such reserve shall at all times and for all  
27 purposes be considered and constitute unearned portions of the  
28 original premiums. This reserve shall be reported as a liability of the  
29 title insurer in its financial statements;

30 (b) The unearned premium reserve shall be maintained by the  
31 title insurer for the protection of holders of title insurance  
32 policies. Except as provided in this section, assets equal in value to the  
33 reserve are not subject to distribution among creditors or stockholders  
34 of the title insurer until all claims of policyholders or claims under  
35 reinsurance contracts have been paid in full, and all liability on the

36 policies or reinsurance contracts has been paid in full and discharged  
37 or lawfully reinsured;

38 (c) The unearned premium reserve shall consist of:

39 a. The amount of the unearned premium reserve on January 1,  
40 2007; and

41 b. A sum equal to fifteen cents for each one thousand dollars of  
42 net retained liability under each title insurance policy, excluding  
43 mortgagee's policies simultaneously issued with owner's policies or  
44 owner's leasehold policies of the same or greater amount, on a single  
45 risk written on properties located in this state and issued after January  
46 1, 2007;

47 (d) Amounts placed in the unearned premium reserve in any year  
48 in accordance with paragraph (c) of this subdivision shall be deducted  
49 in determining the net profit of the title insurer for that year;

50 (e) A title insurer shall release from the unearned premium  
51 reserve a sum equal to ten percent of the amount added to the reserve  
52 during a calendar year on July first of each of the five years following  
53 the year in which the sum was added, and shall release from the  
54 unearned premium reserve a sum equal to three and one-third percent  
55 of the amount added to the reserve during that year on each succeeding  
56 July first until the entire amount for that year has been released. The  
57 amount of the unearned premium reserve or similar unearned premium  
58 reserve maintained before January 1, 2007, shall be released in  
59 accordance with the law in effect immediately before January 1, 2007;

60 (f) a. Each domestic and foreign title insurer shall file annually  
61 with the audited financial report required pursuant to section 375.1032,  
62 RSMo, an actuarial certificate made by a member in good standing of  
63 the American Academy of Actuaries, or by an actuary permitted to  
64 make such certificate by the commissioner, superintendent, or director  
65 of the department of insurance of the state of incorporation of a foreign  
66 title insurer;

67 b. The actuarial certification shall conform to the annual  
68 statement instructions for title insurers adopted by the National  
69 Association of Insurance Commissioners and shall include the actuary's  
70 professional opinion of the insurer's reserves as of the date of the  
71 annual statement. The reserves analyzed pursuant to this section shall  
72 include reserves for known claims, including adverse developments on

73 known claims, and reserves for incurred but not reported claims;

74 (g) a. Each domestic and foreign title insurer shall establish a  
75 supplemental reserve in the amount by which the actuarially certified  
76 reserves exceed the total of the known claim reserve and statutory  
77 premium reserve as set forth in the title insurer's annual financial  
78 report, subject to this subdivision;

79 b. The supplemental reserve required pursuant to this section  
80 shall be phased in as follows:

81 i. Twenty-five percent of the otherwise applicable supplemental  
82 reserve is required until December thirty-first of the year next  
83 following January 1, 2007;

84 ii. Fifty percent of the otherwise applicable supplemental  
85 reserve is required until December thirty-first of the second year  
86 following January 1, 2007;

87 iii. Seventy-five percent of the otherwise applicable  
88 supplemental reserve is required until December thirty-first of the  
89 third year following January 1, 2007;

90 iv. One hundred percent of the supplemental reserve is required  
91 after December thirty-first of the fourth year following January 1, 2007.

381.075. 1. Sections 375.570 to 375.750, RSMo, and sections  
2 375.1150 to 375.1246, RSMo, shall apply to all title insurers subject to  
3 the title insurance act, except as otherwise provided in this section. In  
4 applying such sections, the court shall consider the unique aspects of  
5 title insurance and shall have broad authority to fashion relief that  
6 provides for the maximum protection of the title insurance  
7 policyholders.

8 2. Security and escrow funds held by or on behalf of the title  
9 insurer shall not become general assets and shall be administered as  
10 secured claims as defined in section 375.1152, RSMo.

11 3. Title insurance policies that are in force at the time an order  
12 of liquidation is entered shall not be canceled except upon a showing  
13 to the court of good cause by the liquidator. The determination of good  
14 cause shall be within the discretion of the court. In making this  
15 determination, the court shall consider the unique aspects of title  
16 insurance and all other relevant circumstances.

17 4. The court may set appropriate dates that potential claimants  
18 must file their claims with the liquidator. The court may set different

19 dates for claims based upon the title insurance policy than for all other  
20 claims. In setting dates, the court shall consider the unique aspects of  
21 title insurance and all other relevant circumstances.

22 5. As of the date of the order of insolvency or liquidation, all  
23 premiums paid, due, or to become due under policies of the title  
24 insurers shall be fully earned. It shall be the obligation of title  
25 agencies, title agents, insureds, or representatives of the title insurer  
26 to pay fully earned premium to the liquidator or rehabilitator.

381.078. A title insurer shall only declare or distribute a dividend  
2 to shareholders with the prior written approval of the director, as  
3 would be permitted pursuant to subdivision (1) of subsection 1 of  
4 section 382.210, RSMo.

381.085. 1. A title insurer or authorized rate service organization  
2 shall not deliver or issue for delivery or permit any of its authorized  
3 title agencies or title agents to deliver in this state any form in  
4 connection with title insurance written unless it has been filed with the  
5 director and approved by the director or thirty days have elapsed and  
6 it has not been disapproved as misleading or violative of public  
7 policy. Each violation of this subsection is a class C violation as that  
8 term is defined in section 381.045.

9 2. Forms covered by this section shall include:

10 (1) Title insurance policies, including standard form  
11 endorsements; and

12 (2) Title insurance commitments issued prior to the issuance of  
13 a title insurance policy.

14 3. After notice and opportunity to be heard are given to the  
15 insurer or rate service organization which submitted a form for  
16 approval, the director may withdraw approval of the form on finding  
17 that the use of the form is contrary to the legal requirements applicable  
18 at the time of withdrawal. The effective date of withdrawal of approval  
19 shall not be less than ninety days after notice of withdrawal is given.

20 4. Any term or condition related to an insurance coverage  
21 provided by an approved title insurance policy or any exception to the  
22 coverage, except those ascertained from a search and examination of  
23 records relating to a title or inspection or survey of a property to be  
24 insured, may only be included in the policy after the term, condition,  
25 or exception has been filed with the director and approved as herein

26 provided.

381.088. 1. A title insurer may satisfy its obligation to file  
2 premium rates, rating manuals, and forms as required by this chapter  
3 by becoming a member of, or a subscriber to, a rate service  
4 organization, organized and licensed pursuant to the provisions of this  
5 chapter, where the organization makes the filings, and by authorizing  
6 the director in writing to accept the filings on the insurer's behalf.

7 2. Nothing in this chapter shall be construed as requiring any  
8 title insurer, title agency, or title agent to become a member of, or a  
9 subscriber to, any rate service organization. Nothing in this chapter  
10 shall be construed as prohibiting the filing of deviations from rate  
11 service organization filings by any member or subscriber.

381.092. 1. Every title insurer that shall propose its own  
2 premium rates, and every title insurance rating organization shall  
3 propose premium rates that are not excessive nor inadequate for the  
4 safety and soundness of any title insurer, which do not unfairly  
5 discriminate between risks in this state which involve essentially the  
6 same exposure to loss and expense elements, and which shall give due  
7 consideration to the following matters:

8 (1) The desirability for stability and responsiveness of rate  
9 structures;

10 (2) The necessity of assuring the financial solvency of title  
11 insurance companies in periods of economic depression; and

12 (3) The necessity for paying dividends on the capital stock of  
13 title insurance companies sufficient to induce capital to be invested  
14 therein.

15 2. Every title insurer that shall propose its own rates and every  
16 title insurance rating organization may adopt basic classifications of  
17 policies or contracts of title insurance which shall be used as the basis  
18 for rates.

381.095. 1. If the director shall find in his review of rate filings  
2 that the filings provide for, result in, or produce rates that are not  
3 unreasonably high, and are not inadequate for the safeness and  
4 soundness of the insurer, and are not unfairly discriminatory between  
5 risks in this state involving essentially the same hazards and expense  
6 elements, the director shall approve such rates. Prior to such approval,  
7 the director may conduct a public hearing with respect to a rate filing.

8 An approval shall continue in effect until the director shall issue an  
9 order of disapproval pursuant to the requirements and procedure  
10 provided for in subsections 2 and 3 of this section.

11 2. Upon the review at any time by the director of a rate filing,  
12 the director shall, before issuing an order of disapproval, hold a  
13 hearing upon not less than ten days' written notice, specifying in  
14 reasonable detail the matters to be considered at such hearing, to every  
15 title insurer and title insurance rating organization which made such  
16 filing, and if, after such hearing, the director finds that such filing or  
17 a part thereof does not meet the requirements of this chapter, the  
18 director shall issue an order specifying in what respects the director  
19 finds that it so fails, and stating when, within a reasonable period  
20 thereafter, such filing or a part thereof shall be deemed no longer  
21 effective. A title insurer or title insurance rating organization shall  
22 have the right at any time to withdraw a filing or a part thereof,  
23 subject to the provisions of section 381.102, in the case of deviation  
24 filing. Copies of the order shall be sent to every title insurer and title  
25 insurance rating organization affected. The order shall not affect any  
26 contract or policy made or issued prior to the expiration of the period  
27 set forth in the order.

28 3. Any person or organization aggrieved with respect to any  
29 filing which is in effect may make written application to the director  
30 for a hearing. The title insurance company or title insurance rating  
31 organization that made the filing shall not be authorized to proceed  
32 pursuant to this subsection. Such application shall specify in  
33 reasonable detail the grounds to be relied upon by the applicant. If the  
34 director shall find that the application is made in good faith, that the  
35 applicant would be so aggrieved if his or her grounds are established,  
36 and that such grounds otherwise justify holding such a hearing, the  
37 director shall, within thirty days after receipt of such application, hold  
38 a hearing upon not less than ten days' written notice to the applicant  
39 and to every title insurance company and title insurance rating  
40 organization which made such a filing. If, after such hearing, the  
41 director finds that the filing or a part thereof does not meet the  
42 requirements of this chapter, the director shall issue an order  
43 specifying in what respects the director finds that such filing or a part  
44 thereof fails to meet the requirements of this chapter, stating when

45 within a reasonable period thereafter, such filing or a part thereof shall  
46 be deemed no longer effective. Copies of such order shall be sent to the  
47 applicant and to every such title insurer and title insurance rating  
48 organization. The order shall not affect any contract or policy made or  
49 issued prior to the expiration of the period set forth in the order.

381.098. 1. A corporation, an unincorporated association, a  
2 partnership, or an individual, whether located within or outside this  
3 state, may make application to the director for license as a rating  
4 organization for title insurers, and shall file therewith:

5 (1) A copy of its constitution, its articles of agreement or  
6 association, or its certificate of incorporation, and of its bylaws, rules,  
7 and regulations governing the conduct of its business;

8 (2) A list of its members and subscribers;

9 (3) The name and address of a resident of this state upon whom  
10 notices or orders of the director or process affecting such rating  
11 organization may be served; and

12 (4) A statement of its qualifications as a title insurance rating  
13 organization.

14 2. If the director finds that the applicant is competent,  
15 trustworthy, and otherwise qualified to act as a rating organization,  
16 and that its constitution, articles of agreement or association or  
17 certificate of incorporation, and its bylaws, rules, and regulations  
18 governing the conduct of its business conform to requirements of law,  
19 the director shall issue a license authorizing the applicant to act as a  
20 rating organization for title insurance. Licenses issued pursuant to  
21 this section shall remain in effect for three years unless sooner  
22 suspended or revoked by the director or withdrawn by the  
23 licensee. The fee for such license shall be one thousand five hundred  
24 dollars. Licenses issued pursuant to this section may be suspended or  
25 revoked by the director, after hearing upon notice, in the event the  
26 rating organization ceases to meet the requirements of this  
27 subsection. Every rating organization shall notify the director  
28 promptly of every change in:

29 (1) Its constitution, its articles of agreement or association, or its  
30 certificate of incorporation, and its bylaws, rules, and regulations  
31 governing the conduct of its business;

32 (2) Its list of members and subscribers; and



33           (3) The name and address of the resident of this state designated  
34 by it upon whom notices or orders of the director or process affecting  
35 such rating organization may be served.

36           3. Subject to rules and regulations which have been approved by  
37 the director as reasonable, each title insurance rating organization  
38 shall permit any title insurance company not a member to be a  
39 subscriber to its rating services. Notices of proposed changes in such  
40 rules and regulations shall be given to subscribers. Each such rating  
41 organization shall furnish its rating services without discrimination to  
42 its members and subscribers. The reasonableness of any rule or  
43 regulation in its application to subscribers, or the refusal of any such  
44 rating organization to admit a title insurance company as a subscriber,  
45 shall at the request of any subscriber or any such title insurance  
46 company, be reviewed by the director at a hearing held upon at least  
47 ten days' written notice to such rating organization and to such  
48 subscriber. If the director finds that such rule or regulation is  
49 unreasonable in its application to subscribers, the director shall order  
50 that such rule or regulation shall not be applicable to subscribers. If  
51 the rating organization fails to grant or reject an application of a title  
52 insurance company for subscribership within thirty days after it was  
53 made, the title insurance company may request a review by the director  
54 as if the application had been rejected. If the director finds that the  
55 title insurance company has been refused admittance to the title  
56 insurance rating organization as a subscriber without justification, the  
57 director shall order such rating organization to admit the title  
58 insurance company as a subscriber. If the director finds that the action  
59 of the title insurance rating organization was justified, the director  
60 shall make an order affirming its action.

          381.102. Every member of or subscriber to a title insurance  
2 rating organization shall adhere to the filings made on its behalf by  
3 such organization, except that any title insurance company which is a  
4 member of or subscriber to such a rating organization may file with the  
5 director a uniform percentage of decrease or increase to be applied to  
6 any or all elements of the fees produced by the rating system so filed  
7 for a class of title insurance which is found by the director to be a  
8 proper rating unit for the application of such uniform decrease or  
9 increase, or to be applied to the rates for a particular area, or

10 otherwise deviate from the rating plans, policy forms, or other matters  
11 which are the subject of filings pursuant to this chapter. Such  
12 deviation filing shall specify the basis for the modification and shall be  
13 accompanied by the data or historical pattern upon which the applicant  
14 relies. A copy of the deviation filing and data shall be sent  
15 simultaneously to such rating organization. Deviation filings shall be  
16 subject to the provisions of section 381.095.

381.105. 1. Any member of or subscriber to a title insurance  
2 rating organization may appeal to the director from any action or  
3 decision of such rating organization in approving or rejecting any  
4 proposed change in or addition to the filings of such rating  
5 organization, and the director shall, after a hearing held upon not less  
6 than ten days' written notice to the appellant and to such rating  
7 organization, issue an order approving the action or decision of such  
8 rating organization or directing it to give further consideration to such  
9 proposal and to take action or make a decision upon it within thirty  
10 days. If such appeal is from the action or decision of the title insurance  
11 rating organization in rejecting a proposed addition to its filings, the  
12 director may, in the event the director finds that such action or  
13 decision was unreasonable, issue an order directing the rating  
14 organization to make an addition to its filings, on behalf of its members  
15 and subscribers, in a manner consistent with the director's findings,  
16 within a reasonable time after the issuance of such order. If the appeal  
17 is from the action of the title insurance rating organization with regard  
18 to a rate or a proposed change in or addition to its filings relating to  
19 the character and extent of coverage, the director shall approve the  
20 action of the rating organization or such modification thereof as shall  
21 have been suggested by the appellant if either be made in accordance  
22 with this chapter.

