

FIRST REGULAR SESSION

[P E R F E C T E D]

SENATE BILL NO. 164

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCOTT.

Pre-filed December 12, 2006, and ordered printed.

Read 2nd time January 17, 2007, and referred to the Committee on Governmental Accountability and Fiscal Oversight.

Reported from the Committee February 15, 2007, with recommendation that the bill do pass with Senate Committee Amendments Nos. 1, 2, 3 and 4.

Taken up for Perfection February 27, 2007. Bill declared Perfected and Ordered Printed, as amended.

TERRY L. SPIELER, Secretary.

0288S.03P

AN ACT

To repeal sections 27.040, 44.237, 91.250, 103.008, 103.178, 104.220, 104.510, 105.711, 105.1075, 108.290, 135.508, 135.520, 135.815, 143.999, 148.330, 148.380, 148.410, 191.671, 191.828, 191.831, 191.853, 192.068, 208.178, 208.437, 209.285, 209.319, 214.270, 219.091, 227.100, 256.453, 256.459, 256.465, 285.230, 287.035, 287.037, 287.123, 287.129, 287.135, 287.241, 287.280, 287.282, 287.335, 287.690, 287.710, 287.715, 287.717, 287.730, 287.892, 287.894, 287.896, 287.902, 287.920, 287.930, 287.945, 287.975, 303.025, 303.026, 303.406, 303.412, 319.131, 320.082, 324.050, 324.065, 324.128, 324.159, 324.177, 324.200, 324.203, 324.240, 324.243, 324.400, 324.406, 324.475, 324.478, 324.526, 325.010, 326.265, 326.268, 327.011, 327.051, 329.015, 329.025, 329.028, 329.210, 329.240, 330.110, 330.190, 331.100, 332.041, 332.327, 333.221, 334.123, 334.240, 334.400, 334.430, 334.625, 334.702, 334.720, 334.735, 334.749, 334.800, 334.840, 335.026, 335.036, 336.140, 336.160, 337.010, 337.050, 337.085, 337.090, 337.500, 337.535, 337.600, 337.622, 337.650, 337.700, 337.712, 337.739, 338.130,

339.120, 339.507, 340.208, 340.212, 345.035, 345.080,
346.010, 346.120, 352.505, 352.520, 353.120, 354.010,
354.050, 354.055, 354.060, 354.065, 354.085, 354.152,
354.165, 354.205, 354.240, 354.275, 354.285, 354.305,
354.325, 354.340, 354.345, 354.355, 354.400, 354.405,
354.430, 354.442, 354.443, 354.444, 354.551, 354.558,
354.560, 354.562, 354.563, 354.565, 354.600, 354.603,
354.627, 354.700, 354.703, 361.010, 361.092, 361.140,
361.160, 362.109, 362.332, 362.910, 365.080, 367.500,
370.005, 370.366, 374.010, 374.020, 374.040, 374.045,
374.070, 374.075, 374.085, 374.110, 374.115, 374.120,
374.130, 374.150, 374.160, 374.180, 374.184, 374.194,
374.202, 374.216, 374.217, 374.220, 374.245, 374.250,
374.261, 374.263, 374.267, 374.270, 374.284, 374.310,
374.400, 374.410, 374.415, 374.420, 374.426, 374.450,
374.455, 374.456, 374.500, 374.503, 374.505, 374.507,
374.700, 374.740, 374.764, 374.790, 374.800, 375.001,
375.006, 375.018, 375.031, 375.033, 375.037, 375.039,
375.041, 375.146, 375.147, 375.164, 375.176, 375.198,
375.206, 375.221, 375.231, 375.246, 375.256, 375.251,
375.261, 375.271, 375.330, 375.345, 375.350, 375.355,
375.400, 375.422, 375.430, 375.440, 375.460, 375.500,
375.510, 375.537, 375.740, 375.772, 375.788, 375.789,
375.790, 375.791, 375.811, 375.892, 375.906, 375.908,
375.911, 375.916, 375.918, 375.920, 375.922, 375.923,
375.932, 375.950, 375.954, 375.958, 375.991, 375.992,
375.993, 375.1002, 375.1025, 375.1032, 375.1035, 375.1050,
375.1080, 375.1112, 375.1152, 375.1158, 375.1160, 375.1172,
375.1176, 375.1184, 375.1186, 375.1250, 375.1269, 375.1287,
375.1300, 375.1506, 375.1524, 375.1730, 376.020, 376.050,
376.070, 376.090, 376.130, 376.142, 376.143, 376.144,
376.170, 376.210, 376.220, 376.230, 376.240, 376.290,
376.300, 376.305, 376.307, 376.311, 376.320, 376.330,
376.350, 376.360, 376.370, 376.384, 376.390, 376.397,
376.405, 376.410, 376.423, 376.426, 376.442, 376.480,
376.510, 376.600, 376.670, 376.672, 376.675, 376.679,
376.693, 376.697, 376.704, 376.718, 376.756, 376.773,
376.775, 376.777, 376.779, 376.811, 376.826, 376.836,
376.854, 376.960, 376.964, 376.1002, 376.1005, 376.1012,

376.1020, 376.1075, 376.1092, 376.1100, 376.1199, 376.1219,
376.1220, 376.1253, 376.1275, 376.1305, 376.1315, 376.1322,
376.1350, 376.1361, 376.1550, 377.020, 377.030, 377.170,
377.220, 377.230, 377.260, 377.400, 377.420, 377.430,
378.604, 379.080, 379.083, 379.160, 379.343, 379.440,
379.445, 379.450, 379.475, 379.670, 379.680, 379.690,
379.720, 379.730, 379.750, 379.770, 379.800, 379.815,
379.882, 379.888, 379.930, 380.011, 380.021, 380.051,
380.061, 380.071, 380.081, 380.091, 380.201, 380.221,
380.521, 380.611, 382.010, 383.015, 383.020, 383.025,
383.030, 383.060, 383.075, 383.100, 383.110, 384.015,
385.020, 400.008.117, 407.020, 407.1085, 407.1200, 408.233,
408.280, 427.140, 427.145, 436.005, 443.803, 447.572,
525.050, 537.740, 537.756, 620.010, 620.105, 620.106,
620.111, 620.120, 620.125, 620.127, 620.130, 620.132,
620.135, 620.140, 620.145, 620.146, 620.148, 620.149,
620.150, 620.151, 620.153, 620.154, 621.045, 660.551,
660.553, and 660.555, RSMo, and to enact in lieu thereof
four hundred sixty-two new sections relating to
reorganization of the department of insurance, financial and
professional regulation, with penalty provisions.

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

1 Section A. Sections 27.040, 44.237, 91.250, 103.008,
2 103.178, 104.220, 104.510, 105.711, 105.1075, 108.290, 135.508,
3 135.520, 135.815, 143.999, 148.330, 148.380, 148.410, 191.671,
4 191.828, 191.831, 191.853, 192.068, 208.178, 208.437, 209.285,
5 209.319, 214.270, 219.091, 227.100, 256.453, 256.459, 256.465,
6 285.230, 287.035, 287.037, 287.123, 287.129, 287.135, 287.241,
7 287.280, 287.282, 287.335, 287.690, 287.710, 287.715, 287.717,
8 287.730, 287.892, 287.894, 287.896, 287.902, 287.920, 287.930,
9 287.945, 287.975, 303.025, 303.026, 303.406, 303.412, 319.131,
10 320.082, 324.050, 324.065, 324.128, 324.159, 324.177, 324.200,

1 324.203, 324.240, 324.243, 324.400, 324.406, 324.475, 324.478,
2 324.526, 325.010, 326.265, 326.268, 327.011, 327.051, 329.015,
3 329.025, 329.028, 329.210, 329.240, 330.110, 330.190, 331.100,
4 332.041, 332.327, 333.221, 334.123, 334.240, 334.400, 334.430,
5 334.625, 334.702, 334.720, 334.735, 334.749, 334.800, 334.840,
6 335.026, 335.036, 336.140, 336.160, 337.010, 337.050, 337.085,
7 337.090, 337.500, 337.535, 337.600, 337.622, 337.650, 337.700,
8 337.712, 337.739, 338.130, 339.120, 339.507, 340.208, 340.212,
9 345.035, 345.080, 346.010, 346.120, 352.505, 352.520, 353.120,
10 354.010, 354.050, 354.055, 354.060, 354.065, 354.085, 354.152,
11 354.165, 354.205, 354.240, 354.275, 354.285, 354.305, 354.325,
12 354.340, 354.345, 354.355, 354.400, 354.405, 354.430, 354.442,
13 354.443, 354.444, 354.551, 354.558, 354.560, 354.562, 354.563,
14 354.565, 354.600, 354.603, 354.627, 354.700, 354.703, 361.010,
15 361.092, 361.140, 361.160, 362.109, 362.332, 362.910, 365.080,
16 367.500, 370.005, 370.366, 374.010, 374.020, 374.040, 374.045,
17 374.070, 374.075, 374.085, 374.110, 374.115, 374.120, 374.130,
18 374.150, 374.160, 374.180, 374.184, 374.194, 374.202, 374.216,
19 374.217, 374.220, 374.245, 374.250, 374.261, 374.263, 374.267,
20 374.270, 374.284, 374.310, 374.400, 374.410, 374.415, 374.420,
21 374.426, 374.450, 374.455, 374.456, 374.500, 374.503, 374.505,
22 374.507, 374.700, 374.740, 374.764, 374.790, 374.800, 375.001,
23 375.006, 375.018, 375.031, 375.033, 375.037, 375.039, 375.041,
24 375.146, 375.147, 375.164, 375.176, 375.198, 375.206, 375.221,
25 375.231, 375.246, 375.256, 375.251, 375.261, 375.271, 375.330,
26 375.345, 375.350, 375.355, 375.400, 375.422, 375.430, 375.440,
27 375.460, 375.500, 375.510, 375.537, 375.740, 375.772, 375.788,
28 375.789, 375.790, 375.791, 375.811, 375.892, 375.906, 375.908,

1 375.911, 375.916, 375.918, 375.920, 375.922, 375.923, 375.932,
2 375.950, 375.954, 375.958, 375.991, 375.992, 375.993, 375.1002,
3 375.1025, 375.1032, 375.1035, 375.1050, 375.1080, 375.1112,
4 375.1152, 375.1158, 375.1160, 375.1172, 375.1176, 375.1184,
5 375.1186, 375.1250, 375.1269, 375.1287, 375.1300, 375.1506,
6 375.1524, 375.1730, 376.020, 376.050, 376.070, 376.090, 376.130,
7 376.142, 376.143, 376.144, 376.170, 376.210, 376.220, 376.230,
8 376.240, 376.290, 376.300, 376.305, 376.307, 376.311, 376.320,
9 376.330, 376.350, 376.360, 376.370, 376.384, 376.390, 376.397,
10 376.405, 376.410, 376.423, 376.426, 376.442, 376.480, 376.510,
11 376.600, 376.670, 376.672, 376.675, 376.679, 376.693, 376.697,
12 376.704, 376.718, 376.756, 376.773, 376.775, 376.777, 376.779,
13 376.811, 376.826, 376.836, 376.854, 376.960, 376.964, 376.1002,
14 376.1005, 376.1012, 376.1020, 376.1075, 376.1092, 376.1100,
15 376.1199, 376.1219, 376.1220, 376.1253, 376.1275, 376.1305,
16 376.1315, 376.1322, 376.1350, 376.1361, 376.1550, 377.020,
17 377.030, 377.170, 377.220, 377.230, 377.260, 377.400, 377.420,
18 377.430, 378.604, 379.080, 379.083, 379.160, 379.343, 379.440,
19 379.445, 379.450, 379.475, 379.670, 379.680, 379.690, 379.720,
20 379.730, 379.750, 379.770, 379.800, 379.815, 379.882, 379.888,
21 379.930, 380.011, 380.021, 380.051, 380.061, 380.071, 380.081,
22 380.091, 380.201, 380.221, 380.521, 380.611, 382.010, 383.015,
23 383.020, 383.025, 383.030, 383.060, 383.075, 383.100, 383.110,
24 384.015, 385.020, 400.008.117, 407.020, 407.1085, 407.1200,
25 408.233, 408.280, 427.140, 427.145, 436.005, 443.803, 447.572,
26 525.050, 537.740, 537.756, 620.010, 620.105, 620.106, 620.111,
27 620.120, 620.125, 620.127, 620.130, 620.132, 620.135, 620.140,
28 620.145, 620.146, 620.148, 620.149, 620.150, 620.151, 620.153,

1 620.154, 621.045, 660.551, 660.553, and 660.555, RSMo, are
2 repealed and four hundred sixty-two new sections enacted in lieu
3 thereof, to be known as sections 27.040, 44.237, 91.250, 103.008,
4 103.178, 104.220, 104.510, 105.711, 105.1075, 108.290, 135.508,
5 135.520, 135.815, 143.999, 148.330, 148.380, 148.410, 191.671,
6 191.828, 191.831, 191.853, 192.068, 208.178, 208.437, 209.285,
7 209.319, 214.270, 219.091, 227.100, 256.453, 256.459, 256.465,
8 285.230, 287.035, 287.037, 287.123, 287.129, 287.135, 287.241,
9 287.280, 287.282, 287.335, 287.690, 287.710, 287.715, 287.717,
10 287.730, 287.892, 287.894, 287.896, 287.902, 287.920, 287.930,
11 287.945, 287.975, 303.025, 303.026, 303.406, 303.412, 319.131,
12 320.082, 324.001, 324.002, 324.015, 324.016, 324.017, 324.021,
13 324.022, 324.024, 324.026, 324.028, 324.029, 324.031, 324.032,
14 324.034, 324.036, 324.038, 324.039, 324.041, 324.042, 324.043,
15 324.050, 324.065, 324.128, 324.159, 324.177, 324.200, 324.203,
16 324.240, 324.243, 324.400, 324.406, 324.475, 324.478, 324.526,
17 325.010, 326.265, 326.268, 327.011, 327.051, 329.015, 329.025,
18 329.028, 329.210, 330.110, 330.190, 331.100, 332.041, 332.327,
19 333.221, 334.123, 334.240, 334.400, 334.430, 334.625, 334.702,
20 334.720, 334.735, 334.749, 334.800, 334.840, 335.026, 335.036,
21 336.140, 336.160, 337.010, 337.050, 337.085, 337.090, 337.500,
22 337.535, 337.600, 337.622, 337.650, 337.700, 337.712, 337.739,
23 338.130, 339.120, 339.507, 340.208, 340.212, 345.035, 345.080,
24 346.010, 346.120, 352.505, 352.520, 353.120, 354.010, 354.050,
25 354.055, 354.060, 354.065, 354.085, 354.152, 354.165, 354.205,
26 354.240, 354.275, 354.285, 354.305, 354.325, 354.340, 354.345,
27 354.355, 354.400, 354.405, 354.430, 354.442, 354.443, 354.444
28 354.551, 354.558, 354.560, 354.562, 354.563, 354.565, 354.600,

1 354.603, 354.627, 354.700, 354.703, 361.010, 361.092, 361.140,
2 361.160, 362.109, 362.332, 362.910, 365.080, 367.500, 370.005,
3 370.006, 370.366, 374.005, 374.010, 374.020, 374.040, 374.045,
4 374.070, 374.075, 374.085, 374.110, 374.115, 374.120, 374.150,
5 374.155, 374.160, 374.180, 374.184, 374.194, 374.202, 374.216,
6 374.217, 374.220, 374.245, 374.250, 374.270, 374.284, 374.310,
7 374.400, 374.410, 374.415, 374.420, 374.426, 374.450, 374.455,
8 374.456, 374.500, 374.503, 374.505, 374.507, 374.700, 374.740,
9 374.764, 374.790, 374.800, 375.001, 375.006, 375.018, 375.031,
10 375.033, 375.037, 375.039, 375.146, 375.147, 375.159, 375.164,
11 375.176, 375.198, 375.206, 375.221, 375.231, 375.246, 375.251,
12 375.256, 375.261, 375.271, 375.330, 375.345, 375.350, 375.355,
13 375.400, 375.422, 375.430, 375.440, 375.460, 375.500, 375.510,
14 375.537, 375.740, 375.772, 375.788, 375.789, 375.790, 375.791,
15 375.811, 375.892, 375.906, 375.908, 375.911, 375.916, 375.918,
16 375.920, 375.922, 375.923, 375.932, 375.950, 375.954, 375.958,
17 375.991, 375.992, 375.993, 375.1002, 375.1025, 375.1032,
18 375.1035, 375.1050, 375.1080, 375.1112, 375.1152, 375.1158,
19 375.1160, 375.1172, 375.1176, 375.1184, 375.1186, 375.1250,
20 375.1269, 375.1287, 375.1300, 375.1506, 375.1524, 375.1730,
21 376.005, 376.020, 376.050, 376.070, 376.090, 376.130, 376.142,
22 376.143, 376.144, 376.170, 376.210, 376.220, 376.230, 376.240,
23 376.290, 376.300, 376.305, 376.307, 376.311, 376.320, 376.330,
24 376.350, 376.360, 376.370, 376.384, 376.390, 376.397, 376.405,
25 376.410, 376.423, 376.426, 376.442, 376.480, 376.510, 376.600,
26 376.670, 376.672, 376.675, 376.679, 376.693, 376.697, 376.704,
27 376.718, 376.756, 376.773, 376.775, 376.777, 376.779, 376.811,
28 376.826, 376.836, 376.854, 376.960, 376.964, 376.1002, 376.1005,

1 376.1012, 376.1020, 376.1075, 376.1092, 376.1100, 376.1199,
2 376.1219, 376.1220, 376.1253, 376.1275, 376.1305, 376.1315,
3 376.1322, 376.1350, 376.1361, 376.1550, 377.005, 377.020,
4 377.030, 377.170, 377.220, 377.230, 377.260, 377.400, 377.420,
5 377.430, 378.604, 379.005, 379.080, 379.083, 379.160, 379.343,
6 379.440, 379.445, 379.450, 379.475, 379.670, 379.680, 379.690,
7 379.720, 379.730, 379.750, 379.770, 379.800, 379.815, 379.882,
8 379.888, 379.930, 380.005, 380.011, 380.021, 380.051, 380.061,
9 380.071, 380.081, 380.091, 380.201, 380.221, 380.521, 380.611,
10 382.010, 383.005, 383.015, 383.020, 383.025, 383.030, 383.060,
11 383.075, 383.100, 383.110, 384.015, 385.020, 400.008.117,
12 407.020, 407.1085, 407.1200, 408.233, 408.280, 427.140, 427.145,
13 436.005, 443.803, 447.572, 525.050, 537.740, 537.756, 620.010,
14 621.045, 660.551, 660.553, and 660.555, to read as follows:

15 27.040. When required, he shall give his opinion, in
16 writing, without fee, to the general assembly, or to either
17 house, and to the governor, secretary of state, auditor,
18 treasurer, commissioner of education, grain warehouse
19 commissioner, director of the department of insurance, financial
20 and professional regulation, the director of the division of
21 finance, and the head of any state department, or any circuit or
22 prosecuting attorney upon any question of law relative to their
23 respective offices or the discharge of their duties.

24 44.237. 1. In addition to its responsibilities listed in
25 sections 44.225 to 44.237, the commission shall undertake a study
26 to determine the feasibility of establishing a comprehensive
27 program of earthquake hazard reduction having as its purposes the
28 saving of lives and mitigating damage to property in Missouri.

1 2. The study shall accomplish the following tasks:

2 (1) Earthquake hazard reduction. The study shall develop a
3 comprehensive program for the reduction of earthquake hazards in
4 Missouri. It shall include, but not necessarily be limited to,
5 the following:

6 (a) A review of and recommendations for improving the
7 development and implementation of technically and economically
8 feasible codes, standards and procedures for the design and
9 construction of new structures and the strengthening of existing
10 structures so as to increase the earthquake resistance of
11 structures located in areas of significant seismic hazard;

12 (b) A review of current methods and recommendations for new
13 methods to improve the development, publication and promotion, in
14 conjunction with local officials, research organizations and
15 professional organizations, of model codes and other means to
16 provide better information about seismic hazards to guide
17 land-use policy decisions and building activity;

18 (c) A review of and recommendations for methods, practices
19 and procedures to educate the public, including local officials,
20 about the nature and consequences of earthquakes, about
21 procedures for identifying those locations and structures
22 especially susceptible to earthquake damage and about ways to
23 reduce and mitigate the adverse effects of an earthquake;

24 (d) A review of and recommendations for programs and
25 techniques to improve preparedness for and response to damaging
26 earthquakes with special attention being given to hazard control
27 measures, pre-earthquake emergency planning, readiness of
28 emergency services and planning for post-earthquake

1 reconstruction and redevelopment.

2 (2) Implementation processes. With respect to
3 implementation of earthquake hazard reduction, the study shall
4 include the following:

5 (a) Recommendations for new roles, responsibilities and
6 programs for state and local agencies, universities, private
7 organizations and volunteer organizations, including goals,
8 priorities and expenditures of future state funds specifically
9 identified for the recommended hazards reduction program;

10 (b) Recommendations for methods and procedures to
11 disseminate and implement basic and applied earthquake research
12 in order to achieve higher levels of seismic safety.

13 (3) Coordination with other agencies. To the extent it is
14 practical to do so, the study required by this section shall be
15 coordinated with the relevant local, regional and federal
16 government agencies, key elements of the private sector, and at
17 least the following state agencies: state emergency management
18 agency, division of geology and land survey, division of design
19 and construction, Missouri housing development commission,
20 department of natural resources, department of labor and
21 industrial relations, public service commission, department of
22 health and senior services, office of the state fire marshal,
23 department of transportation, department of revenue, office of
24 the adjutant general, department of insurance, financial and
25 professional regulation, and the department of elementary and
26 secondary education.

27 3. The study shall include recommendations for statutory
28 changes and specific executive actions to be taken by state and

1 local agencies necessary to establish and implement an earthquake
2 hazards reduction program for the state of Missouri.

3 4. The commission shall submit the study to the general
4 assembly by June 30, 1997, or earlier at its discretion.

5 91.250. When any city of over twenty thousand inhabitants
6 has purchased or erected a waterworks system under sections
7 91.090 to 91.300 and issued bonds in payment therefor as herein
8 provided, such bonds shall be subject to be deposited with the
9 director of the department of insurance [of Missouri], financial
10 and professional regulation as provided by the statutes relating
11 to the deposit of securities by trust and insurance companies,
12 and such bonds may also be deposited with the treasurer of the
13 state of Missouri, as provided in section 30.270, RSMo, within
14 the discretion of the governor, attorney general and treasurer of
15 the state, as provided in said section 30.270, RSMo; provided,
16 that at the time that such bonds are offered for deposit, the
17 waterworks system upon which they are secured has, for a period
18 of five years last past, earned all necessary current running
19 expenses, and in addition thereto an amount equal to eight
20 percent per annum on the entire amount of such bonds issued for
21 the payment of said waterworks system.