23 2. The failure of a title insurance rating organization to take  
24 action or make a decision within thirty days after submission to it of  
25 a proposal pursuant to this section shall constitute a rejection of such  
26 proposal within the meaning of this section. If such appeal is based  
27 upon the failure of the rating organization to make a filing on behalf  
28 of such member or subscriber which is based on a system of expense  
29 allocation which differs from the system of expense allocation included  
30 in a filing made by such rating organization, the director shall, if the

31 director grants the appeal, order the rating organization to make the  
32 requested filing for use by the appellant. In deciding such appeal, the  
33 director shall apply the standards set forth in section 381.032.

381.108. 1. The director shall promulgate reasonable rules and  
2 statistical plans, reasonably adapted to each of the rating systems on  
3 file with the department, which may be modified from time to time, and  
4 which shall be used thereafter by each title insurer in the recording  
5 and reporting of the composition of its business, its loss, and  
6 countrywide expense experience and those of its title insurance  
7 underwriters in order that the experience of all title insurers may be  
8 made available, at least annually, in such form and detail as may be  
9 necessary to aid him or her in determining whether rating systems  
10 comply with the standards set forth in this chapter. Such rules and  
11 plans may also provide for the recording of expense experience items  
12 which are specially applicable to this state and are not susceptible of  
13 determination by a prorating of countrywide expense experience. In  
14 promulgating such rules and plans, the director shall give due  
15 consideration to the rating systems on file with the department, and in  
16 order that such rules and plans may be as uniform as is practicable  
17 among the several states, to the rules and to the form of the plans used  
18 for such rating systems in other states. Such rules and plans shall not  
19 place an unreasonable burden of expense on any title insurer. No title  
20 insurer shall be required to record or report its expense and loss  
21 experience on a classification basis that is inconsistent with the rating  
22 system filed by it, nor shall any title insurer be required to report the  
23 experience to any agency of which it is not a member or  
24 subscriber. The director may designate one or more rating  
25 organizations or other agencies to assist the director in gathering such  
26 experience and making compilations thereof, and such compilations  
27 shall be made available, subject to reasonable rules promulgated by the  
28 director, to title insurers and rating organizations. The director shall  
29 give preference in such designation to entities organized by and  
30 functioning on behalf of title insurers operating in this state. If the  
31 director, in his or her judgment, determines that one or more of such  
32 organizations designated as statistical agents is unable or unwilling to  
33 perform its statistical functions according to reasonable requirements  
34 established from time to time by the director, he or she may, after

35 consultation with such statistical agent and upon twenty days' notice  
36 to any affected companies, designate another person to act on the  
37 director's behalf in the gathering of statistical experience. The director  
38 shall in such case establish the fee to be paid to such designated person  
39 by the affected companies in order to pay the total cost of gathering  
40 and compiling such experience. Agencies designated by the director  
41 shall assist the director in making compilations of the reported data  
42 and such compilations shall be made available, subject to reasonable  
43 rules and regulations promulgated by the director, to insurers, rating  
44 organizations, and any other interested parties.

45       2. Reasonable rules and plans may be promulgated by the  
46 director for the interchange of data necessary for the application of  
47 rating plans.

48       3. In order to further uniform administration of rate regulatory  
49 laws, the director and every title insurer and rating organization may  
50 exchange information and experience data with insurance supervisory  
51 officials, title insurers, and rating organizations in other states, and  
52 may consult with them with respect to rate making and the application  
53 of rating systems.

54       4. Any rule or portion of a rule, as that term is defined in section  
55 536.010, RSMo, that is created under the authority delegated in this  
56 section shall become effective only if it complies with and is subject to  
57 all of the provisions of chapter 536, RSMo, and, if applicable, section  
58 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable  
59 and if any of the powers vested with the general assembly pursuant to  
60 chapter 536, RSMo, to review, to delay the effective date, or to  
61 disapprove and annul a rule are subsequently held unconstitutional,  
62 then the grant of rulemaking authority and any rule proposed or  
63 adopted after August 28, 2006, shall be invalid and void.

381.112. For purposes of the premium tax imposed by sections  
2 148.320 and 148.340, RSMo, the premium income received by a title  
3 insurer shall mean the amount of premium actually remitted to the title  
4 insurer and shall exclude any amount of premium retained by the title  
5 agent within the definition of "premium" contained in section 381.009.

381.115. 1. A person shall not act in the capacity of a title agency  
2 or title agent and a title insurer may not contract with any person to  
3 act in the capacity of a title agency or title agent with respect to risks

4 located in this state unless the person is a licensed title agency or title  
5 agent in this state, subject to the exclusions provided in section 381.010.

6       2. An individual employed by a licensed title agency or title  
7 agent to whom the agency or agent delegates authority to act on that  
8 agency's or agent's behalf shall be either individually licensed or be  
9 named on the employing agent's license if such employee performs any  
10 of the functions defined in paragraph (a) of subdivision (25) of section  
11 381.009, subject to the exclusions provided in section 381.010. Each  
12 person named on the license shall possess all qualifications determined  
13 by the director to be appropriate. The director may adopt rules,  
14 regulations, and requirements relating to licensing and practices of  
15 persons acting in the capacity of title agencies or agents. These  
16 persons may include title agencies, title agents, employees of either,  
17 and persons acting on behalf of title agencies or title agents. This  
18 subsection is not intended to include persons performing clerical  
19 functions.

20       3. Every title agency licensed in this state shall:

21       (1) Exclude or eliminate the word insurer or underwriter from  
22 its business name, unless the word agency is also included as part of  
23 the name; and

24       (2) Provide, in a timely fashion, each title insurer with which it  
25 places business any information the title insurer requests in order to  
26 comply with reporting requirements of the director.

27       4. A title agency or title agent licensed in this state prior to the  
28 effective date of this chapter shall have ninety days after the effective  
29 date of this chapter to comply with the requirements of this section.

30       5. If the title agency or title agent delegates the title search to  
31 a third party, such as an abstract company, the agency or agent must  
32 first obtain proof that the third party is operating in compliance with  
33 rules and regulations established by the director and the third party  
34 shall provide the agency or agent and the insurer with access to and  
35 the right to copy all accounts and records maintained by the third  
36 party with respect to business placed with the title insurer. Proof from  
37 the third party may consist of a signed statement indicating  
38 compliance, and shall be effective for a three-year period. Each  
39 violation of this subsection is a class C violation as that term is defined  
40 in section 381.045.

381.118. 1. Each title agent licensed to sell title insurance in this state, unless exempt pursuant to subsection 8 of this section, shall successfully complete courses of study as required by this section. Any person licensed to act as a title agent shall, during each two years, attend courses or programs of instruction or attend seminars equivalent to a minimum of eight hours of instruction. The initial such two-year period shall begin January first of the year next following the effective date of this chapter.

2. Subject to approval by the director, the courses or programs of instruction which shall be deemed to meet the director's standards for continuing educational requirements shall include, but not be limited to, the following:

(1) An insurance-related course taught by an accredited college or university or qualified instructor who has taught a course of insurance law at such institution;

(2) A course or program of instruction or seminar developed or sponsored by any authorized insurer, recognized agents' association, or insurance trade association. A local agents' group may also be approved if the instructor receives no compensation for services;

(3) Courses approved for continuing legal education credit by the Missouri Bar.

3. A person teaching any approved course of instruction or lecturing at any approved seminar shall qualify for the same number of classroom hours as would be granted to a person taking and successfully completing such course, seminar, or program.

4. Excess classroom hours accumulated during any two-year period may be carried forward to the two-year period immediately following the two-year period in which the course, program, or seminar was held.

5. For good cause shown, the director may grant an extension of time during which the educational requirements imposed by this section may be completed, but such extension of time shall not exceed the period of one calendar year. The director may grant an individual waiver of the mandatory continuing education requirement upon a showing by the licensee that it is not feasible for the licensee to satisfy the requirements prior to the renewal date. Waivers may be granted for reasons including, but not limited to:

- 38           (1) Serious physical injury or illness;  
39           (2) Active duty in the armed services for an extended period of  
40 time;  
41           (3) Residence outside the United States; or  
42           (4) Licensee is at least seventy years of age and is currently  
43 licensed as a title agent.

44           6. Every person subject to the provisions of this section shall  
45 furnish in a form satisfactory to the director, written certification as  
46 to the courses, programs, or seminars of instruction taken and  
47 successfully completed by such person. A filing fee shall be paid by the  
48 person furnishing the report as determined by the director to be  
49 necessary to cover the administrative cost related to the handling of  
50 such certification reports, subject to the limitations imposed in  
51 subsection 9 of this section.

52           7. The provisions of this section shall not apply to those natural  
53 persons holding or applying for a license to act as a title agent in  
54 Missouri who reside in a state that has enacted and implemented a  
55 mandatory continuing education law or regulation pertaining to title  
56 agents. However, those natural persons holding or applying for a  
57 Missouri agent license who reside in states which have no mandatory  
58 continuing education law or regulations shall be subject to all the  
59 provisions of this section to the same extent as resident Missouri title  
60 agents.

61           8. Rules necessary to implement and administer this section shall  
62 be promulgated by the director of the department of insurance,  
63 including, but not limited to, rules regarding the following:

64           (1) The insurance advisory board established by section 375.019,  
65 RSMo, shall be utilized by the director to assist the director in  
66 determining acceptable content of courses, programs, and seminars to  
67 include classroom equivalency;

68           (2) Every applicant seeking approval by the director of a  
69 continuing education course pursuant to this section shall pay to the  
70 director a filing fee of fifty dollars per course, except that such total fee  
71 shall not exceed two hundred fifty dollars per year for any single  
72 applicant. Fees shall be waived for local agents' groups if the  
73 instructor receives no compensation for services. Such fee shall  
74 accompany any application form required by the director. Courses

75 shall be approved for a period of no more than one year. Applicants  
76 holding courses intended to be offered for a longer period must reapply  
77 for approval;

78 (3) The director has the authority to determine the amount of the  
79 filing fee to be paid by title agents at the time of license renewal, which  
80 shall be set at an amount to produce revenue which shall not  
81 substantially exceed the cost of administering this section, but in no  
82 event shall such fee exceed ten dollars per biennial report filed.

83 9. All funds received pursuant to the provisions of this section  
84 shall be transmitted by the director of the department of insurance to  
85 the department of revenue for deposit in the state treasury to the  
86 credit of the department of insurance dedicated fund. All expenditures  
87 necessitated by this section shall be paid from funds appropriated from  
88 the department of insurance dedicated fund by the legislature.

89 10. When a title agent pays his or her biennial renewal fee, such  
90 agent shall also furnish the written certification and filing fee required  
91 by this section.

92 11. Any rule or portion of a rule, as that term is defined in  
93 section 536.010, RSMo, that is created under the authority delegated in  
94 this section shall become effective only if it complies with and is  
95 subject to all of the provisions of chapter 536, RSMo, and, if applicable,  
96 section 536.028, RSMo. This section and chapter 536, RSMo, are  
97 nonseverable and if any of the powers vested with the general assembly  
98 pursuant to chapter 536, RSMo, to review, to delay the effective date,  
99 or to disapprove and annul a rule are subsequently held  
100 unconstitutional, then the grant of rulemaking authority and any rule  
101 proposed or adopted after August 28, 2006, shall be invalid and void.

381.122. The director may during normal business hours  
2 examine, audit, and inspect any and all books and records maintained  
3 by a title agency pursuant to this chapter.

381.125. 1. Whenever the business to be written constitutes  
2 affiliated business, prior to commencing the transaction, the title  
3 agency or title agent shall ensure that its customer has been provided  
4 with disclosure of the existence of the affiliated business arrangement  
5 and a written estimate of the charge or range of charges generally  
6 made for the title services provided by the title agency or agent.

7 2. The director may establish rules for use by all title agencies



8 in the recording and reporting of the agency's owners and of the  
9 agency's ownership interests in other persons or businesses and of  
10 material transactions between the parties.

11 3. The director may require each title agency to file on forms  
12 prescribed by the director reports setting forth the names and  
13 addresses of those persons, if any, that have a financial interest in the  
14 agency and who the agency knows or has reason to believe are  
15 producers of title insurance business or associates of producers.

16 4. Nothing in this chapter shall be construed as prohibiting  
17 affiliated business arrangements in the provision of title insurance  
18 business so long as:

19 (1) The title agency, title agent, or party making a referral  
20 constituting affiliated business, at or prior to the time of the referral,  
21 discloses the arrangement and, in connection with the referral,  
22 provides the person being referred with a written estimate of the  
23 charge or range of charges likely to be assessed and otherwise complies  
24 with the disclosure obligations of this section;

25 (2) The person being referred is not required to use a specified  
26 title insurance agency, agent, or insurer; and

27 (3) The only thing of value that is received by the title agency,  
28 title agent, or party making the referral, other than payments  
29 otherwise permitted, is a return on an ownership interest.

30 For purposes of this subsection, the terms "required use" and "return on  
31 an ownership interest" shall have the meaning accorded to them under  
32 the Real Estate Settlement Procedures Act (RESPA), 12 U.S.C. Section  
33 2607, as amended and Regulation X, 24 CFR Section 3500, et seq.

34 5. Each violation of any provision of this section is a class C  
35 violation as that term is defined in section 381.045.

381.410. As used in this section and section 381.412, the following  
2 terms mean:

3 (1) "Close", "closing", or "closing a transaction", obtaining  
4 executed documents in recordable form to complete a real estate  
5 transaction;

6 (2) "Director", the director of the department of insurance, unless  
7 the settlement agent's primary regulator is another division in the  
8 department of economic development. When the settlement agent is  
9 regulated by such division, that division shall have jurisdiction over

10 this section and section 381.412;

11 (3) "Settlement agent", a person, corporation, partnership, or  
12 other business organization which accepts funds and documents as  
13 fiduciary for the buyer, seller or lender for the purposes of closing a  
14 sale of an interest in real estate located within the state of Missouri,  
15 and is not a financial institution, or a member in good standing of the  
16 Missouri Bar, or a person licensed under chapter 339, RSMo.

381.412. 1. No title insurer, title agency, or title agent, as defined  
2 in section 381.009, shall close a transaction or make any payment,  
3 disbursement, or withdrawal from an escrow account which it  
4 maintains as a depository of funds received from the public for the  
5 settlement of real estate transactions unless a corresponding deposit  
6 of funds was made to the escrow account for the benefit of the payee or  
7 payees and those funds are finally settled and credited to the escrow  
8 account.

9 2. If the director finds that a settlement agent, title insurer, title  
10 insurance agency or title insurance agent has violated any provisions  
11 of this section, the director may assess a fine of not more than two  
12 thousand dollars for each violation, plus the costs of the  
13 investigation. Each separate transaction where certified funds are  
14 required shall constitute a separate violation. In determining a fine,  
15 the director shall consider the extent to which the violation was a  
16 knowing and willful violation, the corrective action taken by the  
17 settlement agent to ensure that the violation will not be repeated, and  
18 the record of the settlement agent in complying with the provisions of  
19 this section.

[381.003. 1. Sections 381.003 to 381.125 shall be known  
2 and may be cited as the "Missouri Title Insurance Act".

3 2. Sections 381.009 to 381.048 shall apply to all persons  
4 engaged in the business of title insurance in this state. Sections  
5 381.052 to 381.112 shall apply to all title insurers engaged in the  
6 business of title insurance in this state. Sections 381.115 to  
7 381.125 shall apply to all title agencies engaged in the business of  
8 title insurance in this state.

9 3. Except as otherwise expressly provided in this chapter  
10 and except where the context otherwise requires, all provisions of  
11 the insurance code applying to insurance and insurance companies

12 generally shall apply to title insurance, title insurers and title  
13 agents.]

[381.009. As used in this chapter, the following terms  
2 mean:

3 (1) "Abstract of title" or "abstract", a written history,  
4 synopsis or summary of the recorded instruments affecting the title  
5 to real property;

6 (2) "Affiliate", a specific person that directly, or indirectly  
7 through one or more intermediaries, controls, or is controlled by, or  
8 is under common control with, the person specified;

9 (3) "Affiliated business", any portion of a title insurance  
10 agency's business written in this state that was referred to it by a  
11 producer of title insurance business or by an associate of the  
12 producer, where the producer or associate, or both, have a financial  
13 interest in the title agency;

14 (4) "Associate", any:

15 (a) Business organized for profit in which a producer of title  
16 business is a director, officer, partner, employee or an owner of a  
17 financial interest;

18 (b) Employee of a producer of title business;

19 (c) Franchisor or franchisee of a producer of title business;

20 (d) Spouse, parent or child of a producer of title insurance  
21 business who is a natural person;

22 (e) Person, other than a natural person, that controls, is  
23 controlled by, or is under common control with, a producer of title  
24 business;

25 (f) Person with whom a producer of title insurance business  
26 or any associate of the producer has an agreement, arrangement or  
27 understanding, or pursues a course of conduct, the purpose or effect  
28 of which is to provide financial benefits to that producer or  
29 associate for the referral of business;

30 (5) "Bona fide employee of the title insurer", an individual  
31 who devotes substantially all of his or her time to performing  
32 services on behalf of a title insurer and whose compensation for  
33 those services is in the form of salary or its equivalent paid by the  
34 title insurer;

35                   (6) "Control", including the terms "controlling", "controlled  
36                   by" and "under common control with", the possession, direct or  
37                   indirect, of the power to direct or cause the direction of the  
38                   management and policies of a person, whether through the  
39                   ownership of voting securities, by contract other than a commercial  
40                   contract for goods or nonmanagement services, or otherwise, unless  
41                   the power is the result of an official position or corporate office held  
42                   by the person. Control shall be presumed to exist if a person,  
43                   directly or indirectly, owns, controls, holds with the power to vote  
44                   or holds proxies representing ten percent or more of the voting  
45                   securities of another person. This presumption may be rebutted by  
46                   showing that control does not exist in fact. The director may  
47                   determine, after furnishing all persons in interest notice and  
48                   opportunity to be heard and making specific findings of fact to  
49                   support the determination, that control exists in fact,  
50                   notwithstanding the absence of a presumption to that effect;

51                   (7) "County" or "counties" includes any city not within a  
52                   county;

53                   (8) "Direct operations", that portion of a title insurer's  
54                   operations which are attributable to business written by a bona  
55                   fide employee;

56                   (9) "Director", the director of the department of insurance,  
57                   or the director's representatives;

58                   (10) "Escrow", written instruments, money or other items  
59                   deposited by one party with a depository, escrow agent or escrowee  
60                   for delivery to another party upon the performance of a specified  
61                   condition or the happening of a certain event;

62                   (11) "Escrow, settlement or closing fee", the consideration  
63                   for supervising or handling the actual execution, delivery or  
64                   recording of transfer and lien documents and for disbursing funds;

65                   (12) "Financial interest", a direct or indirect legal or  
66                   beneficial interest, where the holder is or will be entitled to five  
67                   percent or more of the net profits or net worth of the entity in  
68                   which the interest is held;

69                   (13) "Foreign title insurer", any title insurer incorporated  
70                   or organized pursuant to the laws of any other state of the United

States, the District of Columbia, or any other jurisdiction of the United States;

(14) "Geographically indexed or retrievable", a system of keeping recorded documents which includes as a component a method for discovery of the documents by:

(a) Searching an index arranged according to the description of the affected land; or

(b) An electronic search by description of the affected land;

(15) "Net retained liability", the total liability retained by a title insurer for a single risk, after taking into account any ceded liability and collateral, acceptable to the director, and maintained by the insurer;

(16) "Non-United States title insurer", any title insurer incorporated or organized pursuant to the laws of any foreign nation or any province or territory;

(17) "Premium", the consideration paid by or on behalf of the insured for the issuance of a title insurance policy or any endorsement or special coverage. It does not include consideration paid for settlement or escrow services or noninsurance-related information services;

(18) "Producer", any person, including any officer, director or owner of five percent or more of the equity or capital of any person, engaged in this state in the trade, business, occupation or profession of:

(a) Buying or selling interests in real property;

(b) Making loans secured by interests in real property; or

(c) Acting as broker, agent, representative or attorney of a person who buys or sells any interest in real property or who lends or borrows money with the interest as security;

(19) "Qualified depository institution", an institution that is:

(a) Organized or, in the case of a United States branch or agency office of a foreign banking organization, licensed pursuant to the laws of the United States or any state and has been granted authority to operate with fiduciary powers;

(b) Regulated, supervised and examined by federal or state

107 authorities having regulatory authority over banks and trust  
108 companies;

109 (c) Insured by the appropriate federal entity; and

110 (d) Qualified under any additional rules established by the  
111 director;

112 (20) "Referral", the directing or the exercising of any power  
113 or influence over the direction of title insurance business, whether  
114 or not the consent or approval of any other person is sought or  
115 obtained with respect to the referral;

116 (21) "Search", "search of the public records" or "search of  
117 title", a search of those records established by the laws of this state  
118 for the purpose of imparting constructive notice of matters relating  
119 to real property to purchasers for value and without knowledge;

120 (22) "Security" or "security deposit", funds or other property  
121 received by the title insurer as collateral to secure an indemnitor's  
122 obligation under an indemnity agreement pursuant to which the  
123 insurer is granted a perfected security interest in the collateral in  
124 exchange for agreeing to provide coverage in a title insurance  
125 policy for a specific title exception to coverage;

126 (23) "Subsidiary", an affiliate controlled by a person directly  
127 or indirectly through one or more intermediaries;

128 (24) "Title agency" means an authorized person who issues  
129 title insurance on behalf of a title insurer. An attorney licensed to  
130 practice law in this state who issues title insurance as a part of his  
131 or her law practice, but does not maintain or operate a title  
132 insurance business separate from such law practice is not a title  
133 agency;

134 (25) "Title agent" or "agent", an attorney licensed to  
135 practice law in this state who issues title insurance as part of his  
136 or her law practice, but who is not affiliated with or acting on  
137 behalf of a title agency, or an authorized person who, on behalf of  
138 a title agency or on behalf of a title agent not affiliated with a title  
139 agency, performs one or more of the following acts in conjunction  
140 with the issuance of a title insurance commitment or policy:

141 (a) Determines insurability, based upon a review of a search  
142 of title;

- 143 (b) Performs searches;
- 144 (c) Handles escrows, settlements or closings; or
- 145 (d) Solicits or negotiates title insurance business;
- 146 (26) "Title insurance business" or "business of title
- 147 insurance":
- 148 (a) Issuing as insurer or offering to issue as insurer a title
- 149 insurance policy;
- 150 (b) Transacting or proposing to transact by a title insurer
- 151 any of the following activities when conducted or performed in
- 152 contemplation of and in conjunction with the issuance of a title
- 153 insurance policy:
- 154 a. Soliciting or negotiating the issuance of a title insurance
- 155 policy;
- 156 b. Guaranteeing, warranting or otherwise insuring the
- 157 correctness of title searches for all instruments affecting titles to
- 158 real property, any interest in real property, cooperative units and
- 159 proprietary leases and for all liens or charges affecting the same;
- 160 c. Handling of escrows, settlements or closings;
- 161 d. Executing title insurance policies;
- 162 e. Effecting contracts of reinsurance; or
- 163 f. Abstracting, searching or examining titles;
- 164 (c) Guaranteeing, warranting or insuring searches or
- 165 examinations of title to real property or any interest in real
- 166 property;
- 167 (d) Guaranteeing or warranting the status of title as to
- 168 ownership of or liens on real property by any person other than the
- 169 principals to the transaction;
- 170 (e) Promising to purchase or repurchase for consideration
- 171 an indebtedness because of a title defect, whether or not involving
- 172 a transfer of risk to a third person; or
- 173 (f) Promising to indemnify the holder of a mortgage or deed
- 174 of trust against loss from the failure of the borrower to pay the
- 175 mortgage or deed of trust when due if the property fails to yield
- 176 sufficient proceeds upon foreclosure to satisfy the debt, when one
- 177 or both of the following conditions exist:
- 178 a. The security has been impaired by the discovery of a

179 previously unknown property interest in favor of one who is not  
180 liable for the payment of the mortgage or deed of trust; or

181 b. Perfection of the position of the mortgage or deed of trust  
182 which was assured to exist cannot be obtained, notwithstanding  
183 timely recordation with the recorder of deeds of the county in which  
184 the property is located; or

185 (g) Doing or proposing to do any business substantially  
186 equivalent to any of the activities listed in this subdivision in a  
187 manner designed to evade the provisions of this chapter;

188 (27) "Title insurance commitment" or "commitment", a  
189 preliminary report, commitment or binder issued prior to the  
190 issuance of a title insurance policy containing the terms,  
191 conditions, exceptions and other matters incorporated by reference  
192 under which the title insurer is willing to issue its title insurance  
193 policy. A title insurance commitment is not an abstract of title;

194 (28) "Title insurance policy" or "policy", a contract insuring  
195 or indemnifying owners of, or other persons lawfully interested in,  
196 real property or any interest in real property, against loss or  
197 damage arising from any or all of the following conditions existing  
198 on or before the policy date and not excepted or excluded:

199 (a) Title to the estate or interest in land being otherwise  
200 than as stated in the policy;

201 (b) Defects in or liens or encumbrances on the insured title;

202 (c) Unmarketability of the insured title;

203 (d) Lack of legal right of access to the land;

204 (e) Invalidity or unenforceability of the lien of an insured  
205 mortgage;

206 (f) The priority of a lien or encumbrance over the lien of any  
207 insured mortgage;

208 (g) The lack of priority of the lien of an insured mortgage  
209 over a statutory lien for services, labor or material;

210 (h) The invalidity or unenforceability of an assignment of  
211 the insured mortgage; or

212 (i) Rights or claims relating to the use of or title to the  
213 land;

214 (29) "Title insurer" or "insurer", a company organized



215 pursuant to laws of this state for the purpose of transacting the  
216 business of title insurance and any foreign or non-United States  
217 title insurer licensed in this state to transact the business of title  
218 insurance;

219 (30) "Title plant", a set of records encompassing at least the  
220 most recent forty-five years, consisting of documents, maps, surveys  
221 or entries affecting title to real property or any interest in or  
222 encumbrance on the property, which have been filed or recorded in  
223 the jurisdiction for which the title plant is established or  
224 maintained. The records in the title plant shall be geographically  
225 indexed or retrievable as to those records containing a legal  
226 description of affected land, and otherwise by name of affected  
227 person;

228 (31) "Underwrite", the authority to accept or reject risk on  
229 behalf of the title insurer.]

2 [381.011. 1. Sections 381.011 to 381.241 shall be known  
and may be cited as the "Missouri Title Insurance Act".

3 2. The purpose of sections 381.011 to 381.241 is to provide  
4 the state of Missouri with a comprehensive body of law for the  
5 effective regulation and supervision of title insurance business  
6 transacted within this state in response to the McCarran-Ferguson  
7 Act, Sections 1011-1015, Title 15, United States Code.]

2 [381.015. 1. When a title insurance commitment issued by  
a title insurer, title agency or title agent includes an offer to issue  
3 an owner's policy covering the resale of owner-occupied residential  
4 property, the commitment shall incorporate the following statement  
5 in bold type:

6 "Please read the exceptions and the terms shown or referred  
7 to herein carefully. The exceptions are meant to provide you with  
8 notice of matters which are not covered under the terms of the title  
9 insurance policy and should be carefully considered."

10 2. A title insurer, title agency or title agent issuing a  
11 lender's title insurance policy in conjunction with a mortgage loan  
12 made simultaneously with the purchase of all or part of the real  
13 estate securing the loan, where no owner's title insurance policy  
14 has been requested, shall give written notice, on a form prescribed

15 or approved by the director, to the purchaser-mortgagor at the time  
16 the commitment is prepared. The notice shall explain that a  
17 lender's title insurance policy is to be issued protecting the  
18 mortgage-lender, and that the policy does not provide title  
19 insurance protection to the purchaser-mortgagor as the owner of  
20 the property being purchased. The notice shall explain what a title  
21 policy insures against and what possible exposures exist for the  
22 purchaser- mortgagor that could be insured against through the  
23 purchase of an owner's policy. The notice shall also explain that  
24 the purchaser-mortgagor may obtain an owner's title insurance  
25 policy protecting the property owner at a specified cost or  
26 approximate cost, if the proposed coverages are or amount of  
27 insurance is not then known. A copy of the notice, signed by the  
28 purchaser-mortgagor, shall be retained in the relevant  
29 underwriting file at least fifteen years after the effective date of the  
30 policy.

31 3. Each violation of any provision of this section is a class  
32 C violation as that term is defined in section 381.045.]

[381.018. 1. The title insurer shall not allow the issuance  
2 of its commitments or policies by a title agency or title agent not  
3 affiliated with a title agency unless there is in force a written  
4 contract between the parties which sets forth the responsibilities  
5 of each party or, where both parties share responsibility for  
6 particular functions, specifies the division of responsibilities.

7 2. For each title agency or title agent not affiliated with a  
8 title agency under contract with the insurer, the title insurer shall  
9 have on file a statement of financial condition, of each title agency  
10 or title agent as of the end of the previous calendar or fiscal year  
11 setting forth an income statement of business done during the  
12 preceding year and a balance sheet showing the condition of its  
13 affairs as of the close of the prior year, certified by the agency or  
14 agent as being a true and accurate representation of the agency's  
15 or agent's financial condition. The statement shall be filed with  
16 the insurer no later than the date the agency's or agent's federal  
17 income tax return for the same year is filed. Attorneys actively  
18 engaged in the practice of law, in addition to that related to title

19 insurance business, are exempt from the requirements of this  
20 subsection.

21 3. The title insurer shall conduct reviews of the  
22 underwriting, claims and escrow practices of its agencies and  
23 agents which shall include a review of the agency's or agent's policy  
24 blank inventory and processing operations. If any such title agency  
25 or title agent does not maintain separate bank or trust accounts for  
26 each title insurer it represents, the title insurer shall verify that  
27 the funds held on its behalf are reasonably ascertainable from the  
28 books of account and records of the title agency or title agent not  
29 affiliated with a title agency. The title insurer shall conduct a  
30 review of each of its agencies and agents at least triennially  
31 commencing January first of the year first following January 1,  
32 2001.

33 4. Within thirty days of executing or terminating a contract  
34 with a title agency or title agent not affiliated with a title agency,  
35 the insurer shall provide notification of the appointment or  
36 termination and the reason for termination to the director. Notices  
37 of appointment of a title agency or title agent shall be made on a  
38 form promulgated by the director.

39 5. The title insurer shall maintain an inventory of all policy  
40 numbers allocated to each title agency or title agent not affiliated  
41 with a title agency.