22 103.008. 1. The general administration and the
23 responsibility for the proper operation of the plan is vested in
24 a board of trustees of thirteen persons, as follows: the
25 director of the department of health and senior services, the
26 director of the department of insurance, financial and
27 professional regulation, the commissioner of the state office of
28 administration serving ex officio, one member of the senate from

1 the majority party appointed by the president pro tem of the
2 senate and one member of the senate from the minority party
3 appointed by the president pro tem of the senate with the
4 concurrence of the minority floor leader of the senate, one
5 member of the house of representatives from the majority party
6 appointed by the speaker of the house of representatives and one
7 member of the house of representatives from the minority party
8 appointed by the speaker of the house of representatives with the
9 concurrence of the minority floor leader of the house of
10 representatives, and six members appointed by the governor with
11 the advice and consent of the senate. Of the six members
12 appointed by the governor, three shall be citizens of the state
13 of Missouri who are not members of the plan, but who are familiar
14 with medical issues. The remaining three members shall be
15 members of the plan and may be selected from any state agency or
16 any participating member agency.

17 2. Except for the legislative members, the director of the
18 department of health and senior services, the director of the
19 department of insurance, financial and professional regulation,
20 and the commissioner of the office of administration, trustees
21 shall be chosen for terms of four years from the first day of
22 January next following their election or appointment. Any
23 vacancies occurring in the office of trustee shall be filled in
24 the same manner the office was filled previously.

25 103.178. 1. Beginning on a date specified by the board of
26 trustees of the Missouri consolidated health care plan but not
27 later than July 1, 1995, the Missouri consolidated health care
28 plan established under section 103.005 shall implement a pilot

1 project to make available to those residing in the pilot project
2 area who are covered by the plan an alternative system of
3 benefits for the treatment of chemical dependency added to those
4 benefits regularly available to plan participants. The benefits
5 provided under the pilot project shall be similar in scope and
6 comprehensiveness, but not limited to, the benefits provided for
7 the treatment and rehabilitation of persons who are chemically
8 dependent under the department of mental health's comprehensive
9 substance treatment and rehabilitation program, popularly
10 described as the C-STAR program. Such a pilot project shall
11 operate for a period not to exceed four years. To the extent
12 that participation in the pilot project incurs additional cost to
13 a person covered under the plan, participation shall be
14 voluntary. If no additional cost is incurred, the alternative
15 system of benefits may be made in lieu of the regular benefits
16 for the services in the pilot project area.

17 2. The Missouri state employees' retirement system or the
18 Missouri health care plan, as appropriate, shall in cooperation
19 with the department of mental health and the department of
20 insurance, financial and professional regulation design the pilot
21 project so as to generate data to evaluate the costs and benefits
22 of providing coverage of chemical dependency using an alternative
23 set of benefits as provided in this section. The Missouri
24 consolidated health care plan shall at the completion of the
25 pilot project submit to the governor and the members of the
26 general assembly a report which describes the results of the
27 evaluation of this pilot project. As authorized by
28 appropriations made for that purpose, the Missouri state

1 employees' retirement system or the Missouri consolidated health
2 care plan may contract with persons to conduct an independent
3 evaluation of the pilot project established in this section.

4 104.220. The board of trustees may select and employ an
5 actuary who shall serve at its pleasure as its technical adviser
6 on matters regarding the operation of the system, or may call
7 upon the director of the department of insurance, financial and
8 professional regulation for actuarial service, which shall be
9 furnished by him. The actuary shall:

10 (1) During the first year of operation of the system, or as
11 soon as practicable, and at least once every five years
12 thereafter, make a general investigation of the mortality,
13 retirement, disability, death, employment turnover, interest, and
14 earnable compensation experience of the system;

15 (2) Recommend mortality and other tables to be used for all
16 required actuarial calculations;

17 (3) Make an annual valuation of the liabilities, assets,
18 and reserves of the system, and a determination of the amounts of
19 contributions required by the system to discharge the liabilities
20 and administration costs under sections 104.010 to 104.270, and
21 certify the results thereof to the board; and

22 (4) Perform such other duties as may be assigned to him by
23 the board.

24 104.510. The board of trustees may select and employ an
25 actuary who shall serve at its pleasure as its technical adviser
26 on matters regarding the operation of the system, or may call
27 upon the director of the department of insurance, financial and
28 professional regulation for actuarial service. The actuary

1 shall:

2 (1) During the first year of operation of the system, or as
3 soon as practicable, and at least once every five years
4 thereafter, make a general investigation of the mortality,
5 retirement, disability, death, employment turnover, interest, and
6 earnable compensation experience of the system;

7 (2) Recommend mortality and other tables to be used for all
8 required actuarial calculations;

9 (3) Make an annual valuation of the liabilities, assets,
10 and reserves of the system, and a determination of the amounts of
11 contributions required by the system to discharge the liabilities
12 and administration costs under sections 104.010 and 104.320 to
13 104.800, and certify the results thereof to the board; and

14 (4) Perform such other duties as are assigned by the board.

15 105.711. 1. There is hereby created a "State Legal Expense
16 Fund" which shall consist of moneys appropriated to the fund by
17 the general assembly and moneys otherwise credited to such fund
18 pursuant to section 105.716.

19 2. Moneys in the state legal expense fund shall be
20 available for the payment of any claim or any amount required by
21 any final judgment rendered by a court of competent jurisdiction
22 against:

23 (1) The state of Missouri, or any agency of the state,
24 pursuant to section 536.050 or 536.087, RSMo, or section 537.600,
25 RSMo;

26 (2) Any officer or employee of the state of Missouri or any
27 agency of the state, including, without limitation, elected
28 officials, appointees, members of state boards or commissions,

1 and members of the Missouri national guard upon conduct of such
2 officer or employee arising out of and performed in connection
3 with his or her official duties on behalf of the state, or any
4 agency of the state, provided that moneys in this fund shall not
5 be available for payment of claims made under chapter 287, RSMo;
6 or

7 (3) (a) Any physician, psychiatrist, pharmacist,
8 podiatrist, dentist, nurse, or other health care provider
9 licensed to practice in Missouri under the provisions of chapter
10 324, 330, 332, 334, 335, 336, 337 or 338, RSMo, who is employed
11 by the state of Missouri or any agency of the state, under formal
12 contract to conduct disability reviews on behalf of the
13 department of elementary and secondary education or provide
14 services to patients or inmates of state correctional facilities
15 on a part-time basis, and any physician, psychiatrist,
16 pharmacist, podiatrist, dentist, nurse, or other health care
17 provider licensed to practice in Missouri under the provisions of
18 chapter 324, 330, 332, 334, 335, 336, 337, or 338, RSMo, who is
19 under formal contract to provide services to patients or inmates
20 at a county jail on a part-time basis;

21 (b) Any physician licensed to practice medicine in Missouri
22 under the provisions of chapter 334, RSMo, and his professional
23 corporation organized pursuant to chapter 356, RSMo, who is
24 employed by or under contract with a city or county health
25 department organized under chapter 192, RSMo, or chapter 205,
26 RSMo, or a city health department operating under a city charter,
27 or a combined city-county health department to provide services
28 to patients for medical care caused by pregnancy, delivery, and

1 child care, if such medical services are provided by the
2 physician pursuant to the contract without compensation or the
3 physician is paid from no other source than a governmental agency
4 except for patient co-payments required by federal or state law
5 or local ordinance;

6 (c) Any physician licensed to practice medicine in Missouri
7 under the provisions of chapter 334, RSMo, who is employed by or
8 under contract with a federally funded community health center
9 organized under Section 315, 329, 330 or 340 of the Public Health
10 Services Act (42 U.S.C. 216, 254c) to provide services to
11 patients for medical care caused by pregnancy, delivery, and
12 child care, if such medical services are provided by the
13 physician pursuant to the contract or employment agreement
14 without compensation or the physician is paid from no other
15 source than a governmental agency or such a federally funded
16 community health center except for patient co-payments required
17 by federal or state law or local ordinance. In the case of any
18 claim or judgment that arises under this paragraph, the aggregate
19 of payments from the state legal expense fund shall be limited to
20 a maximum of one million dollars for all claims arising out of
21 and judgments based upon the same act or acts alleged in a single
22 cause against any such physician, and shall not exceed one
23 million dollars for any one claimant;

24 (d) Any physician licensed pursuant to chapter 334, RSMo,
25 who is affiliated with and receives no compensation from a
26 nonprofit entity qualified as exempt from federal taxation under
27 Section 501(c)(3) of the Internal Revenue Code of 1986, as
28 amended, which offers a free health screening in any setting or

1 any physician, nurse, physician assistant, dental hygienist, or
2 dentist licensed or registered pursuant to chapter 332, RSMo,
3 chapter 334, RSMo, or chapter 335, RSMo, who provides medical,
4 dental, or nursing treatment within the scope of his license or
5 registration at a city or county health department organized
6 under chapter 192, RSMo, or chapter 205, RSMo, a city health
7 department operating under a city charter, or a combined
8 city-county health department, or a nonprofit community health
9 center qualified as exempt from federal taxation under Section
10 501(c)(3) of the Internal Revenue Code of 1986, as amended, if
11 such treatment is restricted to primary care and preventive
12 health services, provided that such treatment shall not include
13 the performance of an abortion, and if such medical, dental, or
14 nursing services are provided by the physician, dentist,
15 physician assistant, dental hygienist, or nurse without
16 compensation. Medicaid or medicare payments for primary care and
17 preventive health services provided by a physician, dentist,
18 physician assistant, dental hygienist, or nurse who volunteers at
19 a free health clinic is not compensation for the purpose of this
20 section if the total payment is assigned to the free health
21 clinic. For the purposes of the section, "free health clinic"
22 means a nonprofit community health center qualified as exempt
23 from federal taxation under Section 501 (c) (3) of the Internal
24 Revenue Code of 1987, as amended, that provides primary care and
25 preventive health services to people without health insurance
26 coverage for the services provided without charge. In the case
27 of any claim or judgment that arises under this paragraph, the
28 aggregate of payments from the state legal expense fund shall be

1 limited to a maximum of five hundred thousand dollars, for all
2 claims arising out of and judgments based upon the same act or
3 acts alleged in a single cause and shall not exceed five hundred
4 thousand dollars for any one claimant, and insurance policies
5 purchased pursuant to the provisions of section 105.721 shall be
6 limited to five hundred thousand dollars. Liability or
7 malpractice insurance obtained and maintained in force by or on
8 behalf of any physician, dentist, physician assistant, dental
9 hygienist, or nurse shall not be considered available to pay that
10 portion of a judgment or claim for which the state legal expense
11 fund is liable under this paragraph; or

12 (e) Any physician, nurse, physician assistant, dental
13 hygienist, or dentist licensed or registered to practice
14 medicine, nursing, or dentistry or to act as a physician
15 assistant or dental hygienist in Missouri under the provisions of
16 chapter 332, RSMo, chapter 334, RSMo, or chapter 335, RSMo, who
17 provides medical, nursing, or dental treatment within the scope
18 of his license or registration to students of a school whether a
19 public, private, or parochial elementary or secondary school, if
20 such physician's treatment is restricted to primary care and
21 preventive health services and if such medical, dental, or
22 nursing services are provided by the physician, dentist,
23 physician assistant, dental hygienist, or nurse without
24 compensation. In the case of any claim or judgment that arises
25 under this paragraph, the aggregate of payments from the state
26 legal expense fund shall be limited to a maximum of five hundred
27 thousand dollars, for all claims arising out of and judgments
28 based upon the same act or acts alleged in a single cause and

1 shall not exceed five hundred thousand dollars for any one
2 claimant, and insurance policies purchased pursuant to the
3 provisions of section 105.721 shall be limited to five hundred
4 thousand dollars; or

5 (4) Staff employed by the juvenile division of any judicial
6 circuit; or

7 (5) Any attorney licensed to practice law in the state of
8 Missouri who practices law at or through a nonprofit community
9 social services center qualified as exempt from federal taxation
10 under Section 501(c)(3) of the Internal Revenue Code of 1986, as
11 amended, or through any agency of any federal, state, or local
12 government, if such legal practice is provided by the attorney
13 without compensation. In the case of any claim or judgment that
14 arises under this subdivision, the aggregate of payments from the
15 state legal expense fund shall be limited to a maximum of five
16 hundred thousand dollars for all claims arising out of and
17 judgments based upon the same act or acts alleged in a single
18 cause and shall not exceed five hundred thousand dollars for any
19 one claimant, and insurance policies purchased pursuant to the
20 provisions of section 105.721 shall be limited to five hundred
21 thousand dollars.

22 3. The department of health and senior services shall
23 promulgate rules regarding contract procedures and the
24 documentation of care provided under paragraphs (b), (c), (d),
25 and (e) of subdivision (3) of subsection 2 of this section. The
26 limitation on payments from the state legal expense fund or any
27 policy of insurance procured pursuant to the provisions of
28 section 105.721, provided in subsection 7 of this section, shall

1 not apply to any claim or judgment arising under paragraph (a),
2 (b), (c), (d), or (e) of subdivision (3) of subsection 2 of this
3 section. Any claim or judgment arising under paragraph (a), (b),
4 (c), (d), or (e) of subdivision (3) of subsection 2 of this
5 section shall be paid by the state legal expense fund or any
6 policy of insurance procured pursuant to section 105.721, to the
7 extent damages are allowed under sections 538.205 to 538.235,
8 RSMo. Liability or malpractice insurance obtained and maintained
9 in force by any physician, dentist, physician assistant, dental
10 hygienist, or nurse for coverage concerning his or her private
11 practice and assets shall not be considered available under
12 subsection 7 of this section to pay that portion of a judgment or
13 claim for which the state legal expense fund is liable under
14 paragraph (a), (b), (c), (d), or (e) of subdivision (3) of
15 subsection 2 of this section. However, a physician, nurse,
16 dentist, physician assistant, or dental hygienist may purchase
17 liability or malpractice insurance for coverage of liability
18 claims or judgments based upon care rendered under paragraphs
19 (c), (d), and (e) of subdivision (3) of subsection 2 of this
20 section which exceed the amount of liability coverage provided by
21 the state legal expense fund under those paragraphs. Even if
22 paragraph (a), (b), (c), (d), or (e) of subdivision (3) of
23 subsection 2 of this section is repealed or modified, the state
24 legal expense fund shall be available for damages which occur
25 while the pertinent paragraph (a), (b), (c), (d), or (e) of
26 subdivision (3) of subsection 2 of this section is in effect.

27 4. The attorney general shall promulgate rules regarding
28 contract procedures and the documentation of legal practice

1 provided under subdivision (5) of subsection 2 of this section.
2 The limitation on payments from the state legal expense fund or
3 any policy of insurance procured pursuant to section 105.721 as
4 provided in subsection 7 of this section shall not apply to any
5 claim or judgment arising under subdivision (5) of subsection 2
6 of this section. Any claim or judgment arising under subdivision
7 (5) of subsection 2 of this section shall be paid by the state
8 legal expense fund or any policy of insurance procured pursuant
9 to section 105.721 to the extent damages are allowed under
10 sections 538.205 to 538.235, RSMo. Liability or malpractice
11 insurance otherwise obtained and maintained in force shall not be
12 considered available under subsection 7 of this section to pay
13 that portion of a judgment or claim for which the state legal
14 expense fund is liable under subdivision (5) of subsection 2 of
15 this section. However, an attorney may obtain liability or
16 malpractice insurance for coverage of liability claims or
17 judgments based upon legal practice rendered under subdivision
18 (5) of subsection 2 of this section that exceed the amount of
19 liability coverage provided by the state legal expense fund under
20 subdivision (5) of subsection 2 of this section. Even if
21 subdivision (5) of subsection 2 of this section is repealed or
22 amended, the state legal expense fund shall be available for
23 damages that occur while the pertinent subdivision (5) of
24 subsection 2 of this section is in effect.

25 5. All payments shall be made from the state legal expense
26 fund by the commissioner of administration with the approval of
27 the attorney general. Payment from the state legal expense fund
28 of a claim or final judgment award against a physician, dentist,

1 physician assistant, dental hygienist, or nurse described in
2 paragraph (a), (b), (c), (d), or (e) of subdivision (3) of
3 subsection 2 of this section, or against an attorney in
4 subdivision (5) of subsection 2 of this section, shall only be
5 made for services rendered in accordance with the conditions of
6 such paragraphs. In the case of any claim or judgment against an
7 officer or employee of the state or any agency of the state based
8 upon conduct of such officer or employee arising out of and
9 performed in connection with his or her official duties on behalf
10 of the state or any agency of the state that would give rise to a
11 cause of action under section 537.600, RSMo, the state legal
12 expense fund shall be liable, excluding punitive damages, for:

13 (1) Economic damages to any one claimant; and

14 (2) Up to three hundred fifty thousand dollars for
15 noneconomic damages.

16
17 The state legal expense fund shall be the exclusive remedy and
18 shall preclude any other civil actions or proceedings for money
19 damages arising out of or relating to the same subject matter
20 against the state officer or employee, or the officer's or
21 employee's estate. No officer or employee of the state or any
22 agency of the state shall be individually liable in his or her
23 personal capacity for conduct of such officer or employee arising
24 out of and performed in connection with his or her official
25 duties on behalf of the state or any agency of the state. The
26 provisions of this subsection shall not apply to any defendant
27 who is not an officer or employee of the state or any agency of
28 the state in any proceeding against an officer or employee of the

1 state or any agency of the state. Nothing in this subsection
2 shall limit the rights and remedies otherwise available to a
3 claimant under state law or common law in proceedings where one
4 or more defendants is not an officer or employee of the state or
5 any agency of the state.

6 6. The limitation on awards for noneconomic damages
7 provided for in this subsection shall be increased or decreased
8 on an annual basis effective January first of each year in
9 accordance with the Implicit Price Deflator for Personal
10 Consumption Expenditures as published by the Bureau of Economic
11 Analysis of the United States Department of Commerce. The
12 current value of the limitation shall be calculated by the
13 director of the department of insurance, financial and
14 professional regulation, who shall furnish that value to the
15 secretary of state, who shall publish such value in the Missouri
16 Register as soon after each January first as practicable, but it
17 shall otherwise be exempt from the provisions of section 536.021,
18 RSMo.

19 7. Except as provided in subsection 3 of this section, in
20 the case of any claim or judgment that arises under sections
21 537.600 and 537.610, RSMo, against the state of Missouri, or an
22 agency of the state, the aggregate of payments from the state
23 legal expense fund and from any policy of insurance procured
24 pursuant to the provisions of section 105.721 shall not exceed
25 the limits of liability as provided in sections 537.600 to
26 537.610, RSMo. No payment shall be made from the state legal
27 expense fund or any policy of insurance procured with state funds
28 pursuant to section 105.721 unless and until the benefits

1 provided to pay the claim by any other policy of liability
2 insurance have been exhausted.

3 8. The provisions of section 33.080, RSMo, notwithstanding,
4 any moneys remaining to the credit of the state legal expense
5 fund at the end of an appropriation period shall not be
6 transferred to general revenue.

7 9. At the end of each biennium, the state treasurer shall
8 transfer the balance in the fund created in subsection 8 of this
9 section in excess of two hundred percent of the previous fiscal
10 year's expenditures into the state general revenue fund.

11 [9.] 10. Any rule or portion of a rule, as that term is
12 defined in section 536.010, RSMo, that is promulgated under the
13 authority delegated in sections 105.711 to 105.726 shall become
14 effective only if it has been promulgated pursuant to the
15 provisions of chapter 536, RSMo. Nothing in this section shall
16 be interpreted to repeal or affect the validity of any rule filed
17 or adopted prior to August 28, 1999, if it fully complied with
18 the provisions of chapter 536, RSMo. This section and chapter
19 536, RSMo, are nonseverable and if any of the powers vested with
20 the general assembly pursuant to chapter 536, RSMo, to review, to
21 delay the effective date, or to disapprove and annul a rule are
22 subsequently held unconstitutional, then the grant of rulemaking
23 authority and any rule proposed or adopted after August 28, 1999,
24 shall be invalid and void.

25 105.1075. Insurance acquired pursuant to sections 105.1070
26 to 105.1079 shall be issued by an insurance company or
27 association authorized to transact business in this state and
28 shall by its terms provide adequate insurance for the employee,

1 member of the Missouri national guard, or agent under policy
2 provisions approved by the state department of insurance,
3 financial and professional regulation for the coverage specified
4 in sections 105.1070 to 105.1079 for any damages caused by reason
5 of death, personal injury, or property damage resulting from the
6 negligent operation of a state-controlled motor vehicle,
7 aircraft, or marine vessel on state business or within the course
8 of the employment, military duty, or scope of the agency.

9 108.290. Any and all bonds registered by the state auditor
10 under the provisions of the laws of this state, and any and all
11 bonds that have been or may be duly issued by any county or city
12 or school district having a population of over three hundred
13 thousand inhabitants, whereon there is no default in payment of
14 principal or interest, may be accepted as good and lawful
15 security for the investment of the capital stock, surplus and
16 reserve funds of any insurance or fraternal benefit society
17 incorporated in or authorized to transact business in this state,
18 or trust company authorized to transact business in this state.
19 The state director of the department of insurance, financial and
20 professional regulation is hereby authorized to accept such bonds
21 as security or pledge in all cases where such pledge or security
22 is required by the laws of this state. Such bonds may be
23 accepted by the state treasurer as security for the deposit of
24 any and all state funds, and by county and city treasurers as
25 security for the deposit of any and all county and city funds.
26 They shall also be eligible for the investment of any funds in
27 the possession of any administrator, executor, guardian, curator,
28 trustee and all other persons sustaining fiduciary relations.

1 Such investments may be made without an order of court first had
2 and obtained, and without incurring liability for loss, except in
3 case of inexcusable negligence.

4 135.508. The department may certify profit or not for
5 profit entities which submit an application to be designated as a
6 Missouri certified capital company. The department shall review
7 the organizational documents for each applicant for certification
8 and the business history of the applicant, determine that the
9 Missouri certified capital company's cash, marketable securities
10 and other liquid assets are at least five hundred thousand
11 dollars, determine that the liquid asset base for certified
12 companies is at least five hundred thousand dollars at all times
13 during the company's participation in the program authorized by
14 sections 135.500 to 135.529, and determine that the officers and
15 the board of directors, partners, trustees or managers are
16 thoroughly acquainted with the requirements of sections 135.500
17 to 135.529. No insurance company which receives tax credits
18 permitted under sections 135.500 to 135.529 for an investment in
19 a Missouri certified capital company shall, individually or with
20 or through one or more affiliates, be a managing general partner
21 of or control the direction of investments of that Missouri
22 certified capital company. Within seventy-five days of
23 application, the department shall either issue the certification
24 and notify the department of revenue and the director of the
25 department of insurance, financial and professional regulation of
26 such certification or shall refuse the certification and
27 communicate in detail to the applicant the grounds for the
28 refusal, including the suggestions for the removal of those

1 grounds. The department shall be responsible for the
2 administration of the tax credits authorized by sections 135.500
3 to 135.529. No rule or portion of a rule promulgated under the
4 authority of sections 135.500 to 135.529 shall become effective
5 unless it has been promulgated pursuant to the provisions of
6 chapter 536, RSMo. All rulemaking authority delegated prior to
7 June 27, 1997, is of no force and effect and repealed; however,
8 nothing in this section shall be interpreted to repeal or affect
9 the validity of any rule filed or adopted prior to June 27, 1997,
10 if such rule complied with the provisions of chapter 536, RSMo.
11 The provisions of this section and chapter 536, RSMo, are
12 nonseverable and if any of the powers vested with the general
13 assembly pursuant to chapter 536, RSMo, including the ability to
14 review, to delay the effective date, or to disapprove and annul a
15 rule or portion of a rule, are subsequently held
16 unconstitutional, then the purported grant of rulemaking
17 authority and any rule so proposed and contained in the order of
18 rulemaking shall be invalid and void.