42 6. The title insurer shall have on file proof that the title  
43 agency or title agent is licensed by this state.

44 7. The title insurer shall establish the underwriting  
45 guidelines and, where applicable, limitations on title claims  
46 settlement authority to be incorporated into contracts with its title  
47 agencies and title agents not affiliated with a title agency.

48 8. Each violation of any provision of this section is a class  
49 B violation as that term is defined in section 381.045.]

2 [381.021. 1. Sections 381.011 to 381.241 shall apply to all  
persons engaged in the business of title insurance in this state.

3 2. Except as otherwise expressly provided in sections  
4 381.011 to 381.241, and except where the context otherwise  
5 requires, all provisions of the insurance laws of this state applying

6 to insurance and insurance companies generally shall apply to title  
7 insurance and title insurance companies. No law of this state  
8 enacted after September 28, 1987, that is inconsistent with the  
9 provisions of such sections shall be applicable to the business of  
10 title insurance unless such law specifically states that it is to be  
11 applicable to the business of title insurance.

12 3. Nothing in sections 381.011 to 381.241 shall be construed  
13 to authorize the practice of law by any person who is not duly  
14 admitted to practice law in this state nor shall it be construed to  
15 authorize the director to regulate the practice of law or the sale of  
16 real estate.]

[381.022. 1. A title insurer, title agency or title agent not  
2 affiliated with a title agency may operate as an escrow, security,  
3 settlement or closing agent, provided that:

4 (1) All funds deposited with the title insurer, title agency  
5 or title agent not affiliated with a title agency in connection with  
6 any escrow, settlement, closing or security deposit shall be  
7 submitted for collection to or deposited in a separate fiduciary trust  
8 account or accounts in a qualified depository institution no later  
9 than the close of the next business day after receipt, in accordance  
10 with the following requirements:

11 (a) The funds shall be the property of the person or persons  
12 entitled to them under the provisions of the escrow, settlement,  
13 security deposit or closing agreement and shall be segregated for  
14 each depository by escrow, settlement, security deposit or closing  
15 in the records of the title insurer, title agency or title agent not  
16 affiliated with a title agency, in a manner that permits the funds  
17 to be identified on an individual basis and in accordance with the  
18 terms of the individual instructions or agreements under which the  
19 funds were accepted; and

20 (b) The funds shall be applied only in accordance with the  
21 terms of the individual instructions or agreements under which the  
22 funds were accepted;

23 (2) Funds held in an escrow account shall be disbursed only  
24 pursuant to a written instruction or agreement specifying under  
25 what conditions and to whom such funds may be disbursed or

26 pursuant to an order of a court of competent jurisdiction;

27 (3) Funds held in a security deposit account shall be  
28 disbursed only pursuant to a written agreement specifying:

29 (a) What actions the indemnitor shall take to satisfy his or  
30 her obligation under the agreement;

31 (b) The duties of the title insurer, title agency or title agent  
32 not affiliated with a title agency with respect to disposition of the  
33 funds held, including a requirement to maintain evidence of the  
34 disposition of the title exception before any balance may be paid  
35 over to the depositing party or his or her designee; and

36 (c) Any other provisions the director may require;

37 (4) Any interest received on funds deposited in connection  
38 with any escrow, settlement, security deposit or closing may be  
39 retained by the title insurer, title agency or title agent not  
40 affiliated with a title agency as compensation for administration of  
41 the escrow or security deposit, unless the instructions for the funds  
42 or a governing statute provides otherwise;

43 (5) Each violation of this subsection is a class A violation  
44 as that term is defined in section 381.045.

45 2. The title agency or title agent not affiliated with an  
46 agency shall cooperate with its underwriters in the conduct by the  
47 underwriters of reviews of the agency's or agent's escrow,  
48 settlement, closing and security deposit accounts. The title insurer  
49 shall provide a copy of the report of each such review it performs  
50 to the director. The director may promulgate rules setting forth  
51 the minimum threshold level at which a review would be required,  
52 the standards thereof and the form of report required.

53 3. If the title agency or title agent not affiliated with an  
54 agency is appointed by two or more title insurers and maintains  
55 fiduciary trust accounts in connection with providing escrow or  
56 closing settlement services, the title agency or title agent shall  
57 allow each title insurer reasonable access to the accounts and any  
58 or all of the supporting account information in order to ascertain  
59 the safety and security of the funds held by the title agency or title  
60 agent.

61 4. (1) Nothing in this chapter shall be deemed to prohibit

62 the recording of documents prior to the time funds are available for  
63 disbursement with respect to a transaction in which a title insurer,  
64 title agency or title agent not affiliated with a title agency is the  
65 settlement agent, provided all parties to whom payment will  
66 become due upon such recording consent thereto in writing.

67 (2) The settlement agent shall record all deeds and security  
68 instruments for real estate closings handled by it within three  
69 business days after completion of all conditions precedent thereto.

70 (3) Each violation of this subsection is a class C violation  
71 as that term is defined in section 381.045.]

[381.025. 1. A title insurer, title agency, title agent or  
2 other person shall not give or receive, directly or indirectly, any  
3 consideration for the referral of title insurance business or escrow  
4 or other service provided by a title insurer, title agency or title  
5 agent. Each violation of this subsection is a class A violation as  
6 that term is defined in section 381.045.

7 2. Any title insurer, title agency or title agent doing  
8 business in the same county as a title insurer, title agency or title  
9 agent who may be in violation of the prohibitions or limitations of  
10 this section shall have standing to seek injunctive relief against the  
11 violating title insurer, title agency or title agent in the event the  
12 department declines or fails to enforce this section within forty-five  
13 days following receipt of written notice of such violation. In any  
14 action pursuant to this subsection, the court may award to the  
15 successful party the court costs of the action together with  
16 reasonable attorney fees.]

[381.028. No title insurer, title agency or title agent shall  
2 participate in any transaction in which it knows that a producer or  
3 other person requires, directly or indirectly, or through any trustee,  
4 director, officer, agent, employee or affiliate, as a condition,  
5 agreement or understanding to selling or furnishing any other  
6 person a loan, or loan extension, credit, sale, property, contract,  
7 lease or service, that the other person shall place a title insurance  
8 policy of any kind with the title insurer or through a particular  
9 title agency or agent. Each violation of this section is a class A  
10 violation as that term is defined in section 381.045.]

[381.031. As used in sections 381.011 to 381.241, the following terms mean:

(1) "Alien title insurer", any title insurer incorporated or organized under the laws of any foreign nation or any province or territory thereof;

(2) "Applicant", a person, whether or not a prospective insured, who applies to a title insurer or title agent, or agency for a title insurance policy and who, at the time of the application, is not a title agent or agency;

(3) "Approved attorney", an attorney at law who is not an agent or employee of a title insurer, and whose certification as to status of title a title insurer is willing to accept as the basis for issuance of its title insurance policy;

(4) "Charge", any fee billed by a title agent, agency, or title insurer for the performance of services other than fees that fall within the definition of premium in this section. "Charge" includes, but is not limited to, fees for document preparation, fees for the handling of escrows, settlements, or closing, and fees for services commenced but not completed. "Charge" does not include fees collected by a title insurer, title agency, or title agent in an escrow, settlement or closing when the fees are limited to the amount billed for services rendered by an entity independent of the title insurer, title agent, or agency;

(5) "Controlled business", any portion of a title insurer's, title agency's or title agent's business of title insurance in this state, referred to it by any producer of title business or by any associate of such producer, where the producer of title business, the associate, or both, have a financial interest in the title insurer, title agency, or title agent to which business is referred;

(6) "Director", the director of the department of insurance;

(7) "Domestic title insurer", a title insurer organized under the laws of this state;

(8) "Escrow, settlement or closing fee", the consideration for supervising the actual execution, delivery or recording of transfer and lien documents and for disbursing funds;

(9) "Financial interest", any interest, legal or beneficial,

37 that entitles the holder directly or indirectly to one percent or more  
38 of the net profits or net worth of the entity in which the interest is  
39 held, but does not include payments of principal or interest made  
40 to a mortgage holder of the title agency;

41 (10) "Foreign title insurer", any title insurer organized  
42 under the laws of any other state of the United States, the District  
43 of Columbia, or any other jurisdiction of the United States;

44 (11) "Gross operating revenue", all amounts received by a  
45 title insurer, title agency, or title agent from premiums and  
46 charges;

47 (12) "Net retained liability", the total liability retained by  
48 a title insurer for a single risk, after taking into account the  
49 deduction for ceded reinsured liability, if any;

50 (13) "Person", any natural person, partnership, association,  
51 cooperative, corporation, trust, or other legal entity;

52 (14) "Premium", risk rates charged to the insured;

53 (15) "Producer of title business" or "producer", any person,  
54 including any officer, director, or owner of five percent or more of  
55 the equity or capital of any person, engaged in this state in the  
56 trade, business, occupation or profession of:

57 (a) Buying or selling interests in real property;

58 (b) Making loans secured by interests in real property; or

59 (c) Acting as broker, agent, representative or attorney of a  
60 person who buys or sells any interest in real property or who lends  
61 or borrows money with such interest as security;

62 (16) "Single risk", the insured amount of any title insurance  
63 policy, except that where two or more title insurance policies are  
64 issued simultaneously covering different estates in the same real  
65 property, "single risk" means the sum of the insured amounts of all  
66 such title insurance policies. Any title insurance policy insuring a  
67 mortgage interest, a payment under which reduces the insured  
68 amount of a fee or leasehold title insurance policy, shall be  
69 excluded in computing the amount of a single risk to the extent  
70 that the insured amount of the mortgagee title insurance policy  
71 does not exceed the insured amount of the fee or leasehold title  
72 insurance policy;



(17) "Title agent" or "title insurance agent", any authorized agent of a title insurer or representative of the title agent or agency, who acts as a title agent in the solicitation of, negotiation for, or procurement or making of any title insurance contract. The following persons are not title agents or title insurance agents:

(a) Approved attorneys;

(b) Salaried officers or employees of title insurers, title agents or title insurance agencies who do not do any of the following:

a. Establish premiums for policies of title insurance;

b. Determine insurability; or

c. Issue commitments, policies or other contracts of title insurance;

(18) "Title insurance agency" or "agency", any individual transacting or doing business under any name other than his true name, any partnership, unincorporated association or corporation, transacting or doing business with the public or title insurance companies as a title insurance agent;

(19) "Title insurance business" or "business of title insurance" means:

(a) Issuing as insurer or offering to issue as insurer a title insurance policy;

(b) Transacting or proposing to transact by a title insurer, title agency, or title agent any of the following activities when conducted or performed by a title agent, title agency, or title insurer in conjunction with the issuance of its title insurance:

a. Soliciting or negotiating the issuance of a title insurance policy;

b. Guaranteeing, warranting, or otherwise insuring the correctness of title searches;

c. Handling of escrows, settlements, or closings;

d. Execution of title insurance policies, reports, commitments, binders, and endorsements;

e. Effecting contracts of reinsurance; or

f. Abstracting, searching, or examining titles;

(c) Transacting by a title insurer, title agent, or agency of

109 matters subsequent to the issuance of a title insurance policy and  
110 arising out of it; or

111 (d) Doing or proposing to do any business in substance  
112 equivalent to any of the foregoing in order to evade any provision  
113 of this act;

114 (20) "Title insurance policy" or "policy", a contract insuring  
115 or indemnifying against loss or damage arising from any or all of  
116 the following:

117 (a) Defects in or liens or encumbrances on the insured title;

118 (b) Unmarketability of the insured title; or

119 (c) Invalidity or unenforceability of liens or encumbrances  
120 on the stated property.

121 "Title insurance policy" does not include a preliminary report,  
122 binder, commitment, or abstract;

123 (21) "Title insurer", a company organized under laws of this  
124 state for the purpose of transacting as insurer the business of title  
125 insurance and any foreign or alien title insurer engaged in this  
126 state in the business of title insurance as insurer;

127 (22) "Title plant", an index of the records of a county which  
128 imparts constructive notice to purchasers of real property, which  
129 encompasses at least the most recent forty-five years. The index  
130 shall be kept geographically as to those records containing a legal  
131 description of affected land, and otherwise by name of affected  
132 person.]

[381.032. 1. No title insurer, may charge any rates  
2 regulated by the state after January 1, 2001, except in accordance  
3 with the premium rate schedule and manual filed with and  
4 approved by the director in accordance with applicable statutes and  
5 regulations governing rate filings. Premium rate schedules in  
6 effect prior to January 1, 2001, may be used until new rate  
7 schedules have been approved by the director. Title insurers shall  
8 file their premium rate schedules within thirty days after January  
9 1, 2001. Each violation of this subsection is a class C violation as  
10 that term is defined in section 381.045. Nothing in this section  
11 shall prevent an agent not affiliated with an agency from charging  
12 for services that constitute the practice of law at the customary fee

13 charged by such person for legal services. To the extent the  
14 premium fails to compensate the agent at such rate, the agent may  
15 render an additional bill for such services on behalf of the agent's  
16 law practice or law firm. The acceptance of any part of the  
17 premium by the law firm of said agent shall not be a violation of  
18 any provision of the Missouri title insurance act or the general  
19 insurance statutes, regulations or bulletins regarding payment of  
20 commissions to nonlicensed entities.

21 2. The director may establish rules, including rules  
22 providing statistical plans, for use by all title insurers, title  
23 agencies and title agents in the recording and reporting of revenue,  
24 loss and expense experience in such form and detail as is necessary  
25 to aid the director in the establishment of rates and fees.

26 3. The director may require that the information provided  
27 pursuant to this section be verified by oath of the insurer's or  
28 agency's president or vice president or secretary or actuary, as  
29 applicable. The director may further require that the information  
30 required pursuant to this section be subject to an audit conducted  
31 at the expense of the title insurer or title agency by an independent  
32 certified public accountant. The director shall have the authority  
33 to establish a minimum threshold level at which an audit would be  
34 required.

35 4. Information filed with the director relating to the  
36 experience of a particular agency shall be kept confidential unless  
37 the director finds it in the public interest to disclose the  
38 information required of title insurers or title agencies pursuant to  
39 this section. Prior to any such disclosure of confidential  
40 information, the director shall provide notice and opportunity to be  
41 heard to the title insurers and title agencies who would be affected  
42 thereby.]

[381.035. No title insurance company, title agency or title  
2 agent shall willfully withhold information from, or knowingly give  
3 false or misleading information to the director, or to any title  
4 insurance rating organization, of which the title insurance company  
5 is a member or subscriber, which will affect the rates or fees  
6 chargeable pursuant to this chapter. Each violation of this section

7 is a class A violation as that term is defined in section 381.045.]

8 [381.038. 1. Evidence of the examination of title and  
9 determination of insurability generated by a title insurer engaged  
10 in direct operations, title agency or title agent shall be preserved  
11 and maintained by such insurer, agency or agent for as long as  
12 appropriate to the circumstances but in no event less than fifteen  
13 years after the title insurance policy has been issued.

14 2. Records relating to escrow and security deposits shall be  
15 preserved and retained by a title insurer engaged in direct  
16 operations, title agency and title agent for as long as appropriate  
17 to the circumstances but in no event less than five years after the  
18 escrow or security deposit account has been closed.

19 3. This section shall not apply to a title insurer acting as  
20 coinsurer if one of the other coinsurers has complied with this  
21 section.

22 4. Each violation of any provision of this section is a class  
23 C violation as that term is defined in section 381.045.]

24 [381.041. 1. No person other than a domestic, foreign, or  
25 alien title insurer organized on the stock plan and duly licensed by  
26 the director shall transact title insurance business as an insurer in  
27 this state.

28 2. Each title insurer may engage in the title insurance  
29 business in this state if licensed to do so by the director and  
30 provide any other service related or incidental to the sale and  
31 transfer or financing of property.

32 3. A title insurer shall maintain a minimum paid-in capital  
33 of not less than four hundred thousand dollars and, in addition,  
34 paid-in initial surplus of at least four hundred thousand dollars.]

35 [381.042. 1. The director may issue rules, regulations and  
36 orders necessary to carry out the provisions of this chapter.

37 2. No rule or portion of a rule promulgated pursuant to the  
38 authority of this chapter shall become effective unless it has been  
39 promulgated pursuant to the provisions of chapter 536, RSMo.]

40 [381.045. 1. If the director determines that the title insurer  
41 or any other person has violated this chapter, or any regulation or  
42 order promulgated thereunder, after notice and opportunity to be

4 heard, the director may order:

5 (1) For each violation a monetary penalty which shall take  
6 into account the harm the violation caused or could have caused or  
7 potential harm to the public and which shall not exceed:

8 (a) One thousand dollars per violation for a class A  
9 violation;

10 (b) Five hundred dollars per violation for a class B  
11 violation; and

12 (c) One hundred dollars per violation for a class C violation;

13 (2) Revocation or suspension of the title insurer's license;  
14 or

15 (3) Both monetary penalty and revocation or suspension.

16 2. Nothing contained in this section shall affect the right of  
17 the director to impose any other penalties provided for in the  
18 insurance code.

19 3. Nothing contained in this chapter is intended to or shall  
20 in any other manner limit or restrict the rights of policyholders,  
21 claimants and creditors.]

[381.048. The director may bring an action in a court of  
2 competent jurisdiction to enjoin violations of the Real Estate  
3 Settlement Procedures Act, 12 U.S.C. Section 2607, as amended.]

[381.051. 1. A title insurer, before issuing any title  
2 insurance policy covering property located in this state, shall  
3 deposit with the director of the department of insurance,  
4 hereinafter referred to as the director, a sum of four hundred  
5 thousand dollars, which shall be held for the security and  
6 protection of the holders or beneficiaries under its title insurance  
7 policies.

8 2. Assets deposited pursuant to this section may, with the  
9 approval of the director, be exchanged from time to time for other  
10 assets that qualify under subsection 3 of this section.

11 3. The depositing title insurer shall receive the income,  
12 interests, and dividends on any assets deposited. The deposit  
13 required under this section may be made in legal tender or in  
14 investments now or hereafter permitted to domestic life insurers  
15 with regard to their capital, reserve and surplus. For capital and

16 reserve deposits, sums deposited pursuant to this section shall be  
17 valued at their market value.

18 4. A title insurer that has deposited assets pursuant to this  
19 section may, with the approval of the director, withdraw any part  
20 of the assets so deposited. If any such title insurer continues to  
21 engage in the business of title insurance, it shall not be permitted  
22 to withdraw assets that would reduce the amount of its deposits  
23 below the amount required by subsection 1 of this section.

24 5. In lieu of such a deposit maintained in this state, the  
25 director shall accept a certificate or certificates in proper form of  
26 the public officer or officers having general supervision of title  
27 insurers in its state of domicile to the effect that a deposit or total  
28 deposits, in an equal or greater amount, in classes of investment  
29 authorized in such state, are being maintained for like purposes in  
30 public custody or control pursuant to the laws of such state on  
31 behalf of the title insurer.

32 6. If sections 381.011 to 381.241 require a greater amount  
33 of capital and surplus or deposits than that required of a title  
34 insurer prior to September 28, 1987, such title insurer shall have  
35 three years after September 28, 1987, to comply with any such  
36 increased requirement.

37 7. The provisions of sections 375.950 to 375.990, RSMo,  
38 shall apply to the impairment of capital, liquidation, and  
39 rehabilitation of title insurers.]

2 [381.052. No person other than a domestic, foreign or  
3 non-United States title insurer organized on the stock plan and  
4 duly licensed by the director shall transact title insurance business  
as an insurer in this state.]

2 [381.055. Subject to the exceptions and restrictions  
contained in this chapter, a title insurer shall have the power to:

- 3 (1) Do only title insurance business;
- 4 (2) Reinsure title insurance policies; and
- 5 (3) Perform ancillary activities, unless prohibited by the  
6 director, including examining titles to real property and any  
7 interest in real property and procuring and furnishing related  
8 information and information about relevant personal property,

9 when not in contemplation of, or in conjunction with, the issuance  
10 of a title insurance policy.]

[381.058. 1. No insurer that transacts any class, type or  
2 kind of business other than title insurance shall be eligible for the  
3 issuance or renewal of a license to transact the business of title  
4 insurance in this state nor shall title insurance be transacted,  
5 underwritten or issued by any insurer transacting or licensed to  
6 transact any other class, type or kind of business.

7 2. A title insurer shall not engage in the business of  
8 guaranteeing payment of the principal or the interest of bonds or  
9 mortgages.

10 3. (1) Notwithstanding subsection 1 of this section, and to  
11 the extent such coverage is lawful within this state, a title insurer  
12 is expressly authorized to issue closing or settlement protection to  
13 a proposed insured upon request if the title insurer issues a  
14 commitment, binder or title insurance policy. Such closing or  
15 settlement protection shall conform to the terms of coverage and  
16 form of instrument as required by the director and may indemnify  
17 a proposed insured solely against loss of settlement funds only  
18 because of the following acts of a title insurer's named title agency  
19 or title agent:

20 (a) Theft of settlement funds; and

21 (b) Failure to comply with written closing instructions by  
22 the proposed insured when agreed to by the title agency or title  
23 agent relating to title insurance coverage.

24 (2) The director may promulgate or approve a required  
25 charge for providing the coverage.

26 (3) A title insurer shall not provide any other coverage  
27 which purports to indemnify against improper acts or omissions of  
28 a person with regard to escrow, settlement, or closing services.]

[381.061. 1. The net retained liability of a title insurer for  
2 a single risk on property located in this state, whether assumed  
3 directly or as reinsurance, may not exceed fifty percent of the sum  
4 of its total surplus to policyholders and unearned premium reserve,  
5 less the admitted asset value assigned to title plants, as shown in  
6 the most recent annual statement of the title insurer on file in the

7 office of the director.

8 2. The director may waive the limitation of this section for  
9 a particular risk upon application of the title insurer and for good  
10 cause shown.]

[381.062. Before being licensed to do an insurance business  
2 in this state, a title insurer shall establish and maintain a  
3 minimum paid-in capital of not less than four hundred thousand  
4 dollars and, in addition, paid-in initial surplus of at least four  
5 hundred thousand dollars.]

[381.065. 1. The net retained liability of a title insurer for  
2 a single risk in regard to property located in this state, whether  
3 assumed directly or as reinsurance, shall not exceed the aggregate  
4 of fifty percent of surplus as regards policyholders plus the  
5 statutory premium reserve less the company's investment in title  
6 plants, all as shown in the most recent annual statement of the  
7 insurer on file with the director.

8 2. For purposes of this chapter:

9 (1) A single risk shall be the insured amount of any title  
10 insurance policy, except that, where two or more title insurance  
11 policies are issued simultaneously covering different estates in the  
12 same real property, a single risk shall be the sum of the insured  
13 amounts of all the title insurance policies; and

14 (2) A policy under which a claim payment reduces the  
15 amount of insurance under one or more other title insurance  
16 policies shall be included in computing the single risk sum only to  
17 the extent that its amount exceeds the aggregate amount of the  
18 policy or policies whose amount of insurance is reduced.

19 3. A title insurer may obtain reinsurance for all or any part  
20 of its liability under its title insurance policies or reinsurance  
21 agreements and may also reinsure title insurance policies issued  
22 by other title insurers on single risks located in this state or  
23 elsewhere. Reinsurance on policies issued on properties located in  
24 this state may be obtained from any title insurers licensed to  
25 transact title insurance business in this state, any other state, or  
26 the District of Columbia and which have a combined capital and  
27 surplus of at least eight hundred thousand dollars.



28                   4. The director may waive the limitation of this section for  
29                   a particular risk upon application of the title insurer and for good  
30                   cause shown.]

                  [381.068. In determining the financial condition of a title  
2                   insurer doing business pursuant to this chapter, the general  
3                   investment provisions of sections 376.300 to 376.305, RSMo, shall  
4                   apply; except that, an investment in a title plant or plants in an  
5                   amount equal to the actual cost shall be allowed as an admitted  
6                   asset for title insurers. The aggregate amount of the investment  
7                   shall not exceed fifty percent of surplus to policyholders, as shown  
8                   on the most recent annual statement of the title insurer on file  
9                   with the director.]

                  [381.072. In determining the financial condition of a title  
2                   insurer doing business pursuant to this chapter, the general  
3                   provisions of the insurance code requiring the establishment of  
4                   reserves sufficient to cover all known and unknown liabilities  
5                   including allocated and unallocated loss adjustment expense, shall  
6                   apply; except that, a title insurer shall establish and maintain:

7                   (1) (a) A known claim reserve in an amount estimated to  
8                   be sufficient to cover all unpaid losses, claims and allocated loss  
9                   adjustment expenses arising under title insurance policies for  
10                  which the title insurer may be liable, and for which the insurer has  
11                  discovered or received notice by or on behalf of the insured or  
12                  escrow or security depositor;

13               (b) Upon receiving notice from or on behalf of the insured  
14               of a title defect in or lien or adverse claim against the title of the  
15               insured that may result in a loss or cause expense to be incurred  
16               in the proper disposition of the claim, the title insurer shall  
17               determine the amount to be added to the reserve, which amount  
18               shall reflect a careful estimate of the loss or loss expense likely to  
19               result by reason of the claim;

20               (c) Reserves required pursuant to this section may be  
21               revised from time to time and shall be redetermined at least once  
22               each year;

23               (2) A statutory or unearned premium reserve established  
24               and maintained as follows:

25 (a) A domestic title insurer shall establish and maintain an  
26 unearned premium reserve computed in accordance with this  
27 section, and all sums attributed to such reserve shall at all times  
28 and for all purposes be considered and constitute unearned  
29 portions of the original premiums. This reserve shall be reported  
30 as a liability of the title insurer in its financial statements;

31 (b) The unearned premium reserve shall be maintained by  
32 the title insurer for the protection of holders of title insurance  
33 policies. Except as provided in this section, assets equal in value  
34 to the reserve are not subject to distribution among creditors or  
35 stockholders of the title insurer until all claims of policyholders or  
36 claims under reinsurance contracts have been paid in full, and all  
37 liability on the policies or reinsurance contracts has been paid in  
38 full and discharged or lawfully reinsured;

39 (c) The unearned premium reserve shall consist of:

40 a. The amount of the unearned premium reserve on  
41 January 1, 2001; and

42 b. A sum equal to fifteen cents for each one thousand  
43 dollars of net retained liability under each title insurance policy,  
44 excluding mortgagee's policies simultaneously issued with owner's  
45 policies or owner's leasehold policies of the same or greater  
46 amount, on a single risk written on properties located in this state  
47 and issued after January 1, 2001;

48 (d) Amounts placed in the unearned premium reserve in  
49 any year in accordance with paragraph (c) of this subdivision shall  
50 be deducted in determining the net profit of the title insurer for  
51 that year;

52 (e) A title insurer shall release from the unearned premium  
53 reserve a sum equal to ten percent of the amount added to the  
54 reserve during a calendar year on July first of each of the five  
55 years following the year in which the sum was added, and shall  
56 release from the unearned premium reserve a sum equal to three  
57 and one-third percent of the amount added to the reserve during  
58 that year on each succeeding July first until the entire amount for  
59 that year has been released. The amount of the unearned premium  
60 reserve or similar unearned premium reserve maintained before

January 1, 2001, shall be released in accordance with the law in effect immediately before January 1, 2001;

(f) a. Each domestic and foreign title insurer shall file annually with the audited financial report required pursuant to section 375.1032, RSMo, an actuarial certificate made by a member in good standing of the American Academy of Actuaries, or by an actuary permitted to make such certificate by the commissioner, superintendent or director of the department of insurance of the state of incorporation of a foreign title insurer;

b. The actuarial certification shall conform to the annual statement instructions for title insurers adopted by the National Association of Insurance Commissioners and shall include the actuary's professional opinion of the insurer's reserves as of the date of the annual statement. The reserves analyzed pursuant to this section shall include reserves for known claims, including adverse developments on known claims, and reserves for incurred but not reported claims;

(g) a. Each domestic and foreign title insurer shall establish a supplemental reserve in the amount by which the actuarially certified reserves exceed the total of the known claim reserve and statutory premium reserve as set forth in the title insurer's annual financial report, subject to this subdivision;

b. The supplemental reserve required pursuant to this section shall be phased in as follows:

i. Twenty-five percent of the otherwise applicable supplemental reserve is required until December thirty-first of the year next following January 1, 2001;

ii. Fifty percent of the otherwise applicable supplemental reserve is required until December thirty-first of the second year following January 1, 2001;

iii. Seventy-five percent of the otherwise applicable supplemental reserve is required until December thirty-first of the third year following January 1, 2001;

iv. One hundred percent of the supplemental reserve is required after December thirty-first of the fourth year following January 1, 2001.]

[381.075. 1. Sections 375.570 to 375.750, RSMo, and sections 375.1150 to 375.1246, RSMo, shall apply to all title insurers subject to the title insurance act, except as otherwise provided in this section. In applying such sections, the court shall consider the unique aspects of title insurance and shall have broad authority to fashion relief that provides for the maximum protection of the title insurance policyholders.

2. Security and escrow funds held by or on behalf of the title insurer shall not become general assets and shall be administered as secured claims as defined in section 375.1152, RSMo.

3. Title insurance policies that are in force at the time an order of liquidation is entered shall not be canceled except upon a showing to the court of good cause by the liquidator. The determination of good cause shall be within the discretion of the court. In making this determination, the court shall consider the unique aspects of title insurance and all other relevant circumstances.

4. The court may set appropriate dates that potential claimants must file their claims with the liquidator. The court may set different dates for claims based upon the title insurance policy than for all other claims. In setting dates, the court shall consider the unique aspects of title insurance and all other relevant circumstances.

5. As of the date of the order of insolvency or liquidation, all premiums paid, due or to become due under policies of the title insurers, shall be fully earned. It shall be the obligation of title agencies, title agents, insureds or representatives of the title insurer to pay fully earned premium to the liquidator or rehabilitator.]

[381.078. A title insurer shall only declare or distribute a dividend to shareholders with the prior written approval of the director, as would be permitted pursuant to subdivision (1) of subsection 1 of section 382.210, RSMo.]

[381.081. 1. A domestic title insurer shall establish and maintain an unearned premium reserve computed in accordance

3 with this section, and all sums attributed to such reserve shall at  
4 all times and for all purposes be considered and constitute  
5 unearned portions of the original premiums. This reserve shall be  
6 reported as a liability of the title insurer in its financial  
7 statements.

8 2. The unearned premium reserve shall be maintained by  
9 the title insurer for the protection of holders of title insurance  
10 policies. Except as provided in this section, assets equal in value  
11 to the reserve are not subject to distribution among creditors or  
12 stockholders of the title insurer until all claims of policyholders or  
13 claims under reinsurance contracts have been paid in full, and all  
14 liability on the policies or reinsurance contracts has been paid in  
15 full and discharged or lawfully reinsured.