19 135.520. 1. The division of finance [of the department of
20 economic development] shall conduct an annual review of each
21 Missouri certified capital company and any qualified investing
22 entities designated by it to determine if the Missouri certified
23 capital company is abiding by the requirements of certifications,
24 to advise the Missouri certified capital company as to the
25 certification status of its qualified investments and to ensure
26 that no investment has been made in violation of sections 135.500
27 to 135.529. The cost of the annual review shall be paid by each
28 Missouri certified capital company according to a reasonable fee

1 schedule adopted by the department. The division of finance
2 shall report its findings to the department as soon as
3 practicable following completion of the audit.

4 2. Any material violation of sections 135.500 to 135.529
5 shall be grounds for decertification under this section. If the
6 department determines that a company is not in compliance with
7 any requirements for continuing in certification, it shall, by
8 written notice, inform the officers of the company and the board
9 of directors, managers, trustees or general partners that they
10 may be decertified in one hundred twenty days from the date of
11 mailing of the notice, unless they correct the deficiencies and
12 are again in compliance with the requirements for certification.

13 3. At the end of the one hundred twenty-day grace period,
14 if the Missouri certified capital company is still not in
15 compliance, the department may send a notice of decertification
16 to the company and to the directors of the department of revenue
17 and department of insurance, financial and professional
18 regulation. Decertification of a Missouri certified capital
19 company prior to the certified capital company meeting all
20 requirements of subdivisions (1) to (3) of subsection 1 of
21 section 135.516 shall cause the recapture of all premium tax
22 credits previously claimed by an investor and the forfeiture of
23 all future credits to be claimed by an investor with respect to
24 its investment in the certified capital company. Decertification
25 of a Missouri certified capital company after it has met all
26 requirements of subdivisions (1) to (3) of subsection 1 of
27 section 135.516 shall cause the forfeiture of premium tax credits
28 for the taxable year of the investor in which the decertification

1 arose and for future taxable years with no recapture of tax
2 credits obtained by an investor with respect to the investor's
3 tax years which ended before the decertification occurred. Once
4 a certified capital company has made cumulative qualified
5 investments, including those made through a qualified investing
6 entity and deemed to have been made by the certified capital
7 company, in an amount equal to at least one hundred percent of
8 its certified capital, all future premium tax credits to be
9 claimed by investors with respect to said certified capital
10 company pursuant to sections 135.500 to 135.529 shall be
11 nonforfeitable. Once a certified capital company has made
12 cumulative qualified investments, including those made through a
13 qualified investing entity and deemed to have been made by the
14 certified capital company, in an amount equal to at least one
15 hundred percent of its certified capital and has met all other
16 requirements under sections 135.500 to 135.529, it shall no
17 longer be subject to regulation by the department except with
18 respect to the payment of distributions to the Missouri
19 development finance board.

20 135.815. Prior to authorization of any tax credit
21 application, an administering agency shall verify through the
22 department of revenue that the tax credit applicant does not owe
23 any delinquent income, sales, or use taxes, or interest or
24 penalties on such taxes, and through the department of insurance,
25 financial and professional regulation that the applicant does not
26 owe any delinquent insurance taxes. Such delinquency shall not
27 affect the authorization of the application for such tax credits,
28 except that the amount of credits issued shall be reduced by the

1 applicant's tax delinquency. If the department of revenue or the
2 department of insurance, financial and professional regulation
3 concludes that a taxpayer is delinquent after June fifteenth but
4 before July first of any year, and the application of tax credits
5 to such delinquency causes a tax deficiency on behalf of the
6 taxpayer to arise, then the taxpayer shall be granted thirty days
7 to satisfy the deficiency in which interest, penalties, and
8 additions to tax shall be tolled. After applying all available
9 credits towards a tax delinquency, the administering agency shall
10 notify the appropriate department, and that department shall
11 update the amount of outstanding delinquent tax owed by the
12 applicant. If any credits remain after satisfying all insurance,
13 income, sales, and use tax delinquencies, the remaining credits
14 shall be issued to the applicant, subject to the restrictions of
15 other provisions of law.

16 143.999. 1. Employer contributions to an individual
17 medical account which are used to pay for health care expenses of
18 the employee in accordance with this section shall be exempt from
19 state income tax under this chapter, to the extent such
20 contributions are not excluded from gross income under 26 U.S.C.
21 105 and 26 U.S.C. 106 and regulations promulgated thereunder. In
22 order to qualify for such an exemption from taxation under this
23 chapter, such contributions shall be made in accordance with
24 health care coverage arrangements which contain at a minimum the
25 following components:

26 (1) The employer shall annually determine a contribution
27 level to be expended for coverage of an insured person and any
28 dependents, which shall be in lieu of any standard indemnity or

1 health insurance provided under a health insurance benefit
2 package which is established by the department of insurance,
3 financial and professional regulation. Such a benefit package
4 may be offered as an individual or group policy or other
5 insurance arrangement by an insurer, health maintenance
6 organization, health services corporation, or as a self-funded
7 employer plan. A percentage of the employer's designated
8 contribution level as established by rule and regulation of the
9 department of insurance, financial and professional regulation
10 shall be used by the insurer, health maintenance organization,
11 health services corporation, or as a self-funded employer plan to
12 purchase or provide a policy or plan of major medical health care
13 benefits for the insured person and any dependents. The
14 remainder of the employer's contribution level not used to
15 provide major medical coverage shall be used to fund an
16 individual medical account. Funds in the account shall be used
17 by the insured person or his dependents, if any, to pay for that
18 portion of bona fide medical and health care expenses not covered
19 by the policy or plan of major medical health insurance coverage,
20 including any deductible, co-payment, or coinsurance requirements
21 established by regulation of the department of insurance,
22 financial and professional regulation to discourage unnecessary
23 use of health care services. Funds in the individual medical
24 account shall be spent for no other purpose except as otherwise
25 provided by this section;

26 (2) Any amount in the insured's individual medical account
27 that is unspent at the end of the year shall remain in the
28 account. The director of the department of insurance, financial

1 and professional regulation shall by rule and regulation
2 establish a balance for the account which, if exceeded, shall
3 allow the insured to withdraw any moneys in excess of such
4 balance. Any moneys so withdrawn from the account and interest
5 earned on such moneys shall be subject to state income taxation;

6 (3) The amount in an individual medical account shall not
7 be subject to state income taxation while it remains in the
8 account. Any amount spent from the individual medical account on
9 medical and health care expenses and interest accrued on such
10 amount shall be totally exempt from state income taxation;

11 (4) The insurer, health maintenance organization, health
12 services corporation, or employer which sponsors or provides
13 health insurance coverage as authorized by this section shall
14 administer the account on behalf of the insured person and any
15 dependents.

16 2. As used in this section, bona fide medical and health
17 care expenses shall be those medical and health procedures as
18 defined by regulation of the department of insurance, financial
19 and professional regulation. Such regulations shall be developed
20 in consultation with the department of health and senior
21 services.

22 3. The director of the department of insurance, financial
23 and professional regulation shall promulgate such rules and
24 regulations as may be necessary to implement the provisions of
25 this section and section 374.126, RSMo. No rule or portion of a
26 rule promulgated under the authority of this section shall become
27 effective unless it has been promulgated pursuant to the
28 provisions of section 536.024, RSMo.

1 148.330. 1. Every such company shall, on or before the
2 first day of March in each year, make a return, verified by the
3 affidavit of its president and secretary, or other authorized
4 officers, to the director of the department of insurance,
5 financial and professional regulation stating the amount of all
6 premiums received on account of policies issued in this state by
7 the company, whether in cash or in notes, during the year ending
8 on the thirty-first day of December, next preceding. Upon
9 receipt of such returns the director of the department of
10 insurance, financial and professional regulation shall verify the
11 same and certify the amount of tax due from the various companies
12 on the basis and at the rates provided in section 148.320, and
13 shall certify the same to the director of revenue together with
14 the amount of the quarterly installments to be made as provided
15 in subsection 2 of this section, on or before the thirtieth day
16 of April of each year.

17 2. Beginning January 1, 1983, the amount of the tax due for
18 that calendar year and each succeeding calendar year thereafter
19 shall be paid in four approximately equal estimated quarterly
20 installments, and a fifth reconciling installment. The first
21 four installments shall be based upon the tax for the immediately
22 preceding taxable year ending on the thirty-first day of
23 December, next preceding. The quarterly installments shall be
24 made on the first day of March, the first day of June, the first
25 day of September and the first day of December. Immediately
26 after receiving certification from the director of the department
27 of insurance, financial and professional regulation of the amount
28 of tax due from the various companies the director of revenue

1 shall notify and assess each company the amount of taxes on its
2 premiums for the calendar year ending on the thirty-first day of
3 December, next preceding. The director of revenue shall also
4 notify and assess each company the amount of the estimated
5 quarterly installments to be made for the calendar year. If the
6 amount of the actual tax due for any year exceeds the total of
7 the installments made for such year, the balance of the tax due
8 shall be paid on the first day of June of the year following,
9 together with the regular quarterly payment due at that time. If
10 the total amount of the tax actually due is less than the total
11 amount of the installments actually paid, the amount by which the
12 amount paid exceeds the amount due shall be credited against the
13 tax for the following year and deducted from the quarterly
14 installment otherwise due on the first day of June. If the March
15 first quarterly installment made by a company is less than the
16 amount assessed by the director of revenue, the difference will
17 be due on June first, but no interest will accrue to the state on
18 the difference unless the amount paid by the company is less than
19 eighty percent of one-fourth of the total amount of tax assessed
20 by the director of revenue for the immediately preceding taxable
21 year. The state treasurer, upon receiving the moneys paid as a
22 tax upon such premiums to the director of revenue, shall place
23 the moneys to the credit of a fund to be known as "The County
24 Stock Insurance Fund", which is hereby created and established.
25 The county stock insurance fund shall be included in the
26 calculation of total state revenue pursuant to article X, section
27 18, of the Missouri Constitution.

28 3. If the estimated quarterly tax installments are not so

1 paid, the director of revenue shall certify such fact to the
2 director of the [division] department of insurance, financial and
3 professional regulation who shall thereafter suspend such
4 delinquent company or companies from the further transaction of
5 business in this state until such taxes shall be paid and such
6 companies shall be subject to the provisions of sections 148.410
7 to 148.461.

8 4. On or before the first day of September of each year the
9 commissioner of administration shall apportion all moneys in the
10 county stock insurance fund to the general revenue fund of the
11 state, to the county treasurer and to the treasurer of the school
12 district in which the principal office of the company paying the
13 same is located. All premium tax credits described in sections
14 135.500 to 135.529, RSMo, and sections 348.430 and 348.432, RSMo,
15 shall only reduce the amounts apportioned to the general revenue
16 fund of the state and shall not reduce any moneys apportioned to
17 any county treasurer or to the treasurer of the school district
18 in which the principal office of the company paying the same is
19 located. Apportionments shall be made in the same ratio which
20 the rates of levy for the same year for state purposes, for
21 county purposes, and for all school district purposes, bear to
22 each other; provided that any proceeds from such tax for prior
23 years remaining on hand in the hands of the county collector or
24 county treasurer undistributed on the effective date of sections
25 148.310 to 148.460 and any proceeds of such tax for prior years
26 collected thereafter shall be distributed and paid in accordance
27 with the provisions of such sections. Whenever the word "county"
28 occurs herein it shall be construed to include the city of St.

1 Louis.

2 148.380. 1. Every such company, on or before the first day
3 of March in each year, shall make a return verified by the
4 affidavit of its president and secretary, or other chief
5 officers, to the director of the department of insurance, l
6 financial and professional regulation, stating the amount of all
7 direct premiums received by it from policyholders in this state,
8 whether in cash or in notes, during the year ending on the
9 thirty-first day of December, next preceding. Upon receipt of
10 such returns the director of the department of insurance l
11 financial and professional regulation shall verify the same and
12 certify the amount of the tax due from the various companies on
13 the basis and at the rate provided in section 148.370, taking
14 into consideration deductions and credits allowed by law, and
15 shall certify the same to the director of revenue together with
16 the amount of the quarterly installments to be made as provided
17 in subsection 2 of this section, on or before the thirtieth day
18 of April of each year.

19 2. Beginning January 1, 1983, the amount of the tax due for
20 that calendar year and each succeeding calendar year thereafter
21 shall be paid in four approximately equal estimated quarterly
22 installments, and a fifth reconciling installment. The first
23 four installments shall be based upon the tax for the immediately
24 preceding taxable year ending on the thirty-first day of
25 December, next preceding. The quarterly installments shall be
26 made on the first day of March, the first day of June, the first
27 day of September and the first day of December. Immediately
28 after receiving certification from the director of the department

1 of insurance, financial and professional regulation of the amount
2 of tax due from the various companies, the director of revenue
3 shall notify and assess each company the amount of taxes on its
4 premiums for the calendar year ending on the thirty-first day of
5 December, next preceding. The director of revenue shall also
6 notify and assess each company the amount of the estimated
7 quarterly installments to be made for the calendar year. If the
8 amount of the actual tax due for any year exceeds the total of
9 the installments made for such year, the balance of the tax due
10 shall be paid on the first day of June of the year following,
11 together with the regular quarterly payment due at that time. If
12 the total amount of the tax actually due is less than the total
13 amount of the installments actually paid, the amount by which the
14 amount paid exceeds the amount due shall be credited against the
15 tax for the following year and deducted from the quarterly
16 installment otherwise due on the first day of June. If the March
17 first quarterly installment made by a company is less than the
18 amount assessed by the director of revenue, the difference will
19 be due on June first, but no interest will accrue to the state on
20 the difference unless the amount paid by the company is less than
21 eighty percent of one-fourth of the total amount of tax assessed
22 by the director of revenue for the immediately preceding taxable
23 year.

24 3. If the estimated quarterly tax installments are not so
25 paid, the director of revenue shall notify the director of the
26 department of insurance, financial and professional regulation
27 who shall thereupon suspend such delinquent company from the
28 further transaction of business in this state until such taxes

1 shall be paid, and such companies shall be subject to the
2 provisions of sections 148.410 to 148.461.

3 4. Upon receipt of the money the state treasurer shall
4 receipt one-half thereof into the general revenue fund of the
5 state, and one-half thereof to the credit of the county foreign
6 insurance fund for the purposes set forth in section 148.360.

7 148.410. If any company or association shall fail or refuse
8 to make the return required by sections 148.330, 148.350, and
9 148.380, the director of the department of insurance, financial
10 and professional regulation shall certify the amount of tax to
11 the director of revenue and the director of revenue shall notify
12 and shall assess the tax against such company at the rate
13 provided for in sections 148.320, 148.340, and 148.380 on such
14 amount of premiums as he shall deem just, and the proceedings
15 thereon shall be the same as if the return had been made.

16 191.671. 1. No other section of this act shall apply to
17 any insurer, health services corporation, or health maintenance
18 organization licensed by the department of insurance, financial
19 and professional regulation which conducts HIV testing only for
20 the purposes of assessing a person's fitness for insurance
21 coverage offered by such insurer, health services corporation, or
22 health maintenance corporation, except that nothing in this
23 section shall be construed to exempt any insurer, health services
24 corporation or health maintenance organization in their capacity
25 as employers from the provisions of section 191.665 relating to
26 employment practices.

27 2. Upon renewal of any individual or group insurance
28 policy, subscriber contractor health maintenance organization

1 contract covering medical expenses, no insurer, health services
2 corporation or health maintenance organization shall deny or
3 alter coverage to any previously covered individual who has been
4 diagnosed as having HIV infection or any HIV-related condition
5 during the previous policy or contract period only because of
6 such diagnosis, nor shall any such insurer, health services
7 corporation or health maintenance organization exclude coverage
8 for treatment of such infection or condition with respect to any
9 such individual.

10 3. The director of the department of insurance, financial
11 and professional regulation shall establish by regulation
12 standards for the use of HIV testing by insurers, health services
13 corporations and health maintenance organizations.

14 4. A laboratory certified by the U.S. Department of Health
15 and Human Services under the Clinical Laboratory Improvement Act
16 of 1967, permitting testing of specimens obtained in interstate
17 commerce, and which subjects itself to ongoing proficiency
18 testing by the College of American Pathologists, the American
19 Association of Bio Analysts, or an equivalent program approved by
20 the Centers for Disease Control shall be authorized to perform or
21 conduct HIV testing for an insurer, health services corporation
22 or health maintenance organization pursuant to this section.

23 5. The result or results of HIV testing of an applicant for
24 insurance coverage shall not be disclosed by an insurer, health
25 services corporation or health maintenance organization, except
26 as specifically authorized by such applicant in writing. Such
27 result or results shall, however, be disclosed to a physician
28 designated by the subject of the test. If there is no physician

1 designated, the insurer, health services corporation, or health
2 maintenance organization shall disclose the identity of
3 individuals residing in Missouri having a confirmed positive HIV
4 test result to the department of health and senior services.
5 Provided, further, that no such insurer, health services
6 corporation or health maintenance organization shall be liable
7 for violating any duty or right of confidentiality established by
8 law for disclosing such identity of individuals having a
9 confirmed positive HIV test result to the department of health
10 and senior services. Such disclosure shall be in a manner that
11 ensures confidentiality. Disclosure of test results in violation
12 of this section shall constitute a violation of sections 375.930
13 to 375.948, RSMo, regulating trade practices in the business of
14 insurance. Nothing in this subsection shall be construed to
15 foreclose any remedies existing on June 1, 1988.

16 191.828. 1. The following departments shall conduct
17 on-going evaluations of the effect of the initiatives enacted by
18 the following sections:

19 (1) The department of insurance, financial and professional
20 regulation shall evaluate the effect of revising section 376.782,
21 RSMo, and sections 143.999, RSMo, 208.178, RSMo, 374.126, RSMo,
22 and 376.891 to 376.894, RSMo;

23 (2) The department of health and senior services shall
24 evaluate the effect of revising sections 105.711, RSMo, and
25 sections 191.520 and 191.600 and enacting section 191.411, and
26 sections 167.600 to 167.621, RSMo, 191.231, RSMo, 208.177, RSMo,
27 431.064, RSMo, and 660.016, RSMo. In collaboration with the
28 state board of registration for the healing arts, the state board

1 of nursing, and the state board of pharmacy, the department of
2 health and senior services shall also evaluate the effect of
3 revising section 195.070, RSMo, section 334.100, RSMo, and
4 section 335.016, RSMo, and of sections 334.104 and 334.112, RSMo,
5 and section 338.095 and 338.198, RSMo;

6 (3) The department of social services shall evaluate the
7 effect of revising section 198.090, RSMo, and sections 208.151,
8 208.152 and 208.215, RSMo, and section 383.125, RSMo, and of
9 sections 167.600 to 167.621, RSMo, 208.177, 208.178, 208.179,
10 208.181, RSMo, and 211.490, RSMo;

11 (4) The office of administration shall evaluate the effect
12 of revising sections 105.711 and 105.721, RSMo;

13 (5) The Missouri consolidated health care plan shall
14 evaluate the effect of section 103.178, RSMo; and

15 (6) The department of mental health shall evaluate the
16 effect of section 191.831 as it relates to substance abuse
17 treatment and of section 191.835.

18 2. The department of revenue and office of administration
19 shall make biannual reports to the joint committee on health care
20 policy and planning and the governor concerning the income
21 received into the health initiatives fund and the level of
22 funding required to operate the programs and initiatives funded
23 by the health initiatives fund at an optimal level.

24 191.831. 1. There is hereby established in the state
25 treasury a "Health Initiatives Fund", to which shall be deposited
26 all revenues designated for the fund under subsection 8 of
27 section 149.015, RSMo, and subsection 3 of section 149.160, RSMo,
28 and section 167.609, RSMo, and all other funds donated to the

1 fund or otherwise deposited pursuant to law. The state treasurer
2 shall administer the fund. Money in the fund shall be
3 appropriated to provide funding for implementing the new programs
4 and initiatives established by sections 105.711 and 105.721,
5 RSMo. The moneys in the fund may further be used to fund those
6 programs established by sections 191.411, 191.520 and 191.600,
7 sections 208.151 and 208.152, RSMo, and sections 103.178, RSMo,
8 143.999, RSMo, 167.600 to 167.621, RSMo, 188.230, RSMo, 191.211,
9 191.231, 191.825 to 191.839, 192.013, RSMo, 208.177, 208.178,
10 208.179 and 208.181, RSMo, 211.490, RSMo, 285.240, RSMo, 337.093,
11 RSMo, 374.126, RSMo, 376.891 to 376.894, RSMo, 431.064, RSMo,
12 660.016, 660.017 and 660.018, RSMo; in addition, not less than
13 fifteen percent of the proceeds deposited to the health
14 initiative fund pursuant to sections 149.015 and 149.160, RSMo,
15 shall be appropriated annually to provide funding for the C-STAR
16 substance abuse rehabilitation program of the department of
17 mental health, or its successor program, and a C-STAR pilot
18 project developed by the director of the division of alcohol and
19 drug abuse and the director of the department of corrections as
20 an alternative to incarceration, as provided in subsections 2, 3,
21 and 4 of this section. Such pilot project shall be known as the
22 "Alt-care" program. In addition, some of the proceeds deposited
23 to the health initiatives fund pursuant to sections 149.015 and
24 149.160, RSMo, shall be appropriated annually to the division of
25 alcohol and drug abuse of the department of mental health to be
26 used for the administration and oversight of the substance abuse
27 traffic offenders program defined in section 302.010, RSMo, and
28 section 577.001, RSMo. The provisions of section 33.080, RSMo, to

1 the contrary notwithstanding, money in the health initiatives
2 fund shall not be transferred at the close of the biennium to the
3 general revenue fund.

4 2. The director of the division of alcohol and drug abuse
5 and the director of the department of corrections shall develop
6 and administer a pilot project to provide a comprehensive
7 substance abuse treatment and rehabilitation program as an
8 alternative to incarceration, hereinafter referred to as
9 "Alt-care". Alt-care shall be funded using money provided under
10 subsection 1 of this section through the Missouri Medicaid
11 program, the C-STAR program of the department of mental health,
12 and the division of alcohol and drug abuse's purchase-of-service
13 system. Alt-care shall offer a flexible combination of clinical
14 services and living arrangements individually adapted to each
15 client and her children. Alt-care shall consist of the following
16 components:

17 (1) Assessment and treatment planning;

18 (2) Community support to provide continuity, monitoring of
19 progress and access to services and resources;

20 (3) Counseling from individual to family therapy;

21 (4) Day treatment services which include accessibility
22 seven days per week, transportation to and from the Alt-care
23 program, weekly drug testing, leisure activities, weekly events
24 for families and companions, job and education preparedness
25 training, peer support and self-help and daily living skills; and

26 (5) Living arrangement options which are permanent,
27 substance-free and conducive to treatment and recovery.

28 3. Any female who is pregnant or is the custodial parent of

1 a child or children under the age of twelve years, and who has
2 pleaded guilty to or found guilty of violating the provisions of
3 chapter 195, RSMo, and whose controlled substance abuse was a
4 precipitating or contributing factor in the commission of the
5 offense, and who is placed on probation may be required, as a
6 condition of probation, to participate in Alt-care, if space is
7 available in the pilot project area. Determinations of
8 eligibility for the program, placement, and continued
9 participation shall be made by the division of alcohol and drug
10 abuse, in consultation with the department of corrections.

11 4. The availability of space in Alt-care shall be
12 determined by the director of the division of alcohol and drug
13 abuse in conjunction with the director of the department of
14 corrections. If the sentencing court is advised that there is no
15 space available, the court shall consider other authorized
16 dispositions.

17 5. At the end of each biennium, the state treasurer shall
18 transfer the balance in the fund created in subsection 1 of this
19 section in excess of two hundred percent of the previous fiscal
20 year's expenditures into the state general revenue fund.

21 191.853. 1. The "Missouri Assistive Technology Advisory
22 Council" is hereby established, as created pursuant to the
23 Missouri state grant under Title I of the Technology-Related
24 Assistance for Individuals with Disabilities Act of 1988, P.L.
25 100-407.

26 2. The voting membership of the advisory council shall be
27 composed of twenty-three members. The members of the council
28 that are serving on August 28, 1993, shall continue to serve in

1 their normal capacities. The original twenty-one members shall
2 determine by lot which seven are to have a one-year term, which
3 seven are to have a two-year term, and which seven are to have a
4 three-year term. Thereafter, the successors to each of the
5 twenty-one members shall serve a three-year term and until his
6 successor is appointed by the governor. The members appointed by
7 the governor shall include twelve consumer representatives, the
8 group consisting of individuals with disabilities, parents,
9 spouses, or guardians of individuals with disabilities and shall
10 include a variety of types of disabilities across the age span
11 from all geographic areas of the state, and nine agency
12 representatives, the group consisting of one representative of
13 the division of vocational rehabilitation, one representative of
14 the division of special education, one representative of the
15 department of insurance, financial and professional regulation,
16 one representative of rehabilitation services for the blind, one
17 representative of the division of medical services, one
18 representative of the department of health and senior services,
19 one representative of the department of mental health, and two
20 representatives of other agencies or organizations responsible
21 for the service delivery, policy implementation, and funding of
22 assistive technology. In addition, one member who is a member of
23 the house of representatives shall be appointed by the speaker of
24 the house and one member who is a member of the senate shall be
25 appointed by the president pro tempore of the senate. The
26 appointment of individuals representing state agencies shall be
27 conditioned on their continued employment with their respective
28 agencies.

1 3. A chairperson shall be elected by the council. The
2 council shall meet at the call of the chairperson, but not less
3 often than four times each year.

4 192.068. 1. Any entity subject to the provisions of
5 sections 354.400 to 354.636, RSMo, shall provide data regarding
6 quality of care, access to care, member satisfaction and member
7 health status to the director of the department of health and
8 senior services. Failure to provide such data shall be reported
9 to the director of the department of insurance, financial and
10 professional regulation and shall be subject to the penalties
11 provided in section 354.444, RSMo. Any entity subject to the
12 provisions of sections 354.400 to 354.636, RSMo, which
13 continually or substantially fails to comply with the provisions
14 of this section may be prohibited by the director of the
15 department of insurance, financial and professional regulation
16 from participating in any health program administered by the
17 state. The department of health and senior services shall
18 promulgate rules defining continual or substantial failure to
19 comply with the provisions of this section.

20 2. The department of health and senior services shall
21 specify by rule the types of data which shall be submitted and
22 the methods of collection and submission. In defining data
23 standards for the measurement of the quality of care, access to
24 care, member satisfaction and member health status, the director
25 of the department of health and senior services may:

26 (1) Use as the data set the Health Plan Employer Data and
27 Information Set (HEDIS) or an equivalent data set as determined
28 by the department of health and senior services;

1 (2) Consider published standards developed by nationally
2 recognized accreditation organizations including, but not limited
3 to, the National Committee for Quality Assurance and the Joint
4 Committee on Accreditation of Health Care Organizations;

5 (3) Consult with other state agencies and interested
6 parties responsible for delivering, financing and purchasing
7 health care in the state; and

8 (4) Use available department of health and senior services
9 data and other agency data wherever appropriate.

10 3. Data or other information obtained by the department of
11 health and senior services pursuant to the provisions of this
12 section shall not be public information. Reports and studies
13 prepared by the department based upon such information shall be
14 public information and may identify individual entities in the
15 business of delivering or financing health care. The department
16 of health and senior services may authorize the use of the data
17 for other research pursuant to the provisions of section 192.067.
18 The department shall not release data in a form which could be
19 used to identify a patient.

20 4. The department may choose to perform studies and shall
21 publish information, including at least an annual consumer guide,
22 based upon the information obtained pursuant to the provisions of
23 this section. The department shall allow health care financing
24 entities or health care providers who have submitted data which
25 will be used in any report to review and comment on the report
26 prior to its publication or release for public use. With the
27 permission of the entity or the health care provider, the
28 department may include any comments of a health care financing

1 entity or health care provider in the publication. The reports
2 shall be made available to the public. The department may charge
3 a reasonable fee to any entity in the business of delivering or
4 financing health care for specialized reports or services
5 requested by such entity. The fees shall be credited to the
6 public health services fund established in section 192.900.

7 208.178. 1. On or after July 1, 1995, the department of
8 social services may make available for purchase a policy of
9 health insurance coverage through the Medicaid program. Premiums
10 for such a policy shall be charged based upon actuarially sound
11 principles to pay the full cost of insuring persons under the
12 provisions of this section. The full cost shall include both
13 administrative costs and payments for services. Coverage under a
14 policy or policies made available for purchase by the department
15 of social services shall include coverage of all or some of the
16 services listed in section 208.152, RSMo, as determined by the
17 director of the department of social services. Such a policy may
18 be sold to a person who is otherwise uninsured and who is:

19 (1) A surviving spouse eligible for coverage under sections
20 376.891 to 376.894, RSMo, who is determined under rules and
21 regulations of the department of social services to be unable to
22 afford continuation of coverage under that section;

23 (2) An adult over twenty-one years of age who is not
24 pregnant and who resides in a household with an income which does
25 not exceed one hundred eighty-five percent of the federal poverty
26 level for the applicable family size. Net taxable income shall
27 be used to determine that portion of income of a self-employed
28 person; or

1 (3) A dependent of an insured person who resides in a
2 household with an income which does not exceed one hundred
3 eighty-five percent of the federal poverty level for the
4 applicable family size.

5 2. Any policy of health insurance sold pursuant to the
6 provisions of this section shall conform to requirements
7 governing group health insurance under chapters 375, 376, and
8 379, RSMo.

9 3. The department of social services shall establish
10 policies governing the issuance of health insurance policies
11 pursuant to the provisions of this section by rules and
12 regulations developed in consultation with the department of
13 insurance, financial and professional regulation.

14 208.437. 1. A Medicaid managed care organization
15 reimbursement allowance period as provided in sections 208.431 to
16 208.437 shall be from the first day of July to the thirtieth day
17 of June. The department shall notify each Medicaid managed care
18 organization with a balance due on the thirtieth day of June of
19 each year the amount of such balance due. If any managed care
20 organization fails to pay its managed care organization
21 reimbursement allowance within thirty days of such notice, the
22 reimbursement allowance shall be delinquent. The reimbursement
23 allowance may remain unpaid during an appeal.

24 2. Except as otherwise provided in this section, if any
25 reimbursement allowance imposed under the provisions of sections
26 208.431 to 208.437 is unpaid and delinquent, the department of
27 social services may compel the payment of such reimbursement
28 allowance in the circuit court having jurisdiction in the county

1 where the main offices of the Medicaid managed care organization
2 are located. In addition, the director of the department of
3 social services or the director's designee may cancel or refuse
4 to issue, extend or reinstate a Medicaid contract agreement to
5 any Medicaid managed care organization which fails to pay such
6 delinquent reimbursement allowance required by sections 208.431
7 to 208.437 unless under appeal.

8 3. Except as otherwise provided in this section, failure to
9 pay a delinquent reimbursement allowance imposed under sections
10 208.431 to 208.437 shall be grounds for denial, suspension or
11 revocation of a license granted by the department of insurance,
12 financial and professional regulation. The director of the
13 department of insurance, financial and professional regulation
14 may deny, suspend or revoke the license of a Medicaid managed
15 care organization with a contract under 42 U.S.C. Section
16 1396b(m) which fails to pay a managed care organization's
17 delinquent reimbursement allowance unless under appeal.

18 4. Nothing in sections 208.431 to 208.437 shall be deemed
19 to affect or in any way limit the tax-exempt or nonprofit status
20 of any Medicaid managed care organization with a contract under
21 42 U.S.C. Section 1396b(m) granted by state law.

22 5. Sections 208.431 to 208.437 shall expire on June 30,
23 2007.

24 209.285. As used in sections 209.285 to 209.339, unless the
25 context clearly requires otherwise, the following terms mean:

26 (1) "American sign language", a visual-gestural system of
27 communication that has its own syntax, rhetoric and grammar.
28 American sign language is recognized, accepted and used by many

1 deaf Americans. This native language represents concepts rather
2 than words;

3 (2) "Board", the Missouri board for certification of
4 interpreters, established within the commission in section
5 209.287;

6 (3) "Certification", a document issued by the Missouri
7 commission for the deaf and hard of hearing declaring that the
8 holder is qualified to practice interpreting at a disclosed
9 level;

10 (4) "Commission", the Missouri commission for the deaf and
11 hard of hearing;

12 (5) "Committee", the Missouri state committee of
13 interpreters, established in section 209.319;

14 (6) "Conversion levels", the process of granting levels of
15 certification by the commission to individuals holding
16 certification from another state or within another certification
17 system in this state or another state;

18 (7) "Coordinator", a staff person, hired by the executive
19 director of the Missouri commission for the deaf and hard of
20 hearing, who shall serve as coordinator for the Missouri
21 interpreter certification system;

22 (8) "Deaf person", any person who is not able to
23 discriminate speech when spoken in a normal conversational tone
24 regardless of the use of amplification devices;

25 (9) "Department", the [Missouri] department of [economic
26 development] insurance, financial and professional regulation;

27 (10) "Director", the director of the division of
28 professional registration [in the department of economic

1 development];

2 (11) "Division", the division of professional registration;

3 (12) "Executive director", the executive director of the
4 Missouri commission for the deaf and hard of hearing;

5 (13) "Interpreter", any person who offers to render
6 interpreting services implying that he or she is trained, and
7 experienced in interpreting, and holds a current, valid
8 certification and license to practice interpreting in this state;
9 provided that a telecommunications operator providing deaf relay
10 service or a person providing operator services for the deaf
11 shall not be considered to be an interpreter;

12 (14) "Interpreter trainer", a person, certified and
13 licensed by the state of Missouri as an interpreter, who trains
14 new interpreters in the translating of spoken English or written
15 concepts to any necessary specialized vocabulary used by a deaf
16 consumer. Necessary specialized vocabularies include, but are
17 not limited to, American sign language, Pidgin Signed English,
18 oral, tactile sign and language deficient skills;

19 (15) "Interpreting", the translating of English spoken or
20 written concepts to any necessary specialized vocabulary used by
21 a deaf person or the translating of a deaf person's specialized
22 vocabulary to English spoken or written concepts; provided that a
23 telecommunications operator providing deaf relay service or a
24 person providing operator services for the deaf shall not be
25 considered to be interpreting. Necessary specialized
26 vocabularies include, but are not limited to, American sign
27 language, Pidgin Signed English, oral, tactile sign and language
28 deficient skills;

1 (16) "Language deficient", mode of communication used by
2 deaf individuals who lack crucial language components, including,
3 but not limited to, vocabulary, language concepts, expressive
4 skills, language skills and receptive skills;

5 (17) "Missouri commission for the deaf", Missouri
6 commission for the deaf and hard of hearing established in
7 section 161.400;

8 (18) "Oral", mode of communication having characteristics
9 of speech, speech reading and residual hearing as a primary means
10 of communication using situational and culturally appropriate
11 gestures, without the use of sign language;

12 (19) "Pidgin Signed English", a mode of communication
13 having characteristics of American sign language;

14 (20) "Practice of interpreting", rendering or offering to
15 render or supervise those who render to individuals, couples,
16 groups, organizations, institutions, corporations, schools,
17 government agencies or the general public any interpreting
18 service involving the translation of any mode of communication
19 used by a deaf person to spoken English or of spoken English to a
20 mode of communication used by a deaf person;

21 (21) "Tactile sign", mode of communication, used by deaf
22 and blind individuals, using any one or a combination of the
23 following: tactile sign, constricted space sign or notetaking.

24 209.319. 1. There is hereby established in the division of
25 professional registration the "Missouri State Committee of
26 Interpreters", which shall consist of seven members, including
27 two public members. At least one of the public members shall be
28 deaf. The committee members shall be appointed by the governor

1 with the advice and consent of the senate. Each member of the
2 committee shall be a citizen of the United States and a resident
3 of this state and, except as provided in subsections 2 and 3 of
4 this section, shall be licensed as an interpreter by this state.

5 2. The initial interpreter appointments made to the
6 committee shall be made from interpreters who have voluntarily
7 registered with the Missouri commission for the deaf and hard of
8 hearing. In making the initial appointments to the committee,
9 the governor shall stagger the terms of the appointees so that
10 two members serve initial terms of two years, two members serve
11 initial terms of three years, two members serve initial terms of
12 four years and one member serves an initial term of one year.

13 3. At the time of appointment the public members shall be
14 United States citizens, Missouri residents for a period of one
15 year, registered voters, persons who are not and never were
16 members of any profession licensed or regulated pursuant to
17 sections 209.285 to 209.339, persons who do not have and never
18 have had a material financial interest in providing interpreting
19 services or persons who do not have and never have had a
20 financial interest in an activity or organization directly
21 related to interpreting.

22 4. Members shall be appointed to serve four-year terms. No
23 person shall be eligible for reappointment who has served as a
24 member of the committee for eight or more years. The membership
25 of the committee shall reflect the differences in levels of
26 certification, work experience and education. Not more than two
27 interpreter educators shall be members of the committee at the
28 same time.

1 5. A vacancy in the office of a member shall be filled by
2 appointment by the governor for the remainder of the unexpired
3 term. The governor may remove a committee member for misconduct,
4 inefficiency, incompetence or neglect of his or her official
5 duties after giving the committee member written notice of the
6 charges against the committee member and an opportunity to be
7 heard.

8 6. Each member of the committee shall receive as
9 compensation an amount set [by the committee not to exceed fifty
10 dollars] under section 324.015, RSMo, for each day devoted to the
11 affairs of the committee and shall be reimbursed for necessary
12 and actual expenses incurred in the performance of his or her
13 official duties.

14 7. The committee shall hold an annual meeting at which it
15 shall elect from its membership a chairperson and a secretary.
16 The committee may hold such additional meetings as may be
17 required in the performance of its duties. A quorum of the
18 committee shall consist of four of its members.

19 8. The staff for the committee shall be provided by the
20 director of the division of professional registration.

21 9. The committee may sue and be sued in its official name
22 and shall have a seal which shall be affixed to all certified
23 copies of records and papers on file and to such other
24 instruments as the committee may direct. All courts shall take
25 judicial notice of such seal. Copies of records and proceedings
26 of the committee and of all papers on file with the division on
27 behalf of the committee certified under the seal shall be
28 received as evidence in all courts of record.

1 214.270. As used in sections 214.270 to 214.410, the
2 following terms mean:

3 (1) "Agent" or "authorized agent", any person empowered by
4 the cemetery operator to represent the operator in dealing with
5 the general public, including owners of the burial space in the
6 cemetery;

7 (2) "Burial space", one or more than one plot, grave,
8 mausoleum, crypt, lawn, surface lawn crypt, niche or space used
9 or intended for the interment of the human dead;

10 (3) "Cemetery", property restricted in use for the
11 interment of the human dead by formal dedication or reservation
12 by deed but shall not include any of the foregoing held or
13 operated by the state or federal government or any political
14 subdivision thereof, any incorporated city or town, any county or
15 any religious organization, cemetery association or fraternal
16 society holding the same for sale solely to members and their
17 immediate families;

18 (4) "Cemetery association", any number of persons who shall
19 have associated themselves by articles of agreement in writing as
20 a not-for-profit association or organization, whether
21 incorporated or unincorporated, formed for the purpose of
22 ownership, preservation, care, maintenance, adornment and
23 administration of a cemetery. Cemetery associations shall be
24 governed by a board of directors. Directors shall serve without
25 compensation;

26 (5) "Cemetery operator" or "operator", any person who owns,
27 controls, operates or manages a cemetery;

28 (6) "Cemetery service", those services performed by a

1 cemetery owner or operator licensed pursuant to this chapter as
2 an endowed care cemetery including setting a monument, setting a
3 tent, excavating a grave, or setting a vault;

4 (7) "Columbarium", a building or structure for the
5 inurnment of cremated human remains;

6 (8) "Community mausoleum", a mausoleum containing a
7 substantial area of enclosed space and having either a heating,
8 ventilating or air conditioning system;

9 (9) "Department", department of [economic development]
10 insurance, financial and professional regulation;

11 (10) "Developed acreage", the area which has been platted
12 into grave spaces and has been developed with roads, paths,
13 features, or ornamentations and in which burials can be made;

14 (11) "Director", director of the division of professional
15 registration;

16 (12) "Division", division of professional registration;

17 (13) "Endowed care", the maintenance, repair and care of
18 all burial space subject to the endowment within a cemetery,
19 including any improvements made for the benefit of such burial
20 space. Endowed care shall include the general overhead expenses
21 needed to accomplish such maintenance, repair, care and
22 improvements. Endowed care shall include the terms perpetual
23 care, permanent care, continual care, eternal care, care of
24 duration, or any like term;

25 (14) "Endowed care cemetery", a cemetery, or a section of a
26 cemetery, which represents itself as offering endowed care and
27 which complies with the provisions of sections 214.270 to
28 214.410;

1 (15) "Endowed care fund", "endowed care trust", or "trust",
2 any cash or cash equivalent, to include any income therefrom,
3 impressed with a trust by the terms of any gift, grant,
4 contribution, payment, devise or bequest to an endowed care
5 cemetery, or its endowed care trust, or funds to be delivered to
6 an endowed care cemetery's trust received pursuant to a contract
7 and accepted by any endowed care cemetery operator or his agent.
8 This definition includes the terms endowed care funds,
9 maintenance funds, memorial care funds, perpetual care funds, or
10 any like term;

11 (16) "Family burial ground", a cemetery in which no burial
12 space is sold to the public and in which interments are
13 restricted to persons related by blood or marriage;

14 (17) "Fraternal cemetery", a cemetery owned, operated,
15 controlled or managed by any fraternal organization or auxiliary
16 organizations thereof, in which the sale of burial space is
17 restricted solely to its members and their immediate families;

18 (18) "Garden mausoleum", a mausoleum without a substantial
19 area of enclosed space and having its crypt and niche fronts open
20 to the atmosphere. Ventilation of the crypts by forced air or
21 otherwise does not constitute a garden mausoleum as a community
22 mausoleum;

23 (19) "Government cemetery", or "municipal cemetery", a
24 cemetery owned, operated, controlled or managed by the federal
25 government, the state or a political subdivision of the state,
26 including a county or municipality or instrumentality thereof;

27 (20) "Grave" or "plot", a place of ground in a cemetery,
28 used or intended to be used for burial of human remains;

1 (21) "Human remains", the body of a deceased person in any
2 state of decomposition, as well as cremated remains;

3 (22) "Inurnment", placing an urn containing cremated
4 remains in a burial space;

5 (23) "Lawn crypt", a burial vault or other permanent
6 container for a casket which is permanently installed below
7 ground prior to the time of the actual interment. A lawn crypt
8 may permit single or multiple interments in a grave space;

9 (24) "Mausoleum", a structure or building for the
10 entombment of human remains in crypts;

11 (25) "Niche", a space in a columbarium used or intended to
12 be used for inurnment of cremated remains;

13 (26) "Nonendowed care cemetery", or "nonendowed cemetery",
14 a cemetery or a section of a cemetery for which no endowed care
15 fund has been established in accordance with sections 214.270 to
16 214.410;

17 (27) "Owner of burial space", a person to whom the cemetery
18 operator or his authorized agent has transferred the right of use
19 of burial space;

20 (28) "Person", an individual, corporation, partnership,
21 joint venture, association, trust or any other legal entity;

22 (29) "Registry", the list of cemeteries maintained in the
23 division office for public review. The division may charge a fee
24 for copies of the registry;

25 (30) "Religious cemetery", a cemetery owned, operated,
26 controlled or managed by any church, convention of churches,
27 religious order or affiliated auxiliary thereof in which the sale
28 of burial space is restricted solely to its members and their

1 immediate families;

2 (31) "Surface lawn crypt", a sealed burial chamber whose
3 lid protrudes above the land surface;

4 (32) "Total acreage", the entire tract which is dedicated
5 to or reserved for cemetery purposes;

6 (33) "Trustee of an endowed care fund", the separate legal
7 entity appointed as trustee of an endowed care fund.

8 219.091. 1. As used in this section, the term "department"
9 means:

10 (1) The office of administration;

11 (2) The department of agriculture;

12 (3) The department of conservation;

13 (4) The department of economic development;

14 (5) The department of elementary and secondary education;

15 (6) The department of health and senior services;

16 (7) The department of higher education;

17 (8) The department of transportation;

18 (9) The department of insurance, financial and professional
19 regulation;

20 (10) The department of labor and industrial relations;

21 (11) The department of mental health;

22 (12) The department of natural resources;

23 (13) The department of public safety;

24 (14) The department of revenue; and

25 (15) The department of social services.

26 2. The division of youth services shall develop and
27 establish a community work program whereby offenders from age
28 fourteen to eighteen committed to the custody of the division may

1 be employed in projects developed and established by any
2 department.

3 3. The director or chief administrative officer of any
4 department may request that the director of the division of youth
5 services choose suitable offenders for employment in work
6 projects developed by the division. Such projects shall be
7 designed and approved by the director or chief administrative
8 officer of any department and approved by the director of the
9 division of youth services.

10 4. The division of youth services shall retain custody,
11 supervision and control of any offender employed in a work
12 project developed pursuant to this section. Any work crew
13 employed in a work project developed pursuant to this section
14 shall consist of not more than eleven offenders.

15 5. No offender shall be employed in a work project
16 developed pursuant to this section if the offender has been
17 convicted of a violent crime or whose conduct while under the
18 control of the division of youth services suggests a propensity
19 toward violence. As used in this subsection, the term "violent
20 crime" means any crime which, in the determination of the
21 director of the division of youth services, involves violence or
22 the threat of violence.

23 6. The department proposing the work project shall supply
24 all plans, tools and equipment necessary for the completion of
25 work projects developed pursuant to this section.

26 7. The department proposing the work project shall supply
27 crew leaders to direct work crews and supervise the completion of
28 work projects. Such crew leaders shall be employees of the

1 department proposing the work project and shall receive from such
2 department and the division of youth services at least twenty
3 hours of training per year, which shall be designed to instruct
4 the crew leaders in the skills necessary to perform their duties.

5 8. The department proposing the work project and the
6 division of youth services may promulgate rules to effectuate the
7 purposes of this section pursuant to chapter 536, RSMo, and
8 section 217.040, RSMo.

9 227.100. 1. All contracts for the construction of said
10 work shall be let to the lowest responsible bidder or bidders
11 after notice and publication of an advertisement in a newspaper
12 published in the county where the work is to be done, and in such
13 other publications as the commission may determine.