16 3. A foreign or alien title insurer licensed to transact title  
17 insurance business in this state shall maintain at least the same  
18 reserves on title insurance policies issued on properties located in  
19 this state as are required of domestic title insurers, unless the laws  
20 of the jurisdiction of domicile of the foreign or alien title insurer  
21 require a higher amount.

22 4. The unearned premium reserve shall consist of:

23 (1) The amount of the unearned premium reserve on  
24 September 28, 1987; and

25 (2) A sum equal to fifteen cents for each one thousand  
26 dollars of net retained liability under each title insurance policy,  
27 excluding mortgagee's policies simultaneously issued with owner's  
28 policies or owner's leasehold policies of the same or greater  
29 amount, on a single risk written on properties located in this state  
30 and issued after September 28, 1987.

31 5. Amounts placed in the unearned premium reserve in any  
32 year in accordance with subdivision (2) of subsection 4 of this  
33 section shall be deducted in determining the net profit of the title  
34 insurer for that year.

35 6. A title insurer shall release from the unearned premium  
36 reserve a sum equal to ten percent of the amount added to the  
37 reserve during a calendar year on July first of each of the five  
38 years following the year in which the sum was added, and shall

39 release from the unearned premium reserve a sum equal to three  
40 and one-third percent of the amount added to the reserve during  
41 that year on each succeeding July first until the entire amount for  
42 that year has been released. The amount of the unearned premium  
43 reserve or similar unearned premium reserve maintained before  
44 September 28, 1987, shall be released in accordance with the law  
45 in effect immediately before September 28, 1987.]

[381.085. 1. A title insurer or authorized rate service  
2 organization shall not deliver or issue for delivery or permit any of  
3 its authorized title agencies or title agents to deliver in this state,  
4 any form, in connection with title insurance written, unless it has  
5 been filed with the director and approved by the director or thirty  
6 days have elapsed and it has not been disapproved as misleading  
7 or violative of public policy. Each violation of this subsection is a  
8 class C violation as that term is defined in section 381.045.

9 2. Forms covered by this section shall include:

10 (1) Title insurance policies, including standard form  
11 endorsements; and

12 (2) Title insurance commitments issued prior to the  
13 issuance of a title insurance policy.

14 3. After notice and opportunity to be heard are given to the  
15 insurer or rate service organization which submitted a form for  
16 approval, the director may withdraw approval of the form on  
17 finding that the use of the form is contrary to the legal  
18 requirements applicable at the time of withdrawal. The effective  
19 date of withdrawal of approval shall not be less than ninety days  
20 after notice of withdrawal is given.

21 4. Any term or condition related to an insurance coverage  
22 provided by an approved title insurance policy or any exception to  
23 the coverage, except those ascertained from a search and  
24 examination of records relating to a title or inspection or survey of  
25 a property to be insured, may only be included in the policy after  
26 the term, condition or exception has been filed with the director  
27 and approved as herein provided.]

[381.088. 1. A title insurer may satisfy its obligation to file  
2 premium rates, rating manuals and forms as required by this

chapter by becoming a member of, or a subscriber to, a rate service organization, organized and licensed pursuant to the provisions of this chapter, where the organization makes the filings, and by authorizing the director in writing to accept the filings on the insurer's behalf.

2. Nothing in this chapter shall be construed as requiring any title insurer, title agency or title agent to become a member of, or a subscriber to, any rate service organization. Nothing in this chapter shall be construed as prohibiting the filing of deviations from rate service organization filings by any member or subscriber.]

[381.091. 1. If a domestic title insurer becomes insolvent, is in the process of liquidation or dissolution, or is in the possession of the director:

(1) Such amount of the assets of such title insurer equal to the unearned premium reserve then remaining may be used by or with the written approval of the director to pay for reinsurance of the liability of such title insurer upon all outstanding title insurance policies or reinsurance agreements to the extent to which claims for losses by the holders thereof are not then pending. The balance of assets, if any, equal to the unearned premium reserve, may then be transferred to the general assets of the title insurer;

(2) The net assets of the unearned premium reserve shall be available to pay claims for losses sustained by holders of title insurance policies then pending or arising up to the time reinsurance is effected. If claims for losses exceed such other assets of the title insurer, such claims, when established, shall be paid pro rata out of the surplus assets attributable to the unearned premium reserve to the extent of such surplus, if any.

2. If reinsurance is not obtained, assets equal to the unearned premium reserve and assets constituting minimum capital, or so much as remains thereof after outstanding claims have been paid, shall constitute a trust fund to be held and invested by the director for twenty years, out of which claims of policyholders shall be paid as they arise. The balance, if any, of the trust fund shall, at the expiration of twenty years, revert to the

26 general assets of the title insurer.]

[381.092. 1. Every title insurer that shall propose its own  
2 premium rates and every title insurance rating organization shall  
3 propose premium rates that are not excessive nor inadequate for  
4 the safety and soundness of any title insurer, which do not unfairly  
5 discriminate between risks in this state which involve essentially  
6 the same exposure to loss and expense elements, and which shall  
7 give due consideration to the following matters:

8 (1) The desirability for stability and responsiveness of rate  
9 structures;

10 (2) The necessity of assuring the financial solvency of title  
11 insurance companies in periods of economic depression;

12 (3) The necessity for paying dividends on the capital stock  
13 of title insurance companies sufficient to induce capital to be  
14 invested therein; and

15 (4) A reasonable level of profit for the insurer.

16 2. Every title insurer that shall propose its own rates and  
17 every title insurance rating organization may adopt basic  
18 classifications of policies or contracts of title insurance which shall  
19 be used as the basis for rates.]

[381.095. 1. If the director shall find in his review of rate  
2 filings that the filings provide for, result in, or produce rates that  
3 are not unreasonably high, and are not inadequate for the safeness  
4 and soundness of the insurer, and are not unfairly discriminatory  
5 between risks in this state involving essentially the same hazards  
6 and expense elements, the director shall approve such rates. Prior  
7 to such approval the director may conduct a public hearing with  
8 respect to a rate filing. An approval shall continue in effect until  
9 the director shall issue an order of disapproval pursuant to the  
10 requirements and procedure provided for in subsections 2 and 3 of  
11 this section.

12 2. Upon the review at any time by the director of a rate  
13 filing, the director shall, before issuing an order of disapproval,  
14 hold a hearing upon not less than ten days' written notice,  
15 specifying in reasonable detail the matters to be considered at such  
16 hearing, to every title insurer and title insurance rating



organization which made such filing, and if, after such hearing, the director finds that such filing or a part thereof does not meet the requirements of this chapter, the director shall issue an order specifying in what respects the director finds that it so fails, and stating when, within a reasonable period thereafter, such filing or a part thereof shall be deemed no longer effective. A title insurer or title insurance rating organization shall have the right at any time to withdraw a filing or a part thereof, subject to the provisions of section 381.102, in the case of deviation filing. Copies of the order shall be sent to every title insurer and title insurance rating organization affected. The order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in the order.

3. Any person or organization aggrieved with respect to any filing which is in effect may make written application to the director for a hearing thereon. The title insurance company or title insurance rating organization that made the filing shall not be authorized to proceed pursuant to this subsection. Such application shall specify in reasonable detail the grounds to be relied upon by the applicant. If the director shall find that the application is made in good faith, that the applicant would be so aggrieved if his or her grounds are established, and that such grounds otherwise justify holding such a hearing, the director shall, within thirty days after receipt of such application, hold a hearing upon not less than ten days' written notice to the applicant and to every title insurance company and title insurance rating organization which made such a filing. If, after such hearing, the director finds that the filing or a part thereof does not meet the requirements of this chapter, the director shall issue an order specifying in what respects the director finds that such filing or a part thereof fails to meet the requirements of this chapter, stating when within a reasonable period thereafter, such filing or a part thereof shall be deemed no longer effective. Copies of such order shall be sent to the applicant and to every such title insurer and title insurance rating organization. The order shall not affect any contract or policy made or issued prior to the expiration of the

53 period set forth in the order.]

2 [381.098. 1. A corporation, an unincorporated association,  
3 a partnership or an individual, whether located within or outside  
4 this state, may make application to the director for license as a  
5 rating organization for title insurers, and shall file therewith:

6 (1) A copy of its constitution, its articles of agreement or  
7 association or its certificate of incorporation, and of its bylaws,  
8 rules and regulations governing the conduct of its business;

9 (2) A list of its members and subscribers;

10 (3) The name and address of a resident of this state upon  
11 whom notices or orders of the director or process affecting such  
12 rating organization may be served; and

13 (4) A statement of its qualifications as a title insurance  
14 rating organization.

15 2. If the director finds that the applicant is competent,  
16 trustworthy and otherwise qualified to act as a rating organization,  
17 and that its constitution, articles of agreement or association or  
18 certificate of incorporation, and its bylaws, rules and regulations  
19 governing the conduct of its business, conform to requirements of  
20 law, the director shall issue a license authorizing the applicant to  
21 act as a rating organization for title insurance. Licenses issued  
22 pursuant to this section shall remain in effect for three years  
23 unless sooner suspended or revoked by the director or withdrawn  
24 by the licensee. The fee for such license shall be one thousand five  
25 hundred dollars. Licenses issued pursuant to this section may be  
26 suspended or revoked by the director, after hearing upon notice, in  
27 the event the rating organization ceases to meet the requirements  
28 of this subsection. Every rating organization shall notify the  
29 director promptly of every change in:

30 (1) Its constitution, its articles of agreement or association  
31 or its certificate of incorporation, and its bylaws, rules and  
32 regulations governing the conduct of its business;

33 (2) Its list of members and subscribers; and

34 (3) The name and address of the resident of this state  
35 designated by it upon whom notices or orders of the director or  
process affecting such rating organization may be served.

36           3. Subject to rules and regulations which have been  
37 approved by the director as reasonable, each title insurance rating  
38 organization shall permit any title insurance company not a  
39 member to be a subscriber to its rating services. Notices of  
40 proposed changes in such rules and regulations shall be given to  
41 subscribers. Each such rating organization shall furnish its rating  
42 services without discrimination to its members and  
43 subscribers. The reasonableness of any rule or regulation in its  
44 application to subscribers, or the refusal of any such rating  
45 organization to admit a title insurance company as a subscriber,  
46 shall at the request of any subscriber or any such title insurance  
47 company, be reviewed by the director at a hearing held upon at  
48 least ten days' written notice to such rating organization and to  
49 such subscriber. If the director finds that such rule or regulation  
50 is unreasonable in its application to subscribers, the director shall  
51 order that such rule or regulation shall not be applicable to  
52 subscribers. If the rating organization fails to grant or reject an  
53 application of a title insurance company for subscribership within  
54 thirty days after it was made, the title insurance company may  
55 request a review by the director as if the application had been  
56 rejected. If the director finds that the title insurance company has  
57 been refused admittance to the title insurance rating organization  
58 as a subscriber without justification, the director shall order such  
59 rating organization to admit the title insurance company as a  
60 subscriber. If the director finds that the action of the title  
61 insurance rating organization was justified, the director shall make  
62 an order affirming its action.]

          [381.101. 1. All title insurers licensed in this state shall  
2 establish and maintain reserves against unpaid losses and loss  
3 expenses.

          2. Upon receiving notice from or on behalf of the insured of  
4 a title defect in or lien or adverse claim against the title of the  
5 insured that may result in a loss or cause expense to be incurred  
6 in the proper disposition of the claim, the title insurer shall  
7 determine the amount to be added to the reserve, which amount  
8 shall reflect a careful estimate of the loss or loss expense likely to  
9

10 result by reason of the claim.

11 3. Reserves required under this section may be revised from  
12 time to time and shall be redetermined at least once each year.]

[381.102. Every member of or subscriber to a title insurance  
2 rating organization shall adhere to the filings made on its behalf  
3 by such organization, except that any title insurance company  
4 which is a member of or subscriber to such a rating organization  
5 may file with the director a uniform percentage of decrease or  
6 increase to be applied to any or all elements of the fees produced  
7 by the rating system so filed for a class of title insurance which is  
8 found by the director to be a proper rating unit for the application  
9 of such uniform decrease or increase, or to be applied to the rates  
10 for a particular area, or otherwise deviate from the rating plans,  
11 policy forms or other matters which are the subject of filings  
12 pursuant to this chapter. Such deviation filing shall specify the  
13 basis for the modification and shall be accompanied by the data or  
14 historical pattern upon which the applicant relies. A copy of the  
15 deviation filing and data shall be sent simultaneously to such  
16 rating organization. Deviation filings shall be subject to the  
17 provisions of section 381.095.]

[381.105. 1. Any member of or subscriber to a title  
2 insurance rating organization may appeal to the director from any  
3 action or decision of such rating organization in approving or  
4 rejecting any proposed change in or addition to the filings of such  
5 rating organization, and the director shall, after a hearing held  
6 upon not less than ten days' written notice to the appellant and to  
7 such rating organization, issue an order approving the action or  
8 decision of such rating organization or directing it to give further  
9 consideration to such proposal and to take action or make a  
10 decision upon it within thirty days. If such appeal is from the  
11 action or decision of the title insurance rating organization in  
12 rejecting a proposed addition to its filings, the director may, in the  
13 event the director finds that such action or decision was  
14 unreasonable, issue an order directing the rating organization to  
15 make an addition to its filings, on behalf of its members and  
16 subscribers, in a manner consistent with the director's findings,

17 within a reasonable time after the issuance of such order. If the  
18 appeal is from the action of the title insurance rating organization  
19 with regard to a rate or a proposed change in or addition to its  
20 filings relating to the character and extent of coverage, the director  
21 shall approve the action of the rating organization or such  
22 modification thereof as shall have been suggested by the appellant  
23 if either be made in accordance with this chapter.

24 2. The failure of a title insurance rating organization to  
25 take action or make a decision within thirty days after submission  
26 to it of a proposal pursuant to this section shall constitute a  
27 rejection of such proposal within the meaning of this section. If  
28 such appeal is based upon the failure of the rating organization to  
29 make a filing on behalf of such member or subscriber which is  
30 based on a system of expense allocation which differs from the  
31 system of expense allocation included in a filing made by such  
32 rating organization, the director shall, if the director grants the  
33 appeal, order the rating organization to make the requested filing  
34 for use by the appellant. In deciding such appeal, the director  
35 shall apply the standards set forth in section 381.032.]

[381.108. 1. The director shall promulgate reasonable rules  
2 and statistical plans, reasonably adapted to each of the rating  
3 systems on file with the department, which may be modified from  
4 time to time, and which shall be used thereafter by each title  
5 insurer in the recording and reporting of the composition of its  
6 business, its loss and countrywide expense experience and those of  
7 its title insurance underwriters in order that the experience of all  
8 title insurers may be made available, at least annually, in such  
9 form and detail as may be necessary to aid him or her in  
10 determining whether rating systems comply with the standards set  
11 forth in this chapter. Such rules and plans may also provide for  
12 the recording of expense experience items which are specially  
13 applicable to this state and are not susceptible of determination by  
14 a prorating of countrywide expense experience. In promulgating  
15 such rules and plans, the director shall give due consideration to  
16 the rating systems on file with the department, and in order that  
17 such rules and plans may be as uniform as is practicable among

the several states, to the rules and to the form of the plans used for such rating systems in other states. Such rules and plans shall not place an unreasonable burden of expense on any title insurer. No title insurer shall be required to record or report its expense and loss experience on a classification basis that is inconsistent with the rating system filed by it, nor shall any title insurer be required to report the experience to any agency of which it is not a member or subscriber. The director may designate one or more rating organizations or other agencies to assist the director in gathering such experience and making compilations thereof, and such compilations shall be made available, subject to reasonable rules promulgated by the director, to title insurers and rating organizations. The director shall give preference in such designation to entities organized by and functioning on behalf of title insurers operating in this state. If the director, in his or her judgment, determines that one or more of such organizations designated as statistical agents is unable or unwilling to perform its statistical functions according to reasonable requirements established from time to time by the director, he or she may, after consultation with such statistical agent and upon twenty days' notice to any affected companies, designate another person to act on the director's behalf in the gathering of statistical experience. The director shall in such case establish the fee to be paid to such designated person by the affected companies in order to pay the total cost of gathering and compiling such experience. Agencies designated by the director shall assist the director in making compilations of the reported data and such compilations shall be made available, subject to reasonable rules and regulations promulgated by the director, to insurers, rating organizations and any other interested parties.