14 2. Each bid shall be accompanied by a certified check or a
15 cashier's check or a bid bond, guaranteed by a surety company
16 authorized by the director of the department of insurance,
17 financial and professional regulation to conduct surety business
18 in the state of Missouri, equal to five percent of the bid, which
19 certified check, cashier's check, or bid bond shall be deposited
20 with the commissioner as a guaranty and forfeited to the state
21 treasurer to the credit of the state road fund in the event the
22 successful bidder fails to comply with the terms of the proposal,
23 and return to the successful bidder on execution and delivery of
24 the performance bond provided for in subsection 4. The checks of
25 the unsuccessful bidders shall be returned to them in accordance
26 with the terms of the proposal.

27 3. All notices of the letting of contracts under this
28 section shall state the time and place when and where bids will

1 be received and opened, and all bids shall be sealed and opened
2 only at the time and place mentioned in such notice and in the
3 presence of some member of the commission or some person named by
4 the commission for such purpose.

5 4. The successful bidders for the construction of said work
6 shall enter into contracts furnished and prescribed by the
7 commission and shall give good and sufficient bond, in a sum
8 equal to the contract price, to the state of Missouri, with
9 sureties approved by the commission and to ensure the proper and
10 prompt completion of said work in accordance with the provisions
11 of said contracts, and plans and specifications; provided, that
12 if, in the opinion of the majority of the members of the
13 commission, the lowest bid or bids for the construction of any of
14 the roads, or parts of roads, herein authorized to be
15 constructed, shall be excessive, then, and in that event, said
16 commission shall have the right, and it is hereby empowered and
17 authorized to reject any or all bids, and to construct, under its
18 own direction and supervision, all of such roads and bridges, or
19 any part thereof.

20 256.453. As used in sections 256.450 to 256.483, the
21 following words and phrases shall mean:

22 (1) "Board of geologist registration" or "board", the board
23 of geologist registration created in section 256.459;

24 (2) "Certificate of registration", a license issued by the
25 board of geologist registration granting its licensee the
26 privilege to conduct geologic work and make interpretations,
27 reports, and other actions in accordance with the provisions of
28 sections 256.450 to 256.483;

1 (3) "Division [of professional registration]", the division
2 of professional registration [within the department of economic
3 development];

4 (4) "Geologist", a person who has met or exceeded the
5 minimum geological educational requirements and who can interpret
6 and apply geologic data, principles, and concepts and who can
7 conduct field or laboratory geological investigations;

8 (5) "Geologist-registrant in-training", a person who meets
9 the requirements of subsection 7 of section 256.468;

10 (6) "Geology", that profession based on the investigation
11 and interpretation of the earth, including bedrock, overburden,
12 groundwater and other liquids, minerals, gases, and the history
13 of the earth and its life;

14 (7) "Practice of geology", the practice of or the offer to
15 practice geology for others, such practice including, but not
16 limited to, geological investigations to describe and interpret
17 the natural processes acting on earth materials, including gases
18 and fluids; predicting and interpreting mineral distribution,
19 value, and production; predicting and interpreting geologic
20 factors affecting planning, design, construction, and maintenance
21 of engineered facilities such as waste disposal sites or dams;
22 and the teaching of the science of geology;

23 (8) "Public health, safety and welfare" shall include the
24 following: protection of groundwater; buildings and other
25 construction projects including dams, highways and foundations;
26 waste disposal or causes of waste pollution including human,
27 animal, and other wastes including radionuclides; stability of
28 the earth's surface such as could be affected by earthquakes,

1 landslides, or collapse; the depth, casing, grouting, and other
2 recommendations for the construction of wells or other borings
3 into earth that intersect one or more aquifers; and excavation
4 into the earth's materials where stability or other factors are
5 at risk. "Public health, safety, and welfare" does not refer to
6 geologic work conducted to determine mineral resources or other
7 resources as could be available for various uses, teaching, or
8 basic geologic work including making geologic maps, cross
9 sections, stratigraphic determinations, and associated reports or
10 other presentations;

11 (9) "Qualified geologist" or "professional geologist", a
12 geologist who satisfies the educational requirements of
13 subsection 2 of section 256.468 and who has at least three years
14 of experience in the practice of geology subsequent to satisfying
15 such educational requirements;

16 (10) "Registered geologist", a geologist who has met the
17 qualifications established by the board and has been issued a
18 certificate of registration by the board of geologist
19 registration;

20 (11) "Responsible charge of work", the independent control
21 and direction of geological work or the supervision of such work
22 pertaining to the practice of geology;

23 (12) "Specialty", a branch of geologic study and work such
24 as engineering geology, environmental geology, hydrogeology,
25 mineral resources, and other related work requiring geologic
26 education and experience.

27 256.459. 1. The "Board of Geologist Registration" is
28 hereby created to administer the provisions of sections 256.450

1 to 256.483. The official domicile of the board of geologist
2 registration is the division of professional registration. The
3 division shall provide necessary staff support services, but all
4 administrative costs of board operation shall be paid, upon
5 appropriation, by moneys in the board of geologist registration
6 fund created in section 256.465.

7 2. The board shall be composed of eight members, seven of
8 whom shall be voting members appointed by the governor with the
9 advice and consent of the senate. The state geologist shall
10 serve as "ex officio" nonvoting member.

11 3. Five of the appointed members shall be registered
12 geologists, except that this requirement shall not apply for the
13 initially appointed geologist members. Four members shall be
14 chosen to represent experience in different geologic specialties.
15 The fifth member shall be a geologist employed by the state or a
16 city or county. The initially appointed geologist members must
17 be eligible for registration pursuant to sections 256.450 to
18 256.483 and must be registered pursuant to sections 256.450 to
19 256.483 within twelve months following appointment to the board
20 to maintain eligibility as a member of the board.

21 4. Two of the appointed members shall be public members.
22 Each public member shall, at the time of appointment, be a
23 citizen of the United States, a resident of Missouri for at least
24 three years immediately preceding appointment, a registered
25 voter, a person who is not and never was a member of any
26 profession licensed or regulated pursuant to this chapter or the
27 spouse of such person and a person who does not have and never
28 has had a material, financial interest in either the providing of

1 professional services regulated by this chapter or any activity
2 or organization directly related to any profession licensed or
3 regulated pursuant to this chapter. The duties of the public
4 members shall not include the determination of the technical
5 requirements to be met for licensure or whether any person meets
6 such technical requirements or of the technical competence or
7 technical judgment of a licensee or a candidate for licensure.

8 5. Each geologist member of the board shall be a citizen of
9 the United States and shall have been a resident of Missouri for
10 at least three years immediately preceding appointment.

11 6. Appointed members of the board shall serve terms of
12 three years except that two of the first appointed members shall
13 be appointed to one-year terms and two of the first appointed
14 members shall be appointed to two-year terms. Members shall hold
15 office until the expiration of the terms for which they were
16 appointed and until their successors have been appointed and duly
17 qualified unless removed for cause by the governor. No person
18 may serve more than two consecutive terms.

19 7. The board shall not be required to give any appeal bond
20 in any cause arising under application of sections 256.450 to
21 256.483. The attorney general shall represent the board in all
22 actions and proceedings to enforce the provisions of sections
23 256.450 to 256.483.

24 8. Notwithstanding any other provision of law to the
25 contrary, any appointed member of the board shall receive as
26 compensation an amount established [by the director of the
27 division of professional registration not to exceed seventy
28 dollars] under section 324.015, RSMo, per day for board business

1 plus actual and necessary expenses. The director of the division
2 of professional registration shall establish by rule guidelines
3 for payment.

4 256.465. 1. There is hereby created in the state treasury
5 "The Board of Geologist Registration Fund".

6 2. The board shall establish, by rule, fees to be charged
7 for applications, examinations, certification and certification
8 renewal. The fees shall be set at an amount which shall not be
9 more than that required to administer sections 256.450 to
10 256.483. Any balance in the fund at the end of the biennium shall
11 remain in the fund and shall not be subject to the provisions of
12 section 33.080, RSMo.

13 3. At the end of each biennium, the state treasurer shall
14 transfer the balance in the fund created in this section in
15 excess of two hundred percent of the previous fiscal year's
16 expenditures into the state general revenue fund.

17 285.230. 1. As used in this section, "transient employer"
18 means an employer as defined in sections 143.191, RSMo, 287.030,
19 RSMo, and 288.032, RSMo, making payment of wages taxable under
20 chapters 143, RSMo, 287, RSMo, and 288, RSMo, who is not
21 domiciled in this state and who temporarily transacts any
22 business within the state, but shall not include any employer who
23 is not subject to Missouri income tax because of the provisions
24 of 15 U.S.C. 381. The transaction of business shall be
25 considered temporary at any time it cannot be reasonably expected
26 to continue for a period of twenty-four consecutive months.
27 Professional athletic teams and professional entertainers
28 domiciled in a state other than Missouri shall be deemed a

1 "transient employer" for the purposes of this section, unless the
2 person or entity who pays compensation to the nonresident
3 entertainer has fully complied with the provisions of section
4 143.183, RSMo, in which case the nonresident entertainer shall
5 not be considered a transient employer.

6 2. Employers meeting the following criteria shall not be
7 required to file a financial assurance instrument as required by
8 this section:

9 (1) The principal place of business of the employer must be
10 in a county of another state which is contiguous to the state of
11 Missouri; and

12 (2) The employer must have been under contract to perform
13 work in Missouri for at least sixty days cumulatively out of
14 twelve months during each of the two calendar years immediately
15 preceding the employer's initial application for exemption from
16 the provisions of this section; and

17 (3) The employer must have in his possession a tax
18 clearance from the department of revenue and the division of
19 employment security stating that the employer has faithfully
20 complied with the tax laws of this state during the period set
21 out in subdivision (2) of this subsection.

22
23 Within ninety days of August 13, 1988, such employers must obtain
24 initial tax clearances in accordance with subdivision (3) of this
25 subsection. Any tax clearance issued under the provisions of
26 this section by the division of employment security shall be
27 submitted to the department of revenue. On or before January
28 thirty-first of each year, except January thirty-first following

1 the year during which the employer first meets these criteria,
2 the employer shall submit application to the department of
3 revenue and division of employment security for a renewed tax
4 clearance. Failure to submit such renewal applications or
5 failure to comply with applicable Missouri taxing and employment
6 security laws during the period between annual renewal dates or
7 removal of the employer's principal place of business from a
8 county in another state which is contiguous to Missouri to a
9 state other than Missouri shall immediately subject the employer
10 to all provisions of this section. An employer meeting the
11 requirements of this subsection shall still be subject to the
12 provisions of subsection 5 of this section.

13 3. Every transient employer shall file with the director of
14 revenue a financial assurance instrument including, but not
15 limited to, a cash bond, a surety bond, or an irrevocable letter
16 of credit as defined in section 400.5-103, RSMo, issued by any
17 state or federal financial institution. The financial assurance
18 instrument shall be in an amount not less than the average
19 estimated quarterly withholding tax liability of the applicant,
20 but in no case less than five thousand dollars nor more than
21 twenty-five thousand dollars. Any corporate surety shall be
22 licensed to do such business in this state and approved by the
23 director of revenue to act as a surety. The transient employer
24 shall be the principal obligor and the state of Missouri shall be
25 the obligee. The financial assurance instrument shall be
26 conditioned upon the prompt filing of true reports and the
27 payment by such employer to the director of revenue of any and
28 all withholding taxes which are now or which hereafter may be

1 levied or imposed by the state of Missouri, upon the employer,
2 together with any and all penalties and interest thereon, and
3 generally upon the faithful compliance with the provisions of
4 chapters 143, RSMo, 287, RSMo, and 288, RSMo.

5 4. Any transient employer who is already otherwise required
6 to file a financial assurance instrument as a condition of any
7 contract, provided said financial assurance instrument guarantees
8 payment of all applicable state taxes and all withholding taxes
9 levied or imposed by the state and provided that such financial
10 assurance instrument is delivered by certified mail to the
11 department of revenue by the applicable awarding entity at least
12 fourteen days before the execution of the contract for the
13 performance of work, may use the same financial assurance
14 instrument to comply with the provisions of this section. Before
15 such financial assurance instrument is approved by the awarding
16 entity, the director of revenue shall be satisfied that such
17 financial assurance instrument is sufficient to cover all taxes
18 imposed by this state and the director shall so notify the
19 awarding entity of the decision within the fourteen days prior to
20 the execution of the contract. Failure to do so by the director
21 shall waive any right to disapprove such financial assurance
22 instrument. Before a financial assurance instrument is released
23 by the entity awarding the contract, a tax clearance shall be
24 obtained from the director of revenue that such transient
25 employer has faithfully complied with all the tax laws of this
26 state.

27 5. Every transient employer shall certify to the director
28 of revenue that such employer has sufficient workers'

1 compensation insurance either through a self-insurance program or
2 a policy of workers' compensation insurance issued by an approved
3 workers' compensation carrier. The self-insurance program shall
4 be approved by the division of workers' compensation pursuant to
5 section 287.280, RSMo. The insurance policy shall be in a
6 contract form approved by the department of insurance, financial
7 and professional regulation.

8 6. In the event that liability upon the financial assurance
9 instrument thus filed by the transient employer shall be
10 discharged or reduced, whether by judgment rendered, payment made
11 or otherwise, or if in the opinion of the director of revenue any
12 surety on a bond theretofore given or financial institution shall
13 have become unsatisfactory or unacceptable, then the director of
14 revenue may require the employer to file a new financial
15 assurance instrument in the same form and amount. If such new
16 financial assurance instrument shall be furnished by such
17 employer as above provided, the director of revenue shall upon
18 satisfaction of any liability that has accrued, release the
19 surety on the old bond or financial institution issuing the
20 irrevocable letter of credit.

21 7. Any surety on any bond or financial institution issuing
22 an irrevocable letter of credit furnished by any transient
23 employer as provided in this section shall be released and
24 discharged from any and all liability to the state of Missouri
25 accruing on such bond or irrevocable letter of credit after the
26 expiration of sixty days from the date upon which such surety or
27 financial institution shall have lodged with the director of
28 revenue a written request to be released and discharged; but the

1 request shall not operate to relieve, release or discharge such
2 surety or financial institution from any liability already
3 accrued or which shall accrue during and before the expiration of
4 said sixty-day period. The director of revenue shall promptly on
5 receipt of notice of such request notify the employer who
6 furnished such bond or irrevocable letter of credit and such
7 employer shall on or before the expiration of such sixty-day
8 period file with the director of revenue a new financial
9 assurance instrument satisfactory to the director of revenue in
10 the amount and form provided in this section.

11 8. Notwithstanding the limitation as to the amount of any
12 financial assurance instrument fixed by this section, if a
13 transient employer becomes delinquent in the payment of any tax
14 or tenders a check in payment of tax which check is returned
15 unpaid because of insufficient funds, the director may demand an
16 additional instrument of such employer in an amount necessary, in
17 the judgment of the director, to protect the revenue of the
18 state. The penal sum of the additional instrument and the
19 instrument furnished under the provisions of the law requiring
20 such instrument may not exceed two quarters' estimated tax
21 liability.

22 9. For any period when a transient employer fails to meet
23 the requirements of this section, there shall be added to any
24 deficiency assessed against a transient employer, in addition to
25 any other addition, interest, and penalties, an amount equal to
26 twenty-five percent of the deficiency.

27 10. A taxpayer commits the crime of failure to file a
28 financial assurance instrument if he knowingly fails to comply

1 with the provisions of this section.

2 11. Failure to file a financial assurance instrument is a
3 class A misdemeanor. Pursuant to section 560.021, RSMo, a
4 corporation found guilty of failing to file a financial assurance
5 instrument may be fined up to five thousand dollars or any higher
6 amount not exceeding twice the amount the employer profited from
7 the commission of the offense.

8 12. Failing to register with the department of revenue and
9 execute the financial assurance instrument herein provided, prior
10 to beginning the performance of any contract, shall prohibit the
11 employer from performing on such contract until he complies with
12 such requirements.

13 13. Each employer shall keep full and accurate records
14 clearly indicating the names, occupations, and crafts, if
15 applicable, of every person employed by him together with an
16 accurate record of the number of hours worked by each employee
17 and the actual wages paid. The payroll records required to be so
18 kept shall be open to inspection by any authorized representative
19 of the department of revenue at any reasonable time and as often
20 as may be necessary and such records shall not be destroyed or
21 removed from the state for a period of one year following the
22 completion of the contract in connection with which the records
23 are made.

24 14. The entering into of any contract for the performance
25 of work in the state of Missouri by any such employer shall be
26 deemed to constitute an appointment of the secretary of state as
27 registered agent of such employer for purposes of accepting
28 service of any process, or of any notice or demand required or

1 permitted by law. The service of any such process, notice or
2 demand, when served on the secretary of state shall have the same
3 legal force and validity as if served upon the employer
4 personally within the state.

5 15. In addition, any employer who fails to file a financial
6 assurance instrument as required by this section shall be
7 prohibited from contracting for or performing labor on any public
8 works project in this state for a period of one year.

9 16. Whenever a transient employer ceases to engage in
10 activity within the state it shall be the duty of such transient
11 employer to notify the director of revenue in writing at least
12 ten days prior to the time the discontinuance takes effect.

13 287.035. 1. The benefits provided by this chapter
14 resulting from work-related injuries shall apply to partners or
15 sole proprietors, only when such partners or sole proprietors
16 have individually elected to procure insurance policy protection
17 for themselves against injuries sustained while in the pursuit of
18 their vocation, profession or business.

19 2. An election by partners or sole proprietors to secure
20 the protection of the benefits authorized by this chapter for
21 themselves shall include their employees, if any, who are not
22 eligible for compensation benefits except as provided by this
23 section.

24 3. As respects the extension of benefits to employees
25 pursuant to this section, there shall be general application of
26 the compensation law; provided, however, section 287.030 shall be
27 construed to encompass the limited application of this section to
28 employers having less than five employees.

1 4. Insurers who underwrite the protection authorized by
2 this section shall be directly and primarily liable for the
3 benefits provided by this chapter.

4 5. It is the expressed intent of this section to allow the
5 optional purchase of the protection for workers' injuries
6 sustained by partners or sole proprietors, including their
7 employees, while in the pursuit of their vocation, profession or
8 business. As provided in this chapter, administrative and
9 appellant jurisdiction shall be extended in regard to
10 disagreements between injured individuals and their insurers, but
11 any provision of this chapter requiring an employer-employee
12 status, where none exists, is hereby waived to accomplish the
13 limited application of this section.

14 6. (1) This chapter shall apply to any employee who is
15 related to a partner or sole proprietor within the third degree
16 of affinity or consanguinity unless such employee is withdrawn by
17 the partner or sole proprietor from the coverage of the
18 provisions of this chapter;

19 (2) Any partner or sole proprietor who wishes to withdraw
20 from coverage any employee set forth in subdivision (1) of this
21 subsection from the provisions of this chapter may do so by
22 indicating such withdrawal from coverage under the provisions of
23 a valid workers' compensation insurance policy by listing such
24 employees to be withdrawn. The notice of withdrawal shall be in
25 a manner and on a form as determined by the director of the
26 department of insurance, financial and professional regulation.
27 Such form shall require a list of those family member employees
28 to be withdrawn, as described in subdivision (1) of this

1 subsection. The withdrawal shall take effect and continue from
2 the effective date of the insurance policy and any endorsements
3 thereto up until the expiration date of the insurance policy or
4 by written notice to the group self-insurer of which the employer
5 is a member.

6 287.037. Notwithstanding any other provision of law to the
7 contrary, beginning January 1, 1997, those insurance companies
8 providing coverage pursuant to chapter 287, to a limited
9 liability company, as defined in section 347.015, RSMo, shall
10 provide coverage for the employees of the limited liability
11 company who are not members of the limited liability company.
12 Members of the limited liability company, as defined in section
13 347.015, RSMo, shall also be provided coverage pursuant to
14 chapter 287, but such members may individually elect to reject
15 such coverage by providing a written notice of such rejection on
16 a form developed by the department of insurance, financial and
17 professional regulation to the limited liability company and its
18 insurer. Failure to provide notice to the limited liability
19 company shall not be grounds for any member to claim that the
20 rejection of such coverage is not legally effective. A member
21 who elects to reject such coverage shall not thereafter be
22 entitled to workers' compensation benefits under the policy, even
23 if serving or working in the capacity of an employee of the
24 limited liability company, at least until such time as said
25 member provides the limited liability company and its insurer
26 with a written notice which rescinds the prior rejection of such
27 coverage. The written notice which rescinds the prior rejection
28 of such coverage shall be on a form developed by the department

1 of insurance, financial and professional regulation. Any
2 rescission shall be prospective in nature and shall entitle the
3 member only to such benefits which accrue on or after the date
4 the notice of rescission form is received by the insurance
5 company.

6 287.123. 1. Each insurance carrier writing workers'
7 compensation insurance in this state shall establish a program
8 whereby the carrier shall have available and shall provide to
9 each employer obtaining workers' compensation coverage from such
10 insurance carrier comprehensive safety engineering and management
11 services upon a request made by the employer for such services.

12 2. Each insurance carrier writing workers' compensation
13 insurance in this state shall provide the director of the
14 department of labor and industrial relations with a written
15 outline of the safety engineering and management program required
16 to be established under subsection 1 of this section. Such
17 program required to be established pursuant to subsection 1 of
18 this section shall require certification by the director as to
19 its adequacy in providing safety management and loss control to
20 the employer. An insurance carrier's program required to be
21 established pursuant to subsection 1 of this section shall be
22 reviewed by the director at least annually to determine that it
23 is delivering comprehensive services for safety education and the
24 elimination of and protection against unsafe acts in the
25 workplace and frequently recognized compensable worker injuries.
26 An insurance carrier may establish such program required to be
27 established pursuant to subsection 1 of this section through
28 contracts with private safety engineering and management service

1 companies in the state. Each insurance carrier shall collect
2 annual data on what impact its program required to be established
3 pursuant to subsection 1 of this section has had on compensable
4 losses of the employers it insures, and such data shall be made
5 available to the department of insurance, financial and
6 professional regulation and the department of labor and
7 industrial relations. When the employer requests services under
8 such program and the insurance carrier provides such services,
9 the insurance carrier shall report such services to the division.

10 3. At each time the division of workers' compensation
11 receives notice from an employer that the employer has purchased
12 workers' compensation insurance coverage from a different
13 insurance carrier or has made an initial purchase of workers'
14 compensation coverage, the division shall notify the employer in
15 writing of publicly or privately administered worker safety
16 programs available in the state, unless such notice has been
17 given in the prior twelve months.

18 4. The division shall maintain a registry of safety
19 consultants and safety engineers certified by the department of
20 labor and industrial relations and such registry shall be
21 available for inspection by any employer in this state.
22 Standards and requirements for certificates of safety consultants
23 and safety engineers shall be determined by the department of
24 labor and industrial relations by rule.

25 287.129. 1. A health care provider commits a fraudulent
26 workers' compensation insurance act if he knowingly and with
27 intent to defraud presents, causes to be presented, or prepares
28 with knowledge or belief that it will be presented, to or by an

1 insurer, purported insurer, broker, or any agent thereof, any
2 claim for payment or other benefit which involves any one or more
3 of the following false billing practices:

4 (1) "Unbundling" an insurance claim by claiming a number of
5 medical procedures were performed instead of a single
6 comprehensive procedure;

7 (2) "Upcoding" a medical, hospital or rehabilitative
8 insurance claim by claiming that a more serious or extensive
9 procedure was performed than was actually performed;

10 (3) "Exploding" a medical, hospital or rehabilitative
11 insurance claim by claiming a series of tests were performed on a
12 single sample of blood, urine, or other bodily fluid, when
13 actually the series of tests were part of one battery of tests;
14 or

15 (4) "Duplicating" a medical, hospital or rehabilitative
16 insurance claim made by a health care provider by resubmitting
17 the claim through another health care provider in which the
18 original health care provider has an ownership interest.

19
20 Nothing in this section shall prohibit providers from making good
21 faith efforts to ensure that claims for reimbursement are coded
22 to reflect the proper diagnosis and treatment.

23 2. If, by its own inquiries or as a result of complaints,
24 the department of insurance, financial and professional
25 regulation has reason to believe that a person has engaged in, or
26 is engaging in, any fraudulent workers' compensation insurance
27 act contained in this section, it may administer oaths and
28 affirmations, serve subpoenas ordering the attendance of

1 witnesses or proffering of matter, and collect evidence.

2 3. If the matter that the department of insurance,
3 financial and professional regulation seeks to obtain by request
4 is located outside the state, the person so requested may make it
5 available to the division or its representative to examine the
6 matter at the place where it is located. The department may
7 designate representatives, including officials of the state in
8 which the matter is located, to inspect the matter on its behalf,
9 and it may respond to similar requests from officials of other
10 states.

11 4. Any person violating any of the provisions of subsection
12 1 of this section is guilty of a class A misdemeanor and the
13 person shall be liable to the state of Missouri for a fine up to
14 twenty thousand dollars. Any person who has previously pled
15 guilty to or has been found guilty of violating any of the
16 provisions of subsection 1 of this section and who subsequently
17 violates any of the provisions of subsection 1 of this section is
18 guilty of a class D felony.

19 287.135. 1. The department of insurance, financial and
20 professional regulation shall establish a program whereby managed
21 care organizations in this state shall be certified by the
22 department for the provision of managed care services to
23 employers who voluntarily choose to use such organizations. The
24 department shall report to the division of workers' compensation
25 all managed care organizations certified pursuant to the
26 provisions of this section. The division shall maintain a
27 registry of certified managed care organizations that can be
28 readily accessed by employers for the provision of managed care

1 services. For the purposes of this section, the term "managed
2 care organizations" shall mean organizations such as preferred
3 provider organizations, health maintenance organizations and
4 other direct employer/provider arrangements which have been
5 certified by the department designed to provide incentives to
6 medical care providers to manage the cost and use of care
7 associated with claims covered by workers' compensation
8 insurance.

9 2. The director of the department of insurance, financial
10 and professional regulation shall promulgate rules which set out
11 the approval criteria for certification of a managed care
12 organization. Approval criteria shall take into consideration
13 the adequacy of services that the organization will be able to
14 offer the employer, the geographic area to be served, staff size
15 and makeup of the organization in relation to both services
16 offered and geographic location, access to health care providers,
17 the adequacy of internal management and oversight, the adequacy
18 of procedures for peer review, utilization review, and internal
19 dispute resolution, including a method to resolve complaints by
20 injured employees, medical providers, and insurers over the cost,
21 necessity and appropriateness of medical services, the
22 availability of case management services, and any other criteria
23 as determined by the director. Thirty days prior to the annual
24 anniversary of any current certification granted by the director,
25 any managed care organization seeking continued certification
26 shall file an application for recertification with the director,
27 on a form approved by the director, accompanied by a filing fee
28 established by the director by rule and any other materials

1 specified by the director.

2 3. The director of the department of insurance, financial
3 and professional regulation shall promulgate rules which set out
4 the criteria under which the fees charged by a managed care
5 organization shall be reimbursed by an employer's workers'
6 compensation insurer and which establish criteria providing for
7 the coordination and integration between the managed care
8 organization and the insurer of their respective internal
9 operational systems relating to such matters as claim reporting
10 and handling, medical case management procedures and billing.
11 Such criteria shall require any such reimbursable fees to be
12 reasonable in relation both to the managed care services provided
13 and to the savings which result from those services. Such
14 criteria shall discourage the use of fee arrangements which
15 result in unjustified costs being billed for either medical
16 services or managed care services. Insurers and managed care
17 organizations shall be permitted to voluntarily negotiate and
18 utilize alternative fee arrangements. Notwithstanding any
19 provision of this subsection to the contrary, if an insurer and a
20 managed care organization enter into a voluntary agreement that
21 accomplishes the same purposes as this subsection, that insurer
22 and that managed care organization with respect to that agreement
23 shall not be required to meet the requirements of this subsection
24 or regulations promulgated by the department pursuant to this
25 subsection.

26 4. Any managed care organization, including any managed
27 care organization that has been established or selected by or has
28 contracted with a workers' compensation insurance carrier to

1 provide managed care services to insured employers, that has
2 previously been certified prior to August 28, 1993, by the
3 director of the department of insurance, financial and
4 professional regulation shall be deemed to have met the criteria
5 set forth in this section.

6 5. The necessity and appropriateness of medical care
7 services recommended or provided by providers shall be subject to
8 review by the division of workers' compensation, upon
9 application, following a decision by the managed care
10 organization's utilization review and dispute resolution review
11 and appeal procedure. The decision of the managed care
12 organization relating to payment for such medical care services
13 shall be subject to modification by the division of workers'
14 compensation, after mediation conference or hearing, only upon
15 showing that it was unreasonable, arbitrary or capricious.

16 287.241. The dependent and the employer may, by agreement,
17 enter into a structured settlement which provides for different
18 weekly benefits than provided in section 287.240. Any such
19 settlement must be secured by indemnity insurance issued by a
20 company approved by the Missouri department of insurance,
21 financial and professional regulation.

22 287.280. 1. Every employer subject to the provisions of
23 this chapter shall, on either an individual or group basis,
24 insure his entire liability thereunder, except as hereafter
25 provided, with some insurance carrier authorized to insure such
26 liability in this state, except that an employer or group of
27 employers may themselves carry the whole or any part of the
28 liability without insurance upon satisfying the division of their

1 ability so to do. If an employer or group of employers have
2 qualified to self-insure their liability under this chapter, the
3 division of workers' compensation may, if it finds after a
4 hearing that the employer or group of employers are willfully and
5 intentionally violating the provisions of this chapter with
6 intent to defraud their employees of their right to compensation,
7 suspend or revoke the right of the employer or group of employers
8 to self-insure their liability. If the employer or group of
9 employers fail to comply with this section, an injured employee
10 or his dependents may elect after the injury either to bring an
11 action against such employer or group of employers to recover
12 damages for personal injury or death and it shall not be a
13 defense that the injury or death was caused by the negligence of
14 a fellow servant, or that the employee had assumed the risk of
15 the injury or death, or that the injury or death was caused to
16 any degree by the negligence of the employee; or to recover under
17 this chapter with the compensation payments commuted and
18 immediately payable; or, if the employee elects to do so, he or
19 she may file a request with the division for payment to be made
20 for medical expenses out of the second injury fund as provided in
21 subsection 5 of section 287.220. If the employer or group of
22 employers are carrying their own insurance, on the application of
23 any person entitled to compensation and on proof of default in
24 the payment of any installment, the division shall require the
25 employer or group of employers to furnish security for the
26 payment of the compensation, and if not given, all other
27 compensation shall be commuted and become immediately payable;
28 provided, that employers engaged in the mining business shall be

1 required to insure only their liability hereunder to the extent
2 of the equivalent of the maximum liability under this chapter for
3 ten deaths in any one accident, but the employer or group of
4 employers may carry their own risk for any excess liability.
5 When a group of employers enter into an agreement to pool their
6 liabilities under this chapter, individual members will not be
7 required to qualify as individual self-insurers.

8 2. Groups of employers qualified to insure their liability
9 pursuant to chapter 537, RSMo, or this chapter, shall utilize a
10 uniform experience rating plan promulgated by an approved
11 advisory organization. Such groups shall develop experience
12 ratings for their members based on the plan. Nothing in this
13 section shall relieve an employer from remitting, without any
14 charge to the employer, the employer's claims history to an
15 approved advisory organization.

16 3. For every entity qualified to group self-insure their
17 liability pursuant to this chapter or chapter 537, RSMo, each
18 entity shall not authorize total discounts for any individual
19 member exceeding twenty-five percent beginning January 1, 1999.
20 All discounts shall be based on objective quantitative factors
21 and applied uniformly to all trust members.

22 4. Any group of employers that have qualified to
23 self-insure their liability pursuant to this chapter shall file
24 with the division premium rates, based on pure premium rate data,
25 adjusted for loss development and loss trending as filed by the
26 advisory organization with the department of insurance, financial
27 and professional regulation pursuant to section 287.975, plus any
28 estimated expenses and other factors or based on average rate

1 classifications calculated by the department of insurance, l
2 financial and professional regulation as taken from the premium
3 rates filed by the twenty insurance companies providing the
4 greatest volume of workers' compensation insurance coverage in
5 this state. The rate is inadequate if funds equal to the full
6 ultimate cost of anticipated losses and loss adjustment expenses
7 are not produced when the prospective loss costs are applied to
8 anticipated payrolls. The provisions of this subsection shall
9 not apply to those political subdivisions of this state that have
10 qualified to self-insure their liability pursuant to this chapter
11 as authorized by section 537.620, RSMo, on an assessment plan.
12 Any such group may file with the division a composite rate for
13 all coverages provided under that section.

14 5. Any finding or determination made by the division under
15 this section may be reviewed as provided in sections 287.470 and
16 287.480.

17 6. No rule or portion of a rule promulgated under the
18 authority of this section shall become effective unless it has
19 been promulgated pursuant to the provisions of section 536.024,
20 RSMo.

21 7. Any records submitted pursuant to this section, and
22 pursuant to any rule promulgated by the division pursuant to this
23 section, shall be considered confidential and not subject to
24 chapter 610, RSMo. Any party to a workers' compensation case
25 involving the party that submitted the records shall be able to
26 subpoena the records for use in a workers' compensation case, if
27 the information is otherwise relevant.

28 287.282. 1. Notwithstanding the provisions of subsection 1

1 of section 287.280, every employer who obtains part of his work
2 force from another entity through an employee leasing
3 arrangement, or who employs the services of an entity through an
4 employee leasing arrangement, may be required to cover his
5 liability under the provisions of this chapter, through separate
6 coverages or separate self-insurance on his leased employees and
7 his nonleased employees. The director of the department of
8 insurance, financial and professional regulation may, by rule,
9 establish the standards and procedures by which insurance
10 coverage shall be provided to employers using only leased
11 employees, and to employers using both leased and nonleased
12 employees. The director of the division of workers' compensation
13 may, by a rule, establish the standards and procedures for
14 qualification for self-insurance for employers using only leased
15 employees and for employers using both leased and nonleased
16 employees.

17 2. Such rules shall include, but not be limited to, the
18 registration of employee leasing arrangements prior to their
19 eligibility for insurance, or self-insurance, the information
20 reporting requirements for both employee leasing arrangements and
21 for employers who use such arrangements, the extent to which a
22 client employer's experience shall determine the premium or bond
23 or other security amount for coverage on leased employees, and
24 the procedures by which such coverage or self-insurance on leased
25 employees shall be issued, endorsed, audited, cancelled and
26 nonrenewed.

27 3. For purposes of this section, the term "employee leasing
28 arrangement" shall not include temporary help service

1 arrangements which assign their employees to clients for a finite
2 period of time to support or supplement the client's work force
3 in special work situations, such as employee absences, temporary
4 skill shortages and seasonal workloads, and which are not
5 knowingly utilized as a mechanism of depriving one or more
6 insurers of premiums which otherwise are properly payable.

7 4. When an employee leasing company leases employees to
8 only one client company and its affiliates, there is a rebuttable
9 presumption that the client company entered into an employee
10 leasing arrangement to avoid the calculation of the proper
11 contribution rate for payment of workers' compensation through
12 insurance or self-insurance.

13 287.335. 1. There is hereby established the "Workers'
14 Compensation Determinations Review Board" within the department
15 of insurance, financial and professional regulation which shall
16 exist to review determinations by an insurer or advisory
17 organization regarding uniform code classifications, basic manual
18 rule interpretations, uniform experience rating plan rule
19 interpretations, calculations of an individual employer's
20 modification factor, Missouri assigned risk plan underwriting
21 rule interpretations, and any other related uniform rule
22 interpretations not addressed by department rule or regulation.
23 The board shall consist of five persons who shall be voting
24 members appointed by the governor, with the advice and consent of
25 the senate, who shall serve at the pleasure of the governor.
26 Three members shall be representative of the interests of
27 employers with at least one being representative of employers
28 whose employees are represented by a labor union and at least one

1 being representative of employers whose employees are not
2 represented by a labor union. One member shall be a
3 representative of the interests of insurers, and one member shall
4 be a representative of the interests of independent insurance
5 agents. One member representing employers shall act as chairman
6 of the board elected by the board. Not more than three members
7 of the board shall belong to the same political party. Each
8 member shall serve for a term of three years, except that of the
9 members first appointed, two shall be appointed for a term of one
10 year, two for a term of two years, and one for a term of three
11 years. Vacancies on the board shall be filled for the unexpired
12 term in the same manner as original appointments are made. The
13 state actuary and a representative of a rating organization
14 licensed by the state shall be nonvoting members of the board,
15 and their duties shall include advising the board on matters
16 relating to code classifications, including the creation of new
17 code classifications. The board members shall not receive any
18 compensation, except that such members shall be reimbursed for
19 actual and necessary expenses incurred in the performance of
20 their duties. In addition, the board may employ staff to perform
21 the administrative duties of the board. The department of
22 insurance, financial and professional regulation may charge a fee
23 against the classification agent as the director deems
24 appropriate.

25 2. Upon application of any employer, the board shall review
26 the code classification made on that employer. If the board
27 determines that the classification was erroneous, it may change
28 the classification by placing the employer under a different code

1 classification already established or by creating a new
2 classification code, if the board determines that there is
3 sufficient experience to merit a new classification code. The
4 establishment of the rate for a new classification code shall be
5 filed with the director of the department of insurance, financial
6 and professional regulation by either the affected employer or
7 employers or by any recognized rating organization within ninety
8 days of the establishment of the new classification code by the
9 board. The director of the department of insurance, financial
10 and professional regulation shall review the filed rate according
11 to section 287.955. Upon application of any employer, the board
12 shall review the calculation of an employer's experience
13 modification factor and may order a recalculation in the
14 experience modification factor if calculated erroneously under
15 the formula as approved by the director of insurance, including
16 an adjustment for any recovery from a third party pursuant to the
17 employer's right of subrogation. An appeal from the
18 determination of an appropriate classification by the board may
19 be made to the director of the department of insurance, financial
20 and professional regulation. The board may review code
21 classifications of individual self-insured employers and
22 self-insured employers in a group insurance arrangement.

23 3. The board may also recommend changes to the uniform
24 classification system.

25 4. The advisory organization that makes a uniform
26 classification system for use in setting rates in this state
27 shall provide to the affected party or his designated agent, at a
28 reasonable charge, information used or considered in determining

1 the development purpose, scope and intended application of any
2 classification comprising such uniform classification system.

3 287.690. 1. Prior to December 31, 1993, for the purpose of
4 providing for the expense of administering this chapter and for
5 the purpose set out in subsection 2 of this section, every
6 person, partnership, association, corporation, whether organized
7 under the laws of this or any other state or country, the state
8 of Missouri, including any of its departments, divisions,
9 agencies, commissions, and boards or any political subdivisions
10 of the state who self-insure or hold themselves out to be any
11 part self-insured, company, mutual company, the parties to any
12 interindemnity contract, or other plan or scheme, and every other
13 insurance carrier, insuring employers in this state against
14 liability for personal injuries to their employees, or for death
15 caused thereby, under this chapter, shall pay, as provided in
16 this chapter, tax upon the net deposits, net premiums or net
17 assessments received, whether in cash or notes in this state, or
18 on account of business done in this state, for such insurance in
19 this state at the rate of two percent in lieu of all other taxes
20 on such net deposits, net premiums or net assessments, which
21 amount of taxes shall be assessed and collected as herein
22 provided. Beginning October 31, 1993, and every year thereafter,
23 the director of the division of workers' compensation shall
24 estimate the amount of revenue required to administer this
25 chapter and the director shall determine the rate of tax to be
26 paid in the following calendar year pursuant to this section
27 commencing with the calendar year beginning on January 1, 1994.
28 If the balance of the fund estimated to be on hand on December

1 thirty-first of the year each tax rate determination is made is
2 less than one hundred ten percent of the previous year's expenses
3 plus any additional revenue required due to new statutory
4 requirements given to the division by the general assembly, then
5 the director shall impose a tax not to exceed two percent in lieu
6 of all other taxes on net deposits, net premiums or net
7 assessments, rounded up to the nearest one-half of a percentage
8 point, which amount of taxes shall be assessed and collected as
9 herein provided. The net premium equivalent for individual
10 self-insured employers and any group of political subdivisions of
11 this state qualified to self-insure their liability pursuant to
12 this chapter as authorized by section 537.620, RSMo, shall be
13 based on average rate classifications calculated by the
14 department of insurance, financial and professional regulation as
15 taken from premium rates filed by the twenty insurance companies
16 providing the greatest volume of workers' compensation insurance
17 coverage in this state. For employers qualified to self-insure
18 their liability pursuant to this chapter, the rates filed by such
19 group of employers in accordance with subsection 2 of section
20 287.280 shall be the net premium equivalent. Every entity
21 required to pay the tax imposed pursuant to this section and
22 section 287.730 shall be notified by the division of workers'
23 compensation within ten calendar days of the date of the
24 determination of the rate of tax to be imposed for the following
25 year. Net premiums, net deposits or net assessments are defined
26 as gross premiums, gross deposits or gross assessments less
27 canceled or returned premiums, premium deposits or assessments
28 and less dividends or savings, actually paid or credited.

1 2. After January 1, 1994, the director of the division
2 shall make one or more loans to the Missouri employers mutual
3 insurance company in an amount not to exceed an aggregate amount
4 of five million dollars from the fund maintained to administer
5 this chapter for start-up funding and initial capitalization of
6 the company. The board of the company shall make application to
7 the director for the loans, stating the amount to be loaned to
8 the company. The loans shall be for a term of five years and, at
9 the time the application for such loans is approved by the
10 director, shall bear interest at the annual rate based on the
11 rate for linked deposit loans as calculated by the state
12 treasurer pursuant to section 30.758, RSMo.

13 287.710. 1. Every such insurance carrier or self-insurer,
14 on or before the first day of March of each year, shall make a
15 return, verified by the affidavit of its president and secretary
16 or other chief officers or agents, to the director of the
17 department of insurance, financial and professional regulation,
18 stating the amount of all such gross premiums or deposits and
19 credits during the year ending on the thirty-first day of
20 December, next preceding.

21 2. The amount of the tax due for each calendar year shall
22 be paid in four approximately equal estimated quarterly
23 installments, and a fifth reconciling installment. The first
24 four installments shall be based upon the application of the
25 current calendar year's tax rate to the premium for the
26 immediately preceding taxable year ending on the thirty-first day
27 of December, next preceding. The quarterly installments shall be
28 made on the first day of March, the first day of June, the first

1 day of September and the first day of December. Immediately
2 after receiving certification from the director of the department
3 of insurance, financial and professional regulation of the amount
4 of tax due from the various companies or self-insurers, the
5 director of revenue shall notify and assess each company or
6 self-insurer the amount of taxes on its premiums for the calendar
7 year ending on the thirty-first day of December, next preceding.
8 The director of revenue shall also notify and assess each company
9 or self-insurer the amount of the estimated quarterly
10 installments to be made for the calendar year. If the amount of
11 the actual tax due for any year exceeds the total of the
12 installments made for such year, the balance of the tax due shall
13 be paid on the first day of June of the year following, together
14 with the regular quarterly payment due at that time. If the
15 total amount of the tax actually due is less than the total
16 amount of the installments actually paid, the amount by which the
17 amount paid exceeds the amount due shall be credited against the
18 tax for the following year and deducted from the quarterly
19 installment otherwise due on the first day of June. If the March
20 first quarterly installment made by a company or self-insurer is
21 less than the amount assessed by the director of revenue, the
22 difference will be due on June first, but no interest will accrue
23 to the state on the difference unless the amount paid by the
24 company or self-insurer is less than eighty percent of one-fourth
25 of the total amount of tax assessed by the director of revenue
26 for the immediately preceding taxable year.

27 3. Upon the receipt of the returns and verification by the
28 director of the division of workers' compensation as to the

1 percent of tax to be imposed, the director of the department of
2 insurance, financial and professional regulation shall certify
3 the amount of tax due from the various insurance carriers or
4 self-insurers on the basis and at the rate provided in section
5 287.690, and make a schedule thereof, duplicate copies of which,
6 properly certified by the director, shall be filed in the offices
7 of the revenue department, the state treasurer, and the division
8 of workers' compensation on or before the thirtieth day of April
9 of each year. If the taxes provided for in this section are not
10 paid, the department of revenue shall certify the fact to the
11 director of the department of insurance, financial and
12 professional regulation who shall thereafter suspend the
13 delinquent carriers of insurance or self-insurers from the
14 further transaction of business in this state until the taxes are
15 paid.

16 4. Upon receipt of the money all such moneys shall be
17 deposited to the credit of the fund for the support of the
18 division of workers' compensation.

19 5. The tax collected for implementing the workers'
20 compensation fund, and any interest accruing thereon, under the
21 police power of the state from those specified in sections
22 287.690, 287.715, and 287.730 shall be used for the purpose of
23 making effective the law to relieve victims of industrial
24 injuries from having individually to bear the burden of
25 misfortune or becoming charges upon society and for the further
26 purpose of providing for the physical rehabilitation of the
27 victims of industrial injuries, and for no other purposes. It is
28 hereby made the express duty of every person exercising any

1 official authority or responsibility in and for the state of
2 Missouri sacredly to safeguard and preserve all funds collected,
3 and any interest accruing thereon, under and by virtue of
4 sections 287.690, 287.715, and 287.730 for the purposes
5 hereinabove declared.

6 6. The funds created by virtue of sections 287.220,
7 287.690, 287.715, and 287.730 shall be exempt from the provisions
8 of section 33.080, RSMo, specifically as they relate to the
9 transfer of fund balances and any interest thereon to the
10 ordinary revenue, and the director of the division of workers'
11 compensation may direct the state treasurer to invest all or part
12 of these funds in interest-bearing accounts as provided in
13 article IV, section 15 of the Constitution of the state of
14 Missouri, and any unexpended balance in the second injury fund at
15 the end of any appropriation period shall be a credit in the
16 second injury fund and shall be the amount of the fund at the
17 beginning of the appropriation period next immediately following.

18 287.715. 1. For the purpose of providing for revenue for
19 the second injury fund, every authorized self-insurer, and every
20 workers' compensation policyholder insured pursuant to the
21 provisions of this chapter, shall be liable for payment of an
22 annual surcharge in accordance with the provisions of this
23 section. The annual surcharge imposed under this section shall
24 apply to all workers' compensation insurance policies and
25 self-insurance coverages which are written or renewed on or after
26 April 26, 1988, including the state of Missouri, including any of
27 its departments, divisions, agencies, commissions, and boards or
28 any political subdivisions of the state who self-insure or hold

1 themselves out to be any part self-insured. Notwithstanding any
2 law to the contrary, the surcharge imposed pursuant to this
3 section shall not apply to any reinsurance or retrocessional
4 transaction.