2. Reasonable rules and plans may be promulgated by the director for the interchange of data necessary for the application of rating plans.

3. In order to further uniform administration of rate regulatory laws, the director and every title insurer and rating organization may exchange information and experience data with

54 insurance supervisory officials, title insurers and rating  
55 organizations in other states, and may consult with them with  
56 respect to rate making and the application of rating systems.

57 4. No rule or portion of a rule promulgated pursuant to the  
58 authority of this section shall become effective unless it has been  
59 promulgated pursuant to the provisions of chapter 536, RSMo.]

[381.111. A title insurer may obtain reinsurance for all or  
2 any part of its liability under its title insurance policies or  
3 reinsurance agreements and may also reinsure title insurance  
4 policies issued by other title insurers on single risks located in this  
5 state or elsewhere. Reinsurance on policies issued on properties  
6 located in this state may be obtained from any title insurers  
7 licensed to transact title insurance business in this state, any other  
8 state, or the District of Columbia and which have a combined  
9 capital and surplus of at least eight hundred thousand dollars.]

[381.112. For purposes of the premium tax imposed by  
2 sections 148.320 and 148.340, RSMo, the premium income received  
3 by a title insurer shall mean the amount of premium actually  
4 remitted to the title insurer and shall exclude any amount of  
5 premium retained by the title agent within the definition of  
6 "premium" contained in section 381.009.]

[381.115. 1. A person shall not act in the capacity of a title  
2 agency or title agent and a title insurer may not contract with any  
3 person to act in the capacity of a title agency or title agent with  
4 respect to risks located in this state unless the person is a licensed  
5 title agency or title agent in this state.

6 2. An individual employed by a licensed title agency or title  
7 agent to whom the agency or agent delegates authority to act on  
8 that agency's or agent's behalf shall be either individually licensed  
9 or be named on the employing agent's license if such employee  
10 performs any of the functions defined in paragraph (a) of  
11 subdivision (25) of section 381.009. Each person named on the  
12 license shall possess all qualifications determined by the director  
13 to be appropriate. The director may adopt rules, regulations, and  
14 requirements relating to licensing and practices of persons acting  
15 in the capacity of title agencies or agents. These persons may

16 include title agencies, title agents, employees of either, and persons  
17 acting on behalf of title agencies or title agents. This subsection is  
18 not intended to include persons performing clerical functions.

19 3. Every title agency licensed in this state shall:

20 (1) Exclude or eliminate the word insurer or underwriter  
21 from its business name, unless the word agency is also included as  
22 part of the name; and

23 (2) Provide, in a timely fashion, each title insurer with  
24 which it places business any information the title insurer requests  
25 in order to comply with reporting requirements of the director.

26 4. A title agency or title agent licensed in this state prior  
27 to the effective date of this chapter shall have ninety days after the  
28 effective date of this chapter to comply with the requirements of  
29 this section.

30 5. If the title agency or title agent delegates the title search  
31 to a third party, such as an abstract company, the agency or agent  
32 must first obtain proof that the third party is operating in  
33 compliance with rules and regulations established by the director  
34 and the third party shall provide the agency or agent and the  
35 insurer with access to and the right to copy all accounts and  
36 records maintained by the third party with respect to business  
37 placed with the title insurer. Proof from the third party may  
38 consist of a signed statement indicating compliance, and shall be  
39 effective for a three-year period. Each violation of this subsection  
40 is a class C violation as that term is defined in section 381.045.]

[381.118. 1. Each title agent licensed to sell title insurance  
2 in this state, unless exempt pursuant to subsection 8 of this  
3 section, shall successfully complete courses of study as required by  
4 this section. Any person licensed to act as a title agent shall,  
5 during each two years, attend courses or programs of instruction or  
6 attend seminars equivalent to a minimum of eight hours of  
7 instruction. The initial such two-year period shall begin January  
8 first of the year next following the effective date of this chapter.

9 2. Subject to approval by the director, the courses or  
10 programs of instruction which shall be deemed to meet the  
11 director's standards for continuing educational requirements shall



include, but not be limited to, the following:

(1) An insurance-related course taught by an accredited college or university or qualified instructor who has taught a course of insurance law at such institution;

(2) A course or program of instruction or seminar developed or sponsored by any authorized insurer, recognized agents' association or insurance trade association. A local agents' group may also be approved if the instructor receives no compensation for services;

(3) Courses approved for continuing legal education credit by the Missouri Bar.

3. A person teaching any approved course of instruction or lecturing at any approved seminar shall qualify for the same number of classroom hours as would be granted to a person taking and successfully completing such course, seminar or program.

4. Excess classroom hours accumulated during any two-year period may be carried forward to the two-year period immediately following the two- year period in which the course, program or seminar was held.

5. For good cause shown, the director may grant an extension of time during which the educational requirements imposed by this section may be completed, but such extension of time shall not exceed the period of one calendar year. The director may grant an individual waiver of the mandatory continuing education requirement upon a showing by the licensee that it is not feasible for the licensee to satisfy the requirements prior to the renewal date. Waivers may be granted for reasons including, but not limited to:

(1) Serious physical injury or illness;

(2) Active duty in the armed services for an extended period of time;

(3) Residence outside the United States; or

(4) Licensee is at least seventy years of age and is currently licensed as a title agent.

6. Every person subject to the provisions of this section shall furnish in a form satisfactory to the director, written

48 certification as to the courses, programs, or seminars of instruction  
49 taken and successfully completed by such person. A filing fee shall  
50 be paid by the person furnishing the report as determined by the  
51 director to be necessary to cover the administrative cost related to  
52 the handling of such certification reports, subject to the limitations  
53 imposed in subsection 9 of this section.

54 7. The provisions of this section shall not apply to those  
55 natural persons holding or applying for a license to act as a title  
56 agent in Missouri who reside in a state that has enacted and  
57 implemented a mandatory continuing education law or regulation  
58 pertaining to title agents. However, those natural persons holding  
59 or applying for a Missouri agent license who reside in states which  
60 have no mandatory continuing education law or regulations shall  
61 be subject to all the provisions of this section to the same extent as  
62 resident Missouri title agents.

63 8. Rules necessary to implement and administer this  
64 section shall be promulgated by the director of the department of  
65 insurance, including, but not limited to, rules regarding the  
66 following:

67 (1) The insurance advisory board established by section  
68 375.019, RSMo, shall be utilized by the director to assist the  
69 director in determining acceptable content of courses, programs and  
70 seminars to include classroom equivalency;

71 (2) Every applicant seeking approval by the director of a  
72 continuing education course pursuant to this section shall pay to  
73 the director a filing fee of fifty dollars per course, except that such  
74 total fee shall not exceed two hundred fifty dollars per year for any  
75 single applicant. Fees shall be waived for local agents' groups if  
76 the instructor receives no compensation for services. Such fee shall  
77 accompany any application form required by the director. Courses  
78 shall be approved for a period of no more than one  
79 year. Applicants holding courses intended to be offered for a longer  
80 period must reapply for approval;

81 (3) The director has the authority to determine the amount  
82 of the filing fee to be paid by title agents at the time of license  
83 renewal, which shall be set at an amount to produce revenue which

shall not substantially exceed the cost of administering this section, but in no event shall such fee exceed ten dollars per biennial report filed.

9. All funds received pursuant to the provisions of this section shall be transmitted by the director of the department of insurance to the department of revenue for deposit in the state treasury to the credit of the department of insurance dedicated fund. All expenditures necessitated by this section shall be paid from funds appropriated from the department of insurance dedicated fund by the legislature.

10. When a title agent pays his or her biennial renewal fee, such agent shall also furnish the written certification and filing fee required by this section.

11. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.]

[381.121. 1. The deposit required by section 381.051 and the capital, surplus and unearned premium reserve of domestic title insurers shall be held in either cash or investments now or hereafter permitted to domestic life insurers with regard to their capital, reserve and surplus for reserve deposit.

2. A domestic title insurer may invest in title plants. For purposes of determining the financial condition of such title insurer, title plants will be treated as an asset valued at actual cost to the title insurer, not to exceed fifty percent of the surplus as to policyholders as shown on the most recent annual statement of the title insurer.

3. Any investment of a domestic title insurer acquired before September 28, 1987, and which under such sections, would be considered ineligible as an investment on that date, shall be disposed of within five years of September 28, 1987. The director, upon application and proof that forced sale of any such investment would be contrary to the best interests of the title insurer or its policyholders, may extend the period for disposal of the investment for a reasonable time.]

[381.122. The director may during normal business hours

2 examine, audit and inspect any and all books and records  
3 maintained by a title agency pursuant to this chapter.]

[381.125. 1. Whenever the business to be written  
2 constitutes affiliated business, prior to commencing the  
3 transaction, the title agency or title agent shall ensure that its  
4 customer has been provided with disclosure of the existence of the  
5 affiliated business arrangement and a written estimate of the  
6 charge or range of charges generally made for the title services  
7 provided by the title agency or agent.

8 2. The director may establish rules for use by all title  
9 agencies in the recording and reporting of the agency's owners and  
10 of the agency's ownership interests in other persons or businesses  
11 and of material transactions between the parties.

12 3. The director may require each title agency to file on  
13 forms prescribed by the director reports setting forth the names  
14 and addresses of those persons, if any, that have a financial  
15 interest in the agency and who the agency knows or has reason to  
16 believe are producers of title insurance business or associates of  
17 producers.

18 4. Nothing in this chapter shall be construed as prohibiting  
19 affiliated business arrangements in the provision of title insurance  
20 business so long as:

21 (1) The title agency, title agent or party making a referral  
22 constituting affiliated business, at or prior to the time of the  
23 referral, discloses the arrangement and, in connection with the  
24 referral, provides the person being referred with a written estimate  
25 of the charge or range of charges likely to be assessed and  
26 otherwise complies with the disclosure obligations of this section;

27 (2) The person being referred is not required to use a  
28 specified title insurance agency, agent or insurer; and

29 (3) The only thing of value that is received by the title  
30 agency, title agent or party making the referral, other than  
31 payments otherwise permitted, is a return on an ownership  
32 interest.

33 For purposes of this subsection, the terms "required use" and  
34 "return on an ownership interest" shall have the meaning accorded

35 to them under the Real Estate Settlement Procedures Act (RESPA),  
36 12 U.S.C. Section 2607, as amended and Regulation X, 24 CFR  
37 Section 3500, et seq.

38 5. Each violation of any provision of this section is a class  
39 C violation as that term is defined in section 381.045.]

2 [381.131. Any person who shall be appointed or who shall  
3 act as title insurance agent or agency for any title insurance  
4 company within this state, or who shall, as title insurance agent or  
5 agency, solicit applications, deliver policies and collect premiums  
6 thereon, or who shall receive or collect moneys from any source or  
7 on any account whatsoever, as agent or agency, for a title insurance  
8 company doing business in this state, shall be held responsible in  
9 a trust or fiduciary capacity to the company for any money so  
collected or received by him for such company.]

[381.141. 1. No title insurer or title agent or agency shall:

2 (1) Pay, directly or indirectly, to the insured or to any other  
3 person any commission, any part of its premiums, fees, or other  
4 charges; or any other consideration as inducement or compensation  
5 for the referral of title business or for performance of any escrow  
6 or other service by the title agent or agency; or

7 (2) Issue any title insurance policy or perform any service  
8 in connection with any transaction in which it has paid or intends  
9 to pay any commission, rebate or inducement which it knows to be  
10 in violation of this section.

11 2. Nothing in this section shall be construed as prohibiting  
12 reasonable payments, other than for the referral of title insurance  
13 business, for services actually rendered to either a title insurer or  
14 a title agent or agency in connection with title insurance business.

15 3. Nothing in sections 381.011 to 381.241 shall prohibit any  
16 producer or any associate of a producer from referring title  
17 business to any title insurer or title insurance agent or agency of  
18 his, her or its choice, and if such producer or associate producer  
19 has any financial, franchise, or ownership interest in the title  
20 insurer, the title insurance agent or agency, from financial,  
21 franchise or ownership interest so long as the purchaser is made  
22 aware in writing of the relationship between the producer or

23 associate producer and the title agent or agency.]

2 [381.151. Nothing in sections 381.011 to 381.241 shall be  
3 construed as prohibiting the division of premiums and charges  
4 between or among a title insurer and its title agent or agency, two  
5 or more title insurers, one or more title insurers and one or more  
6 title agents or agencies or two or more title agents or agencies,  
7 provided such division of premiums and charges does not  
8 constitute:

8 (1) An unlawful rebate or inducement under the provisions  
9 of sections 381.011 to 381.241; or

10 (2) Payment of a forwarding fee or finder's fee.]

[381.161. 1. No producer or other person, except the person  
2 paying the premium for the title insurance, shall require, directly  
3 or indirectly, or through any trustee, director, officer, agent,  
4 employee, or affiliate, as a condition, agreement, or understanding  
5 to selling or furnishing any other person any loan, or extension  
6 thereof, credit, sale, property, contract, lease or service, that such  
7 other person shall place, any contract of title insurance of any kind  
8 through any particular title agent, agency, or title insurer. No title  
9 agent, agency, or title insurer shall knowingly participate in any  
10 such prohibited plan or transaction. No person shall fix a price  
11 charged for such thing or service, or discount from or rebate upon  
12 price, on the condition, agreement, or understanding that any title  
13 insurance is to be obtained through a particular agent, agency, or  
14 title insurer.

15 2. Any person who violates the provisions of this section, or  
16 any title insurer, title agent, or agency who accepts an order for  
17 title insurance knowing that it is in violation of the provision of  
18 this section shall, in addition to any other action which may be  
19 taken by the director, be subject to a fine in an amount equal to  
20 five times the premium for the title insurance.]

[381.171. 1. Premiums shall not be inadequate, excessive  
2 or unfairly discriminatory.

3 2. Premiums are excessive if, in the aggregate, they are  
4 likely to produce a long run profit that is unreasonably high in  
5 relation to the riskiness of the business or if expenses are

6 unreasonably high in relation to the services rendered.

7 3. Premiums are inadequate if they are clearly insufficient,  
8 together with investment income attributable to them, to sustain  
9 projected losses and expenses or if continued use of such premiums  
10 will have the effect of substantially lessening competition or the  
11 effect of tending to create a monopoly.

12 4. Premiums are unfairly discriminatory if the premium  
13 charged for a policy of any particular face amount of liability is  
14 higher than the premium for an indential policy within the same  
15 classification where such policy has a like face amount or a higher  
16 face amount of liability. Premiums within each premium  
17 classification may, in the discretion of the title insurer, to a  
18 reasonable degree be less than the expenses incurred and the risks  
19 assumed in the case of policies of lower face amount of liability and  
20 the excess may be charged against policies of higher face amount  
21 of liability without rendering the premiums unfairly  
22 discriminatory.