5 2. Beginning October 31, 2005, and each year thereafter,
6 the director of the division of workers' compensation shall
7 estimate the amount of benefits payable from the second injury
8 fund during the following calendar year and shall calculate the
9 total amount of the annual surcharge to be imposed during the
10 following calendar year upon all workers' compensation
11 policyholders and authorized self-insurers. The amount of the
12 annual surcharge percentage to be imposed upon each policyholder
13 and self-insured for the following calendar year commencing with
14 the calendar year beginning on January 1, 2006, shall be set at
15 and calculated against a percentage, not to exceed three percent,
16 of the policyholder's or self-insured's workers' compensation net
17 deposits, net premiums, or net assessments for the previous
18 policy year, rounded up to the nearest one-half of a percentage
19 point, that shall generate, as nearly as possible, one hundred
20 ten percent of the moneys to be paid from the second injury fund
21 in the following calendar year, less any moneys contained in the
22 fund at the end of the previous calendar year. All policyholders
23 and self-insurers shall be notified by the division of workers'
24 compensation within ten calendar days of the determination of the
25 surcharge percent to be imposed for, and paid in, the following
26 calendar year. The net premium equivalent for individual
27 self-insured employers and any group of political subdivisions of
28 this state qualified to self-insure their liability pursuant to

1 this chapter as authorized by section 537.620, RSMo, shall be
2 based on average rate classifications calculated by the
3 department of insurance, financial and professional regulation as
4 taken from premium rates filed by the twenty insurance companies
5 providing the greatest volume of workers' compensation insurance
6 coverage in this state. For employers qualified to self-insure
7 their liability pursuant to this chapter, the rates filed by such
8 group of employers in accordance with subsection 2 of section
9 287.280 shall be the net premium equivalent. The director may
10 advance funds from the workers' compensation fund to the second
11 injury fund if surcharge collections prove to be insufficient.
12 Any funds advanced from the workers' compensation fund to the
13 second injury fund must be reimbursed by the second injury fund
14 no later than December thirty-first of the year following the
15 advance. The surcharge shall be collected from policyholders by
16 each insurer at the same time and in the same manner that the
17 premium is collected, but no insurer or its agent shall be
18 entitled to any portion of the surcharge as a fee or commission
19 for its collection. The surcharge is not subject to any taxes,
20 licenses or fees.

21 3. All surcharge amounts imposed by this section shall be
22 deposited to the credit of the second injury fund.

23 4. Such surcharge amounts shall be paid quarterly by
24 insurers and self-insurers, and insurers shall pay the amounts
25 not later than the thirtieth day of the month following the end
26 of the quarter in which the amount is received from
27 policyholders. If the director of the division of workers'
28 compensation fails to calculate the surcharge by the thirty-first

1 day of October of any year for the following year, any increase
2 in the surcharge ultimately set by the director shall not be
3 effective for any calendar quarter beginning less than sixty days
4 from the date the director makes such determination.

5 5. If a policyholder or self-insured fails to make payment
6 of the surcharge or an insurer fails to make timely transfer to
7 the division of surcharges actually collected from policyholders,
8 as required by this section, a penalty of one-half of one percent
9 of the surcharge unpaid, or untransferred, shall be assessed
10 against the liable policyholder, self-insured or insurer.

11 Penalties assessed under this subsection shall be collected in a
12 civil action by a summary proceeding brought by the director of
13 the division of workers' compensation.

14 287.717. 1. Beginning January 1, 2004, the administrative
15 surcharge established pursuant to section 287.716 shall be
16 collected from deductible plan policyholders by each insurer at
17 the same time and in the same manner that the premium is
18 collected, but no insurer or its agent shall be entitled to any
19 portion of the administrative surcharge as a fee or commission
20 for its collection. The administrative surcharge is not subject
21 to any taxes, licenses, or fees.

22 2. All administrative surcharges imposed pursuant to
23 section 287.716 shall be paid to the Missouri director of revenue
24 and shall be deposited to the workers' compensation
25 administrative fund.

26 3. The amount of the administrative surcharge due for the
27 current calendar year shall be paid in four approximately equal
28 estimated quarterly installments, and a fifth reconciling

1 installment. The first four installments shall be based upon the
2 amount of administrative surcharge payable in the calendar year
3 for which the surcharge is imposed. The quarterly installments
4 shall be made on the first day of March, the first day of June,
5 the first day of September, and the first day of December. On or
6 before the first day of March of each year, every such insurer
7 shall submit a report, verified by the affidavit of its president
8 and secretary or other chief officers or agents, to the director
9 of the department of insurance, financial and professional
10 regulation, stating the amount of all such total premiums which
11 would have been paid for the deductible portion.

12 4. If after the end of any calendar year, the amount of the
13 actual administrative surcharge due is less than the total amount
14 of the installments actually paid, the amount by which the amount
15 paid exceeds the amount due shall only be credited against the
16 administrative surcharge for the following year and deducted from
17 the quarterly installment due on June first and any other
18 payments required by this section until the credit is exhausted.
19 In the event no such payments are due and upon application of the
20 insurer, the director of revenue may refund the amount of credit
21 if no other obligation is owed to the state.

22 5. If a deductible plan policyholder fails to make payment
23 of the administrative surcharge, or an insurer fails to make
24 timely transfer to the director of revenue of administrative
25 surcharges actually collected from deductible plan policyholders,
26 as required by this section, a late charge of one-half of one
27 percent of the administrative surcharge unpaid, or transferred,
28 shall be assessed against the liable deductible plan policyholder

1 or insurer. Late charges assessed pursuant to this subsection
2 shall be collected in a civil action by a summary proceeding
3 brought by the director of the division of workers' compensation.

4 6. If the administrative surcharges imposed by this section
5 are not paid when due, the deductible plan policyholder or
6 insurer shall be required to pay, as part of such administrative
7 surcharge, interest thereon at the rate of one and one-half
8 percent per month for each month or fraction thereof delinquent.
9 In the event the state prevails in any dispute concerning an
10 assessment of the administrative surcharge, which has not been
11 paid by the policyholder or insurer, interest shall be paid upon
12 the amount found due to the state at the rate of one and one-half
13 percent per month for each month or fraction thereof delinquent.

14 7. The division may authorize electronic transfer of all
15 forms, reports, payments, and other information deemed
16 appropriate by the division as required pursuant to this section
17 and sections 287.690, 287.710, 287.715, and 287.716. Information
18 filed pursuant to this section and sections 287.690, 287.710,
19 287.715, and 287.716 and under any rules promulgated by the
20 division pursuant to this section and sections 287.690, 287.710,
21 287.715, and 287.716 shall be confidential and not subject to
22 chapter 610, RSMo.

23 8. This section shall not apply to any employer or group of
24 employers authorized by the division to self-insure their
25 liability pursuant to this chapter.

26 287.730. Wherever the employer carries his risk or whatever
27 substitute schemes for insurance provided for in section 287.370
28 have been approved, the division shall inform the director of the

1 department of insurance, financial and professional regulation,
2 who, thereupon, shall assess and in like manner a similar tax
3 shall be collected from the employer carrying his own risk at the
4 same rate and on the same basis as taxes are assessed against
5 insurance carriers, of any character, carrying like risks in this
6 state under the provisions of this chapter.

7 287.892. All workers' compensation insurers or their
8 designated agents, self-insurers and state agencies responsible
9 for the collection or maintenance of workers' compensation
10 related data shall report claims information necessary to
11 determine and analyze costs of the workers' compensation system
12 to the director of the department of insurance, financial and
13 professional regulation or to such agents as the director may
14 designate. The director may promulgate all reasonable rules and
15 regulations necessary to implement this section.

16 287.894. 1. All commercial insurance carriers licensed to
17 sell workers' compensation insurance in the state shall provide
18 to the Missouri division of workers' compensation at least every
19 six months workers' compensation medical claims history data as
20 required by the division. Such data shall be on electronic media
21 and shall include the current procedural and medical terminology
22 codes relating to the medical treatment, dates of treatment,
23 demographic characteristics of the worker, type of health care
24 provider rendering care, and charges for treatment. The division
25 may require a statistically valid sample of claims. Companies
26 failing to provide such information as required by the division
27 are subject to section 287.740. The division may, for purposes
28 of verification, collect data from health care providers relating

1 to the treatment of workers' compensation injuries.

2 2. The Missouri consolidated health care plan as
3 established in section 103.005, RSMo, shall, upon request of the
4 division, provide data comparable to that provided by the
5 insurance carriers as required in subsection 1 of this section.

6 3. The data required in subsections 1 and 2 of this section
7 shall be used by the division to determine historical and
8 statistical trends, variations and changes in health care costs
9 associated with workers' compensation patients compared with
10 nonworkers' compensation patients with similar injuries and
11 conditions. Such data shall be readily available for review by
12 users of the workers' compensation system, members of the general
13 assembly, the Missouri division of workers' compensation and the
14 department of insurance, financial and professional regulation.
15 Any data released by the division shall not identify a patient or
16 health care provider.

17 4. Any additional personnel or equipment needed by the
18 division to meet the requirements of this section shall be paid
19 for by the workers' compensation fund.

20 287.896. 1. Within forty-five days of August 28, 1993, the
21 director of the department of insurance, financial and
22 professional regulation shall approve a plan of operation for a
23 new residual market that will guarantee insurance coverage and
24 quality loss prevention and control services for employers
25 seeking coverage through the plan. The new residual market shall
26 begin operation January 1, 1994.

27 2. All insurers authorized to write workers' compensation
28 and employers' liability insurance shall participate in such plan

1 providing for the equitable apportionment among them of insurance
2 which may be afforded applicants who are in good faith entitled
3 to but who are unable to procure such insurance through ordinary
4 methods, except that all employers that have expiring annual
5 premiums greater than two hundred fifty thousand dollars must
6 negotiate a retrospective rating plan with their insurer that is
7 acceptable to the director of the department of insurance,
8 financial and professional regulation. The rates, supplementary
9 rate information and policy forms to be used in such a plan and
10 any future modification thereof must be submitted to the director
11 for approval at least seventy-five days prior to their effective
12 date. Such rates shall be set by the director after hearing so
13 that the amount required in premiums, together with reasonable
14 investment income earned on those premiums, is not excessive,
15 inadequate or unfairly discriminatory and is actuarially
16 sufficient to apply claims and losses and reasonable operating
17 expenses of the insurers. Nothing contained herein shall prevent
18 the director from including a merit rating plan for
19 nonexperienced rated employers within the residual market plan.
20 The director shall adopt within the plan a system to distribute
21 any residual market deficit through an assessment on insurance
22 carriers authorized to write workers' compensation insurance in
23 proportion to the respective share of voluntary market premium
24 written by such carrier.

25 3. The director shall disapprove any filing that does not
26 meet the requirements of this section. A filing shall be deemed
27 to meet such requirements unless approved, disapproved or
28 modified by the director within seventy-five days after the

1 filing is made. In disapproving a filing made pursuant to this
2 section, the director shall have the same authority and follow
3 the same procedures as in disapproving a rate filing pursuant to
4 the requirements for filings in the voluntary market. The
5 designated advisory organization may make and file the plan of
6 operation, rates, rating plans, rules and policy forms under this
7 section.

8 4. The director shall establish by rule standards to assure
9 that any employer insured through the plan shall receive the same
10 quality of service in the areas of employee classification,
11 safety engineering, loss control, claims handling and claim
12 reserving practices as do employers which are voluntarily insured
13 as provided in section 287.123. The standards established by the
14 director pursuant to this subsection shall also specify the
15 procedures and grounds under which an employer insured through
16 the plan shall be assigned an insurer, and the method by which
17 such employers shall be informed of such procedures and grounds.
18 All insurers of the residual market shall process applications,
19 conduct safety engineering or other loss control services and
20 provide claims handling within the state of Missouri or adjoining
21 states.

22 287.902. The "Missouri Employers Mutual Insurance Company"
23 is created as an independent public corporation for the purpose
24 of insuring Missouri employers against liability for workers'
25 compensation, occupational disease and employers' liability
26 coverage. The company shall be organized and operated as a
27 domestic mutual insurance company and it shall not be a state
28 agency. The company shall have the powers granted a general

1 not-for-profit corporation pursuant to section 355.090, RSMo, to
2 the extent the provisions of such section do not conflict with
3 the provisions of sections 287.900 to 287.920. The company shall
4 be a member of the Missouri property and casualty guaranty
5 association, sections 375.771 to 375.779, RSMo, and as such will
6 be subject to assessments therefrom, and the members of such
7 association shall bear responsibility in the event of the
8 insolvency of the company. The company shall be established
9 pursuant to the provisions of sections 287.900 to 287.920.
10 Preference shall be given to Missouri employers that develop an
11 annual premium of not greater than ten thousand dollars. The
12 company shall use flexibility and experimentation in the
13 development of types of policies and coverages offered to
14 employers, subject to the approval of the director of the
15 department of insurance, financial and professional regulation.

16 287.920. 1. The board shall cause an annual audit of the
17 books of accounts, funds and securities of the company to be made
18 by a competent and independent firm of certified public
19 accountants, the cost of the audit to be charged against the
20 company. A copy of the audit report shall be filed with the
21 director of the department of insurance, financial and
22 professional regulation and the administrator. The audit shall
23 be open to the public for inspection.

24 2. The board shall submit an annual independently audited
25 report in accordance with procedures governing annual reports
26 adopted by the National Association of Insurance Commissioners by
27 March first of each year and the report shall be delivered to the
28 governor and the general assembly and shall indicate the business

1 done by the company during the previous year and contain a
2 statement of the resources and liabilities of the company.

3 3. The administrator shall annually submit to the board for
4 its approval an estimated budget of the entire expense of
5 administering the company for the succeeding calendar year having
6 due regard to the business interests and contract obligations of
7 the company.

8 4. The incurred loss experience and expense of the company
9 shall be ascertained each year to include but not be limited to
10 estimates of outstanding liabilities for claims reported to the
11 company but not yet paid and liabilities for claims arising from
12 injuries which have occurred but have not yet been reported to
13 the company. If there is an excess of assets over liabilities,
14 necessary reserves and a reasonable surplus for the catastrophe
15 hazard, then a cash dividend may be declared or a credit allowed
16 to an employer who has been insured with the company in
17 accordance with criteria approved by the board, which may account
18 for the employer's safety record and performance.

19 5. The department of insurance, financial and professional
20 regulation shall conduct an examination of the company in the
21 manner and under the conditions provided by the statutes of the
22 insurance code for the examination of insurance carriers. The
23 board shall pay the cost of the examination as an expense of the
24 company. The company is subject to all provisions of the
25 statutes which relate to private insurance carriers and to the
26 jurisdiction of the department of insurance, financial and
27 professional regulation in the same manner as private insurance
28 carriers, except as provided by the director.

1 6. For the purpose of ascertaining the correctness of the
2 amount of payroll reported, the number of employees on the
3 employer's payroll and for such other information as the
4 administrator may require in the proper administration of the
5 company, the records and payrolls of each employer insured by the
6 company shall always be open to inspection by the administrator
7 or his duly authorized agent or representative.

8 7. Every employer provided insurance coverage by the
9 company, upon complying with the underwriting standards adopted
10 by the company, and upon completing the application form
11 prescribed by the company, shall be furnished with a policy
12 showing the date on which the insurance becomes effective.

13 287.930. As used in sections 287.930 to 287.975, the
14 following terms mean:

15 (1) "Accepted actuarial standards", the standards adopted
16 by the Casualty Actuarial Society in its Statement of Principles
17 Regarding Property and Casualty Insurance Ratemaking, and the
18 Standards of Practice adopted by the Actuarial Standards Board;

19 (2) "Advisory organization", any entity which either has
20 two or more member insurers or is controlled either directly or
21 indirectly by two or more insurers and which assists insurers in
22 ratemaking related activities. Two or more insurers which have a
23 common ownership or operate in this state under common management
24 or control constitute a single insurer for the purpose of this
25 definition. "Advisory organization" does not include a joint
26 underwriting association, any actuarial or legal consultant, any
27 employee of an insurer or insurers under common control or
28 management or their employees or manager;

1 (3) "Classification system" or "classification", the plan,
2 system or arrangement for recognizing differences in exposure to
3 hazards among industries, occupations or operations of insurance
4 policyholders;

5 (4) "Competitive market", a market which has not been found
6 to be noncompetitive pursuant to section 287.942;

7 (5) "Director", the director of the department of
8 insurance, financial and professional regulation;

9 (6) "Expenses", that portion of any rate attributable to
10 acquisition and field supervision; collection expenses and
11 general expenses; and taxes, licenses and fees;

12 (7) "Experience rating", a rating procedure using past
13 insurance experience of the individual policyholder to forecast
14 future losses by measuring the policyholder's loss experience
15 against the loss experience of policyholders in the same
16 classification to produce a prospective premium credit, debit or
17 unity modification;

18 (8) "Loss trending", any procedure for projecting developed
19 losses to the average date of loss for the period during which
20 the policies are to be effective;

21 (9) "Market", the interaction between buyers and sellers of
22 workers' compensation insurance within this state pursuant to the
23 provisions of sections 287.930 to 287.975;

24 (10) "Noncompetitive market", a market for which there is a
25 ruling in effect pursuant to section 287.942 that a reasonable
26 degree of competition does not exist;

27 (11) "Prospective loss costs", that portion of a rate that
28 does not include provisions for expenses, other than loss

1 adjustment expenses, or profit. "Prospective loss costs" are
2 developed losses projected through loss trending to a future
3 point in time, including any assessments that are loss-based, and
4 ascertained by accepted actuarial standards;

5 (12) "Pure premium rate", that portion of the rate which
6 represents the loss cost per unit of exposure including loss
7 adjustments expense;

8 (13) "Rate", the cost of insurance per exposure base unit,
9 prior to any application of individual risk variations based on
10 loss or expense considerations, and does not include minimum
11 premiums;

12 (14) "Residual market", the plan, either voluntary or
13 mandated by law, involving participation by insurers in the
14 equitable apportionment among them of insurance which may be
15 afforded applicants who are unable to obtain insurance through
16 ordinary methods;

17 (15) "Statistical plan", the plan, system or arrangement
18 used in collecting data;

19 (16) "Supplementary rate information", any manual or plan
20 of rates, classifications system, rating schedule, minimum
21 premium, policy fee, rating rule, rating plan, and any other
22 similar information needed to determine the applicable premium
23 for an insured;

24 (17) "Supporting information", the experience and judgment
25 of the filer and the experience or data of other insurers or
26 organizations relied on by the filer, the interpretation of any
27 statistical data relied on by the filer, descriptions of methods
28 used in making the rates and any other similar information

1 required to be filed by the director.

2 287.945. In determining whether or not a competitive market
3 exists pursuant to section 287.942, the director shall monitor
4 the degree of competition in this state. In doing so, the
5 director shall use existing relevant information, analytical
6 systems and other sources; cause or participate in the
7 development of new relevant information, analytical systems and
8 other sources; or rely on some combination thereof. Such
9 activities may be conducted internally within the department of
10 insurance, financial and professional regulation, in cooperation
11 with other state insurance departments, through outside
12 contractors or in any other appropriate manner.

13 287.975. 1. The advisory organization shall file with the
14 director every pure premium rate, every manual of rating rules,
15 every rating schedule and every change or amendment, or
16 modification of any of the foregoing, proposed for use in this
17 state no more than thirty days after it is distributed to
18 members, subscribers or others.

19 2. The advisory organization which makes a uniform
20 classification system for use in setting rates in this state
21 shall collect data for two years after January 1, 1994, on the
22 payroll differential between employers within the construction
23 group of code classifications, including, but not limited to,
24 payroll costs of the employer and number of hours worked by all
25 employees of the employer engaged in construction work. Such
26 data shall be transferred to the department of insurance, financial and professional regulation in a form prescribed by the
27 director of the department of insurance, financial and
28

1 professional regulation, and the department shall compile the
2 data and develop a formula to equalize premium rates for
3 employers within the construction group of code classifications
4 based on such payroll differential within three years after the
5 data is submitted by the advisory organization.

6 303.025. 1. No owner of a motor vehicle registered in this
7 state, or required to be registered in this state, shall operate,
8 register or maintain registration of a motor vehicle, or permit
9 another person to operate such vehicle, unless the owner
10 maintains the financial responsibility which conforms to the
11 requirements of the laws of this state. Furthermore, no person
12 shall operate a motor vehicle owned by another with the knowledge
13 that the owner has not maintained financial responsibility unless
14 such person has financial responsibility which covers the
15 person's operation of the other's vehicle; however, no owner
16 shall be in violation of this subsection if he or she fails to
17 maintain financial responsibility on a motor vehicle which is
18 inoperable or being stored and not in operation. The director
19 may prescribe rules and regulations for the implementation of
20 this section.

21 2. A motor vehicle owner shall maintain the owner's
22 financial responsibility in a manner provided for in section
23 303.160, or with a motor vehicle liability policy which conforms
24 to the requirements of the laws of this state.

25 3. Any person who violates this section is guilty of a
26 class C misdemeanor. However, no person shall be found guilty of
27 violating this section if the operator demonstrates to the court
28 that he or she met the financial responsibility requirements of

1 this section at the time the peace officer, commercial vehicle
2 enforcement officer or commercial vehicle inspector wrote the
3 citation. In addition to any other authorized punishment, the
4 court shall notify the director of revenue of any person
5 convicted pursuant to this section and shall do one of the
6 following:

7 (1) Enter an order suspending the driving privilege as of
8 the date of the court order. If the court orders the suspension
9 of the driving privilege, the court shall require the defendant
10 to surrender to it any driver's license then held by such person.
11 The length of the suspension shall be as prescribed in subsection
12 2 of section 303.042. The court shall forward to the director of
13 revenue the order of suspension of driving privilege and any
14 license surrendered within ten days;

15 (2) Forward the record of the conviction for an assessment
16 of four points; or

17 (3) In lieu of an assessment of points, render an order of
18 supervision as provided in section 302.303, RSMo. An order of
19 supervision shall not be used in lieu of points more than one
20 time in any thirty-six-month period. Every court having
21 jurisdiction pursuant to the provisions of this section shall
22 forward a record of conviction to the Missouri state highway
23 patrol, or at the written direction of the Missouri state highway
24 patrol, to the department of revenue, in a manner approved by the
25 director of the department of public safety. The director shall
26 establish procedures for the record keeping and administration of
27 this section.

28 4. Nothing in sections 303.010 to 303.050, 303.060,

1 303.140, 303.220, 303.290, 303.330 and 303.370 shall be construed
2 as prohibiting the department of insurance, financial and
3 professional regulation from approving or authorizing those
4 exclusions and limitations which are contained in automobile
5 liability insurance policies and the uninsured motorist
6 provisions of automobile liability insurance policies.

7 5. If a court enters an order of suspension, the offender
8 may appeal such order directly pursuant to chapter 512, RSMo, and
9 the provisions of section 302.311, RSMo, shall not apply.

10 303.026. 1. The director shall inform each owner who
11 registers a motor vehicle of the following:

12 (1) The existence of the requirement that every motor
13 vehicle owner in the state must maintain his financial
14 responsibility;

15 (2) The requirement that every motor vehicle owner show an
16 insurance identification card, or a copy thereof, or other proof
17 of financial responsibility at the time of vehicle registration;
18 this notice shall be given at least thirty days prior to the
19 month for renewal and shall be shown in bold, colored print;

20 (3) The penalties which apply to violations of the
21 requirement to maintain financial responsibility;

22 (4) The benefits of maintaining coverages in excess of
23 those which are required;

24 (5) The director's authority to conduct samples of Missouri
25 motor vehicle owners to ensure compliance.