23 5. Premiums may be grouped by classifications into the  
24 various types of title policies and endorsements offered. The  
25 classifications may be further divided to produce premiums for  
26 individual risks or services within a classification. Those  
27 classifications or further divisions may be established based upon  
28 any one or more of the following:

29 (1) The size of a transaction and its effect upon the  
30 continuing solvency of the title insurer using the rate in question  
31 if a loss should occur;

32 (2) Expense elements, including management time that  
33 would ordinarily be expended in a typical transaction of a  
34 particular size;

35 (3) The geographic location of a transaction, including  
36 variation in risk and expense elements attributable thereto;

37 (4) The individual experience of the insurer and title  
38 insurance agent or agency using the rate in question; and

39 (5) Any other reasonable considerations which may include  
40 but not be limited to builder/developer quantity discounts and  
41 multiple policy discounts on an individual parcel of

42 property. Those classifications or further divisions thereof shall  
43 apply to all risks and services in the business of title insurance  
44 under the same or under substantially the same circumstances or  
45 conditions.

46 6. In making or reviewing premiums due consideration  
47 shall be given to past and prospective loss experience, to exposure  
48 to loss, to underwriting practice and judgment, to past and  
49 prospective expenses including amounts paid to or retained by title  
50 agents or agencies, to a reasonable margin for profit and  
51 contingencies taking into account the need for a reasonable return  
52 on capital committed to the enterprise, and to all other relevant  
53 factors both within and outside of this state.

54 7. The director may promulgate rules or regulations setting  
55 forth guidelines for the evaluation of premiums. Such regulations  
56 may include consideration of:

- 57 (1) Cost of underwriting risks assumed by the insurer;  
58 (2) Amounts paid to or retained by title agents;  
59 (3) Operating expenses of the insurer other than  
60 underwriting and claims expense;  
61 (4) Payment of claims and claim related expenses;  
62 (5) Investment income;  
63 (6) Reasonable profit;  
64 (7) Premium taxes; and  
65 (8) Any other factors the director deems relevant.]

2 [381.181. 1. Every title insurer shall file with the director  
3 its premium schedules it proposes to use in any county of this  
4 state. Every filing shall set forth its effective date, which shall not  
5 be earlier than the thirtieth day following its receipt by the  
6 director, and shall indicate the character and extent of the  
7 coverages and services contemplated. Filings that the director has  
8 not disapproved within thirty days of filing shall be deemed  
9 effective.

10 2. No title insurer or title agent or agency may use or  
11 collect any premium after September 28, 1987, except in accordance  
12 with the premium schedules filed with the director as required by  
subsections 1 and 2 of this section. The director may provide by



13 regulation for interim use of premium schedules in effect prior to  
14 September 28, 1987.

15 3. Every title insurer shall establish basic classifications of  
16 coverages to be used as the basis for determining premiums.]

[381.191. In order to further uniform administration of rate  
2 regulatory laws, the director and every title insurer, title agent, or  
3 agency in the state may exchange information and experience data  
4 with insurance supervisory officials of this and other states and  
5 rating organizations in other states and may consult with them  
6 with respect to such information and data.]

[381.201. 1. No title insurer, title agent, or agency shall  
2 use any premium in the business of title insurance prior to its  
3 effective date nor prior to the filing with respect to such premium  
4 having been publicly displayed and made readily available to the  
5 public for a period of not less than thirty days in each office of the  
6 title insurer, title agent, or agency in the county to which such  
7 rates apply, and no premium increase shall apply to title policies  
8 which have been contracted for prior to such effective date.

9 2. Premium charges in excess of those set forth in a  
10 premium filing which has become effective may be made when such  
11 filing includes a statement that such premiums may be made in the  
12 event unusual insurance risks are assumed or unusual services  
13 performed in the transaction of the business of title insurance,  
14 provided that such premiums are reasonably commensurate with  
15 the risks assumed for the costs of the services performed.

16 3. Copies of the schedules of premiums which are required  
17 to be filed with the director under the provisions of sections  
18 381.011 to 381.241, showing their effective date or dates, shall be  
19 kept at all times available to the public and prominently displayed  
20 in a public place in each office of a title insurer, title agent, or  
21 agency in the county to which such rates apply while such rates are  
22 effective.]

[381.211. Every title insurer shall file with the director  
2 copies of the following forms it proposes to use in this state,  
3 including:

4 (1) Title insurance policies;

- 5 (2) Standard form endorsements; and  
6 (3) Preliminary reports, commitments, binders, or any other  
7 reports issued prior to the issuance of a title insurance policy.]

2 [381.221. For purposes of the premium tax imposed by  
3 sections 148.320 and 148.340, RSMo, the premium income received  
4 by a title insurer shall be one hundred percent of the amounts paid  
5 of that term contained in sections 381.011 to 381.241.]

2 [381.231. In addition to any other powers granted under  
3 sections 381.011 to 381.241, the director may adopt rules or  
4 regulations to protect the interests of the public including, but not  
5 limited to, regulations governing sales practices, escrow, collection,  
6 settlement, closing procedures, policy coverage standards, rebates  
7 and inducements, controlled business, the approval of agency  
8 contracts, unfair trade practices and fraud, statistical plans for  
9 data collection, consumer education, any other consumer matters,  
10 the business of title insurance, or any regulations otherwise  
11 implementing or interpreting the provisions of sections 381.011 to  
12 381.241. No rule or portion of a rule promulgated under the  
13 authority of this chapter shall become effective unless it has been  
promulgated pursuant to the provisions of section 536.024, RSMo.]

2 [381.241. 1. The director of insurance or his duly  
3 authorized representative may at any time and from time to time,  
4 inspect and examine the records, books and accounts of any title  
5 insurer, and may require such periodic and special reports from  
6 any title insurer, as may be reasonably necessary to enable the  
7 director to satisfy himself that such title insurer is complying with  
8 the requirements of sections 381.011 to 381.241. No person shall  
9 be authorized to inspect and examine the records, books and  
10 accounts of any title insurer unless such person has five years  
11 experience in the title insurance business. It shall be the duty of  
12 the director at least once every four years to make or cause to be  
13 made an examination of every title insurer. The reasonable  
expense of any examination shall be paid by the title insurer.

14 2. The purpose of such examination is to enable the director  
15 to ascertain whether there is compliance with the provisions of

sections 381.011 to 381.241. If as a result of such examination the director has reason to believe that any rate, rating plan or rating system made or used by an insurer does not meet the standards and provisions of sections 381.011 to 381.241, applicable to it, the director may hold a public hearing. Within a reasonable period of time, which shall be not less than ten days before the date of such hearing, he shall mail written notice specifying the matters to be considered at such hearing to every person, insurer or organization believed by him not to be in compliance with the provisions of sections 381.011 to 381.241.

3. If the director, after such hearing, for good cause finds that such rate, rating plan or rating system does not meet the provisions of sections 381.011 to 381.241, he shall issue an order specifying in what respects any such rate, rating plan or rating system fails to meet such provisions, and stating when, within a reasonable period of time, the further use of such rate, rating plan or rating system by the title insurer which is the subject of the examination shall be prohibited. A copy of such order shall be sent to such title insurer.]

[381.410. As used in sections 381.410 and 381.412, the following terms mean:

(1) "Cashier's check", a check, however labeled, drawn on the financial institution, which is signed only by an officer or employee of such institution, is a direct obligation of such institution, and is provided to a customer of such institution or acquired from such institution for remittance purposes;

(2) "Certified funds", U.S. currency, funds conveyed by a cashier's check, certified check, teller's check, as defined in Federal Reserve Regulations CC, or wire transfers, including written advice from a financial institution that collected funds have been credited to the settlement agent's account;

(3) "Director", the director of the department of insurance, unless the settlement agent's primary regulator is another division in the department of economic development. When the settlement agent is regulated by such division, that division shall have jurisdiction over sections 381.410 and 381.412;

18 (4) "Financial institution":

19 (a) A person or entity doing business under the laws of this  
20 state or the United States relating to banks, trust companies,  
21 savings and loan associations, credit unions, commercial and  
22 consumer finance companies, industrial loan companies, insurance  
23 companies, small business investment corporations licensed  
24 pursuant to the Small Business Investment Act of 1958 (15 U.S.C.  
25 Section 661, et seq.), as amended, or real estate investment trusts  
26 as defined in 26 U.S.C. Section 856, as amended, or institutions  
27 constituting the Farm Credit System pursuant to the Farm Credit  
28 Act of 1971 (12 U.S.C. Section 2000, et seq.), as amended, or any  
29 person which services loans secured by liens or mortgages on real  
30 property, which person may or may not maintain a servicing  
31 portfolio for such loans; or

32 (b) The following persons or entities if their principal place  
33 of business is in Missouri or a state which is contiguous to  
34 Missouri:

35 a. A mortgage loan company which is subject to licensing,  
36 supervision or auditing by the Federal National Mortgage  
37 Association, or the Federal Home Loan Mortgage Corporation, or  
38 the United States Veterans Administration, or the Government  
39 National Mortgage Association, or the United States Department  
40 of Housing and Urban Development, or a successor of any of the  
41 foregoing agencies or entities, as an approved seller or servicer; or

42 b. A person or entity acting as a mortgage loan company  
43 pursuant to court order;

44 (5) "Settlement agent", a person, corporation, partnership,  
45 or other business organization which accepts funds and documents  
46 as fiduciary for the buyer, seller or lender for the purposes of  
47 closing a sale of an interest in real estate located within the state  
48 of Missouri, and is not a financial institution, or a member in good  
49 standing of the Missouri Bar Association, or a person licensed  
50 under chapter 339, RSMo.]

[381.410. As used in this section and section 381.412, the  
2 following terms mean:

3 (1) "Cashier's check", a check, however labeled, drawn on

4 the financial institution, which is signed only by an officer or  
5 employee of such institution, is a direct obligation of such  
6 institution, and is provided to a customer of such institution or  
7 acquired from such institution for remittance purposes;

8 (2) "Certified funds", United States currency, funds  
9 conveyed by a cashier's check, certified check, teller's check, as  
10 defined in Federal Reserve Regulations CC, or wire transfers,  
11 including written advice from a financial institution that collected  
12 funds have been credited to the settlement agent's account;

13 (3) "Director", the director of the department of insurance,  
14 unless the settlement agent's primary regulator is another division  
15 in the department of economic development. When the settlement  
16 agent is regulated by such division, that division shall have  
17 jurisdiction over this section and section 381.412;

18 (4) "Financial institution":

19 (a) A person or entity doing business pursuant to the laws  
20 of this state or the United States relating to banks, trust  
21 companies, savings and loan associations or credit unions; or

22 (b) The following persons or entities if their principal place  
23 of business is in Missouri or outside Missouri, but within the St.  
24 Louis or Kansas City standard metropolitan statistical area:

25 a. A mortgage loan company which is subject to licensing,  
26 supervision or auditing by the Federal National Mortgage  
27 Association, or the Federal Home Loan Mortgage Corporation, or  
28 the United States Veterans Administration, or the Government  
29 National Mortgage Association, or the United States Department  
30 of Housing and Urban Development, or a successor of any of the  
31 foregoing agencies or entities, as an approved seller or servicer;

32 (5) "Settlement agent", a person, corporation, partnership,  
33 or other business organization which accepts funds and documents  
34 as fiduciary for the buyer, seller or lender for the purposes of  
35 closing a sale of an interest in real estate located within the state  
36 of Missouri, and is not a financial institution, or a member in good  
37 standing of the Missouri Bar , or a person licensed under chapter  
38 339, RSMo.]

[381.412. 1. A settlement agent who accepts funds of more

2 than ten thousand dollars, but less than two million dollars, for  
3 closing a sale of an interest in real estate shall require a buyer,  
4 seller or lender who is not a financial institution to convey such  
5 funds to the settlement agent as certified funds. The settlement  
6 agent shall record all security instruments for such real estate  
7 closing within three business days of such closing after receipt of  
8 such certified funds. A check:

9 (1) Drawn on an escrow account of a licensed real estate  
10 broker, as regulated and described in section 339.105, RSMo;

11 (2) Drawn on an escrow account of a title insurer or title  
12 insurance agency licensed to do business in Missouri;

13 (3) Drawn on an agency of the United States of America,  
14 the state of Missouri or any county or municipality of the state of  
15 Missouri; or

16 (4) Drawn on an account by a financial institution;  
17 shall be exempt from the provisions of this section.

18 2. No title insurer, title insurance agency or title insurance  
19 agent, as defined in section 381.031, shall make any payment,  
20 disbursement or withdrawal in excess of ten thousand dollars from  
21 an escrow account which it maintains as a depository of funds  
22 received from the public for the settlement of real estate  
23 transactions unless a corresponding deposit of funds was made to  
24 the escrow account for the benefit of the payee or payees:

25 (1) At least ten days prior to such payment, disbursement  
26 or withdrawal;

27 (2) Which consisted of certified funds; or

28 (3) Consisted of a check made exempt from this section by  
29 the provisions of subsection 1 of this section.

30 3. If the director finds that a settlement agent, title insurer,  
31 title insurance agency or title insurance agent has violated any  
32 provisions of this section, the director may assess a fine of not more  
33 than two thousand dollars for each violation, plus the costs of the  
34 investigation. Each separate transaction where certified funds are  
35 required shall constitute a separate violation. In determining a  
36 fine, the director shall consider the extent to which the violation  
37 was a knowing and willful violation, the corrective action taken by

38 the settlement agent to ensure that the violation will not be  
39 repeated, and the record of the settlement agent in complying with  
40 the provisions of this section.]

[381.412. 1. A settlement agent who accepts funds of more  
2 than ten thousand dollars for closing a sale of an interest in real  
3 estate shall require a buyer, seller or lender who is not a financial  
4 institution to convey such funds to the settlement agent as certified  
5 funds. A check:

6 (1) Drawn on an escrow account of a licensed real estate  
7 broker, as regulated and described in section 339.105, RSMo;

8 (2) Drawn on an escrow account of a title insurer or title  
9 insurance agency licensed to do business in Missouri;

10 (3) Drawn on an agency of the United States of America,  
11 the state of Missouri or any county or municipality of the state of  
12 Missouri; or

13 (4) Drawn on an account by a financial institution;  
14 shall be exempt from the provisions of this section.

15 2. No title insurer, title insurance agency or title insurance  
16 agent, as defined in section 381.009, shall make any payment,  
17 disbursement or withdrawal in excess of ten thousand dollars from  
18 an escrow account which it maintains as a depository of funds  
19 received from the public for the settlement of real estate  
20 transactions unless a corresponding deposit of funds was made to  
21 the escrow account for the benefit of the payee or payees:

22 (1) At least ten days prior to such payment, disbursement  
23 or withdrawal;

24 (2) Which consisted of certified funds; or

25 (3) Consisted of a check made exempt from this section by  
26 the provisions of subsection 1 of this section.

27 3. If the director finds that a settlement agent, title insurer,  
28 title insurance agency or title insurance agent has violated any  
29 provisions of this section, the director may assess a fine of not more  
30 than two thousand dollars for each violation, plus the costs of the  
31 investigation. Each separate transaction where certified funds are  
32 required shall constitute a separate violation. In determining a  
33 fine, the director shall consider the extent to which the violation

34 was a knowing and willful violation, the corrective action taken by  
35 the settlement agent to ensure that the violation will not be  
36 repeated, and the record of the settlement agent in complying with  
37 the provisions of this section.]

Section B. This act shall become effective January 1, 2007.

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Unofficial

Bill

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