26 2. No motor vehicle owner shall be issued registration for
27 a vehicle unless the owner, or his authorized agent, signs an
28 affidavit provided by the director of revenue at the time of

1 registration of the vehicle certifying that such owner has and
2 will maintain, during the period of registration, financial
3 responsibility with respect to each motor vehicle that is owned,
4 licensed or operated on the streets or highways. The affidavit
5 need not be notarized, but it shall be acknowledged by the person
6 processing the form. The affidavit shall state clearly and in
7 bold print the following: "Any false affidavit is a crime under
8 section 575.050 of Missouri law.". In addition, every motor
9 vehicle owner shall show proof of such financial responsibility
10 by presenting his or her insurance identification card, as
11 described in section 303.024, or a copy thereof, or some other
12 proof of financial responsibility in the form prescribed by the
13 director of revenue at the time of registration unless such owner
14 registers his vehicle in conjunction with a reciprocity agreement
15 entered into by the Missouri highway reciprocity commission
16 pursuant to sections 301.271 to 301.279, RSMo, or unless the
17 owner insures the vehicle according to the requirements of the
18 division of motor carrier and railroad safety pursuant to section
19 390.126, RSMo.

20 3. To ensure compliance with this chapter, the director may
21 utilize a variety of sampling techniques including but not
22 limited to random samples of registrations subject to this
23 section, uniform traffic tickets, insurance information provided
24 to the director at the time of motor vehicle registration, and
25 persons who during the preceding year have received a disposition
26 of court-ordered supervision or suspension. The director may
27 verify the financial responsibility of any person sampled or
28 reported.

1 (1) Beginning January 1, 2001, the director may require
2 such information, as in his or her discretion is necessary to
3 enforce the requirements of subdivision (1) of subsection 1 of
4 this section, to be submitted from the person's insurer or
5 insurance company. When requested by the director of revenue,
6 all licensed insurance companies in this state which sell private
7 passenger (noncommercial) motor vehicle insurance policies shall
8 report information regarding the issuance, nonrenewal and
9 cancellation of such policies to the director, excluding policies
10 issued to owners of fleet or rental vehicles or issued on
11 vehicles that are insured pursuant to a commercial line policy.
12 Such information shall be reported electronically in a format as
13 prescribed by the director of the department of revenue by rule
14 except that such rule shall provide for an exemption from
15 electronic reporting for insurers with a statistically
16 insignificant number of policies in force.

17 (2) The director may require the data described in
18 subsection 2 of section 303.412 to be reported by insurance
19 companies and require reporting periods of at least once per
20 month. When required by the director of revenue, each insurance
21 company shall provide to the department a record of each policy
22 issued, canceled, terminated or revoked during the period since
23 the previous report. Nothing in this section shall prohibit
24 insurance companies from reporting more frequently than once per
25 month.

26 (3) The director may use reports described in subdivision
27 (1) of this subsection for sampling purposes as provided in this
28 section.

1 4. Information provided to the department by an insurance
2 company for use in accordance with this section is the property
3 of the insurer and is not subject to disclosure pursuant to
4 chapter 610, RSMo. Such information may be utilized by the
5 department for enforcement of this chapter but may not be
6 disclosed except that the department shall disclose whether an
7 individual is maintaining the required insurance coverage upon
8 request of the following individuals and agencies only:

9 (1) The individual;

10 (2) The parent or legal guardian of an individual if the
11 individual is an unemancipated minor;

12 (3) The legal guardian of the individual if the individual
13 is legally incapacitated;

14 (4) Any person who has power of attorney from the
15 individual;

16 (5) Any person who submits a notarized release from the
17 individual that is dated no more than ninety days before the
18 request is made;

19 (6) Any person claiming loss or injury in a motor vehicle
20 accident in which the individual is involved;

21 (7) The office of the state auditor, for the purpose of
22 conducting any audit authorized by law.

23 5. The director, after consultation with the working group
24 as provided for in section 303.406, may adopt any rules and
25 regulations necessary to carry out the provisions of subdivisions
26 (1) through (3) of subsection 3 of this section. Any rule or
27 portion of a rule, as that term is defined in section 536.010,
28 RSMo, that is created under the authority delegated in this

1 section shall become effective only if it complies with and is
2 subject to all of the provisions of chapter 536, RSMo, and, if
3 applicable, section 536.028, RSMo. This section and chapter 536,
4 RSMo, are nonseverable and if any of the powers vested with the
5 general assembly pursuant to chapter 536, RSMo, to review, to
6 delay the effective date or to disapprove and annul a rule are
7 subsequently held unconstitutional, then the grant of rulemaking
8 authority and any rule proposed or adopted after August 28, 2000,
9 shall be invalid and void.

10 6. Any person or agency who knowingly discloses information
11 received from insurance companies pursuant to this section for
12 any purpose, or to a person, other than those authorized in this
13 section is guilty of a class A misdemeanor. No insurer shall be
14 liable to any person for performing its duties pursuant to this
15 section unless and to the extent the insurer commits a willful
16 and wanton act of omission.

17 7. The department of revenue shall notify the department of
18 insurance, financial and professional regulation of any insurer
19 who violates any provisions of this section. The department of
20 insurance, financial and professional regulation may, against any
21 insurer who knowingly fails to comply with this section, assess
22 an administrative penalty up to five hundred dollars per day of
23 noncompliance. The department of insurance, financial and
24 professional regulation may excuse the administrative penalty if
25 an assessed insurer provides acceptable proof that such insurer's
26 noncompliance was inadvertent, accidental or the result of
27 excusable neglect. The penalty provisions of this section shall
28 become effective six months after the rule issued pursuant to

1 subsections 3 and 5 of this section is published in the code of
2 state regulations.

3 8. To verify that financial responsibility is being
4 maintained, the director shall notify the owner or operator of
5 the need to provide, within fifteen days, proof of the existence
6 of the required financial responsibility. The request shall
7 require the owner or the operator to state whether or not the
8 motor vehicle was insured on the verification date stated in the
9 director's request. The request may include but not be limited
10 to a statement of the names and addresses of insurers, policy
11 numbers and expiration date of insurance coverage. Failure to
12 provide such information shall result in the suspension of the
13 registration of the owner's motor vehicle, and where applicable,
14 the owner's or the operator's driving privilege, for failing to
15 meet such requirements, as is provided in this chapter.

16 303.406. 1. The "Motorist Insurance Identification
17 Database" is hereby created for the purpose of establishing a
18 database to use to verify compliance with the motor vehicle
19 financial responsibility requirements of this chapter. The
20 program shall be administered by the department and shall receive
21 funding from the "Motorist Insurance Identification Database
22 Fund", which is hereby created in the state treasury. Effective
23 July 1, 2002, the state treasurer shall credit to and deposit in
24 the motorist insurance identification database fund six percent
25 of the net general revenue portion received from collections of
26 the insurance premiums tax levied and collected pursuant to
27 sections 148.310 to 148.461, RSMo.

28 2. To implement the program, the department may by July 1,

1 2002, contract with a designated agent which shall monitor
2 compliance with the motor vehicle financial responsibility
3 requirements of this chapter, except that the program shall not
4 be implemented to notify owners of registered motor vehicles
5 until the department certifies that the accuracy rate of the
6 program exceeds ninety-five percent in correctly identifying
7 owners of registered motor vehicles as having maintained or
8 failed to maintain financial responsibility. After the
9 department has entered into a contract with a designated agent,
10 the department shall convene a working group for the purpose of
11 facilitating the implementation of the program.

12 3. The designated agent, using its own computer network,
13 shall, no later than December 31, 2002, develop, deliver and
14 maintain a computer database with information provided by:

15 (1) Insurers, pursuant to sections 303.400 to 303.415;
16 except that, any person who qualifies as self-insured pursuant to
17 this chapter, or provides proof of insurance to the director
18 pursuant to the provisions of section 303.160, shall not be
19 required to provide information to the designated agent, but the
20 state shall supply these records to the designated agent for
21 inclusion in the database; and

22 (2) The department, which shall provide the designated
23 agent with the name, date of birth and address of all persons in
24 its computer database, and the make, year and vehicle
25 identification number of all registered motor vehicles.

26 4. The department shall establish guidelines for the
27 designated agent's development of the computer database so the
28 database can be easily accessed by state and local law

1 enforcement agencies within procedures already established, and
2 shall not require additional computer keystrokes or other
3 additional procedures by dispatch or law enforcement personnel.
4 Once the database is operational, the designated agent shall, at
5 least monthly, update the database with information provided by
6 insurers and the department, and compare then-current motor
7 vehicle registrations against the database.

8 5. Information provided to the designated agent by insurers
9 and the department for inclusion in the database established
10 pursuant to this section is the property of the insurer or the
11 department, as the case may be, and is not subject to disclosure
12 pursuant to chapter 610, RSMo. Such information may not be
13 disclosed except as follows:

14 (1) The designated agent shall verify a person's insurance
15 coverage upon request by any state or local government agency
16 investigating, litigating or enforcing such person's compliance
17 with the motor vehicle financial responsibility requirements of
18 this chapter;

19 (2) The department shall disclose whether an individual is
20 maintaining the required insurance coverage upon request of the
21 following individuals and agencies only:

22 (a) The individual;

23 (b) The parent or legal guardian of an individual if the
24 individual is an unemancipated minor;

25 (c) The legal guardian of the individual if the individual
26 is legally incapacitated;

27 (d) Any person who has power of attorney from the
28 individual;

1 (e) Any person who submits a notarized release from the
2 individual that is dated no more than ninety days before the
3 request is made;

4 (f) Any person claiming loss or injury in a motor vehicle
5 accident in which the individual is involved;

6 (g) The office of the state auditor, for the purpose of
7 conducting any audit authorized by law.

8 6. Any person or agency who knowingly discloses information
9 from the database for any purpose, or to a person, other than
10 those authorized in this section is guilty of a class A
11 misdemeanor. The state shall not be liable to any person for
12 gathering, managing or using information in the database pursuant
13 to this section. The designated agent shall not be liable to any
14 person for performing its duties pursuant to this section unless
15 and to the extent such agent commits a willful and wanton act or
16 omission or is negligent. The designated agent shall be liable
17 to any insurer damaged by the designated agent's negligent
18 failure to protect the confidentiality of the information and
19 data disclosed by the insurer to the designated agent. The
20 designated agent shall provide to this state an errors and
21 omissions insurance policy covering such agent in an appropriate
22 amount. No insurer shall be liable to any person for performing
23 its duties pursuant to this section unless and to the extent the
24 insurer commits a willful and wanton act of omission.

25 7. The department shall review the operation and
26 performance of the motorist insurance identification database
27 program to determine whether the number of uninsured motorists
28 has declined during the first three years following

1 implementation and shall submit a report of its findings to the
2 general assembly no later than January fifteenth of the year
3 following the third complete year of implementation. The
4 department shall make copies of its report available to each
5 member of the general assembly.

6 8. This section shall not supersede other actions or
7 penalties that may be taken or imposed for violation of the motor
8 vehicle financial responsibility requirements of this chapter.

9 9. The working group as provided for in subsection 2 of
10 this section shall consist of representatives from the insurance
11 industry, department of insurance, financial and professional
12 regulation, department of public safety and the department of
13 revenue. The director of revenue, after consultation with the
14 working group, shall promulgate any rules and regulations
15 necessary to administer and enforce this section. No rule or
16 portion of a rule promulgated pursuant to the authority of this
17 section shall become effective unless it has been promulgated
18 pursuant to the provisions of chapter 536, RSMo.

19 303.412. 1. Beginning March 1, 2003, before the seventh
20 working date of each calendar month, all licensed insurance
21 companies in this state shall provide to the designated agent a
22 record of all policies in effect on the last day of the preceding
23 month. This subsection shall not prohibit more frequent
24 reporting.

25 2. The record pursuant to subsection 1 of this section
26 shall include the following:

27 (1) The name, date of birth, driver's license number and
28 address of each insured;

1 (2) The make, year and vehicle identification number of
2 each insured motor vehicle;

3 (3) The policy number and effective date of the policy.

4 3. The department of revenue shall notify the department of
5 insurance, financial and professional regulation of any insurer
6 who violates any provisions of this act. The department of
7 insurance, financial and professional regulation may, against any
8 insurer who fails to comply with this section, assess a fine not
9 greater than one thousand dollars per day of noncompliance. The
10 department of revenue may assess a fine not greater than one
11 thousand dollars per day against the designated agent for failure
12 to complete the project by the dates designated in sections
13 303.400 to 303.415 unless the delay is deemed beyond the control
14 of the designated agent or the designated agent provides
15 acceptable proof that such a noncompliance was inadvertent,
16 accidental or the result of excusable neglect. The department of
17 insurance, financial and professional regulation shall excuse the
18 fine against any insurer if an assessed insurer provides
19 acceptable proof that such insurer's noncompliance was
20 inadvertent, accidental or the result of excusable neglect.

21 319.131. 1. Any owner or operator of one or more petroleum
22 storage tanks may elect to participate in the petroleum storage
23 tank insurance fund to partially meet the financial
24 responsibility requirements of sections 319.100 to 319.137.
25 Subject to regulations of the board of trustees, owners or
26 operators may elect to continue their participation in the fund
27 subsequent to the transfer of their property to another party.
28 Current or former refinery sites or petroleum pipeline or marine

1 terminals are not eligible for participation in the fund.

2 2. The board shall establish an advisory committee which
3 shall be composed of insurers and owners and operators of
4 petroleum storage tanks. The advisory committee established
5 pursuant to this subsection shall report to the board. The
6 committee shall monitor the fund and recommend statutory and
7 administrative changes as may be necessary to assure efficient
8 operation of the fund. The committee, in consultation with the
9 board and the department of insurance, financial and professional
10 regulation, shall annually report to the general assembly on the
11 availability and affordability of the private insurance market as
12 a viable method of meeting the financial responsibilities
13 required by state and federal law in lieu of the petroleum
14 storage tank insurance fund.

15 3. (1) Except as otherwise provided by this section, any
16 person seeking to participate in the insurance fund shall submit
17 an application to the board of trustees and shall certify that
18 the petroleum tanks meet or exceed and are in compliance with all
19 technical standards established by the United States
20 Environmental Protection Agency, except those standards and
21 regulations pertaining to spill prevention control and
22 counter-measure plans, and rules established by the Missouri
23 department of natural resources and the Missouri department of
24 agriculture. The applicant shall submit proof that the applicant
25 has a reasonable assurance of the tank's integrity. Proof of
26 tank integrity may include but not be limited to any one of the
27 following: tank tightness test, electronic leak detection,
28 monitoring wells, daily inventory reconciliation, vapor test or

1 any other test that may be approved by the director of the
2 department of natural resources or the director of the department
3 of agriculture. The applicant shall submit evidence that the
4 applicant can meet all applicable financial responsibility
5 requirements of this section.

6 (2) A creditor, specifically a person who, without
7 participating in and not otherwise primarily engaged in petroleum
8 production, refining, and marketing, holds indicia of ownership
9 primarily for the purpose of, or in connection with, securing
10 payment or performance of a loan or to protect a security
11 interest in or lien on the tank or the property where the tank is
12 located, or serves as trustee or fiduciary upon transfer or
13 receipt of the property, may be a successor in interest to a
14 debtor pursuant to this section, provided that the creditor gives
15 notice of the interest to the insurance fund by certified mail,
16 return receipt requested. Part of such notice shall include a
17 copy of the lien, including but not limited to a security
18 agreement or a deed of trust as appropriate to the property. The
19 term "successor in interest" as provided in this section means a
20 creditor to the debtor who had qualified real property in the
21 insurance fund prior to the transfer of title to the creditor,
22 and the term is limited to access to the insurance fund. The
23 creditor may cure any of the debtor's defaults in payments
24 required by the insurance fund, provided the specific real
25 property originally qualified pursuant to this section. The
26 creditor, or the creditor's subsidiary or affiliate, who
27 forecloses or otherwise obtains legal title to such specific real
28 property held as collateral for loans, guarantees or other

1 credit, and which includes the debtor's aboveground storage tanks
2 or underground storage tanks, or both such tanks shall provide
3 notice to the fund of any transfer of creditor to subsidiary or
4 affiliate. Liability pursuant to sections 319.100 to 319.137
5 shall be confined to such creditor or such creditor's subsidiary
6 or affiliate. A creditor shall apply for a transfer of coverage
7 and shall present evidence indicating a lien, contractual right,
8 or operation of law permitting such transfer, and may utilize the
9 creditor's affiliate or subsidiary to hold legal title to the
10 specific real property taken in satisfaction of debts. Creditors
11 may be listed as insured or additional insured on the insurance
12 fund, and not merely as mortgagees, and may assign or otherwise
13 transfer the debtor's rights in the insurance fund to the
14 creditor's affiliate or subsidiary, notwithstanding any
15 limitations in the insurance fund on assignments or transfer of
16 the debtor's rights.

17 (3) Any person participating in the fund shall annually
18 submit an amount established pursuant to subsection 1 of section
19 319.133 which shall be deposited to the credit of the petroleum
20 storage tank insurance fund.

21 4. Any person making a claim pursuant to this section and
22 sections 319.129 and 319.133 shall be liable for the first ten
23 thousand dollars of the cost of cleanup associated with a release
24 from a petroleum storage tank without reimbursement from the
25 fund. The petroleum storage tank insurance fund shall assume all
26 costs, except as provided in subsection 5 of this section, which
27 are greater than ten thousand dollars but less than one million
28 dollars per occurrence or two million dollars aggregate per year.

1 The liability of the petroleum storage tank insurance fund is not
2 the liability of the state of Missouri. The provisions of
3 sections 319.100 to 319.137 shall not be construed to broaden the
4 liability of the state of Missouri beyond the provisions of
5 sections 537.600 to 537.610, RSMo, nor to abolish or waive any
6 defense which might otherwise be available to the state or to any
7 person. The presence of existing contamination at a site where a
8 person is seeking insurance in accordance with this section shall
9 not affect that person's ability to participate in this program,
10 provided the person meets all other requirements of this section.
11 Any person who qualifies pursuant to sections 319.100 to 319.137
12 and who has requested approval of a project for remediation from
13 the fund, which request has not yet been decided upon shall
14 annually be sent a status report including an estimate of when
15 the project may expect to be funded and other pertinent
16 information regarding the request.

17 5. The fund shall provide coverage for third-party claims
18 involving property damage or bodily injury caused by leaking
19 petroleum storage tanks whose owner or operator is participating
20 in the fund at the time the release occurs or is discovered.
21 Coverage for third-party bodily injury shall not exceed one
22 million dollars per occurrence. Coverage for third-party
23 property damage shall not exceed one million dollars per
24 occurrence. The fund shall not compensate an owner or operator
25 for repair of damages to property beyond that required to contain
26 and clean up a release of a regulated substance or compensate an
27 owner or operator or any third party for loss or damage to other
28 property owned or belonging to the owner or operator, or for any

1 loss or damage of an intangible nature, including, but not
2 limited to, loss or interruption of business, pain and suffering
3 of any person, lost income, mental distress, loss of use of any
4 benefit, or punitive damages.

5 6. The fund shall, within limits specified in this section,
6 assume costs of third-party claims and cleanup of contamination
7 caused by releases from petroleum storage tanks. The fund shall
8 provide the defense of eligible third-party claims including the
9 negotiations of any settlement.

10 7. Nothing contained in sections 319.100 to 319.137 shall
11 be construed to abrogate or limit any right, remedy, causes of
12 action, or claim by any person sustaining personal injury or
13 property damage as a result of any release from any type of
14 petroleum storage tank, nor shall anything contained in sections
15 319.100 to 319.137 be construed to abrogate or limit any
16 liability of any person in any way responsible for any release
17 from a petroleum storage tank or any damages for personal injury
18 or property damages caused by such a release.

19 8. (1) The fund shall provide moneys for cleanup of
20 contamination caused by releases from petroleum storage tanks,
21 the owner or operator of which is participating in the fund or
22 the owner or operator of which has made application for
23 participation in the fund by December 31, 1997, regardless of
24 when such release occurred, provided that those persons who have
25 made application are ultimately accepted into the fund.
26 Applicants shall not be eligible for fund benefits until they are
27 accepted into the fund. This section shall not preclude the
28 owner or operator of petroleum storage tanks coming into service

1 after December 31, 1997, from making application to and
2 participating in the petroleum storage tank insurance fund.

3 (2) Notwithstanding the provisions of section 319.100 and
4 the provisions of subdivision (1) of this section, the fund shall
5 provide moneys for cleanup of contamination caused by releases
6 from petroleum storage tanks owned by school districts all or
7 part of which are located in a county of the third classification
8 without a township form of government and having a population of
9 more than ten thousand seven hundred but less than eleven
10 thousand inhabitants, and which make application for
11 participation in the fund by August 28, 1999, regardless of when
12 such release occurred. Applicants shall not be eligible for fund
13 benefits until they are accepted into the fund, and costs
14 incurred prior to that date shall not be eligible expenses.

15 9. (1) The fund shall provide moneys for cleanup of
16 contamination caused by releases from underground storage tanks
17 which contained petroleum and which have been taken out of use
18 prior to December 31, 1997, provided such sites have been
19 documented by or reported to the department of natural resources
20 prior to December 31, 1997, and provided further that the fund
21 shall make no reimbursements for expenses incurred prior to
22 August 28, 1995. The fund shall also provide moneys for cleanup
23 of contamination caused by releases from underground storage
24 tanks which contained petroleum and which have been taken out of
25 use prior to December 31, 1985, if the current owner of the real
26 property where the tanks are located purchased such property
27 before December 31, 1985, provided such sites are reported to the
28 fund on or before June 30, 2000. The fund shall make no payment

1 for expenses incurred at such sites prior to August 28, 1999.
2 Nothing in sections 319.100 to 319.137 shall affect the validity
3 of any underground storage tank fund insurance policy in effect
4 on August 28, 1996.

5 (2) An owner or operator who submits a request as provided
6 in this subsection is not required to bid the costs and expenses
7 associated with professional environmental engineering services.
8 The board may disapprove all or part of the costs and expenses
9 associated with the environmental engineering services if the
10 costs are excessive based upon comparable service costs or
11 current market value of similar services. The owner or operator
12 shall solicit bids for actual remediation and cleanup work as
13 provided by rules of the board.

14 10. The fund shall provide moneys for cleanup of
15 contamination caused by releases from aboveground storage tanks
16 utilized for the sale of products regulated by chapter 414, RSMo,
17 which have been taken out of use prior to December 31, 1997,
18 provided such sites have been documented by or reported to the
19 department of natural resources prior to December 31, 1997, and
20 provided further that the fund shall make no reimbursements for
21 expenses incurred prior to July 1, 1997.

22 320.082. Every insurance company doing the business of fire
23 insurance within this state which shall have reason to believe
24 that any fire loss reported to it is the result of arson or
25 incendiarism shall forthwith report the same along with all
26 relevant facts thereof to the prosecuting or circuit attorney of
27 the city or county in which said fire loss occurred and the
28 prosecuting or circuit attorney shall acknowledge receipt. The

1 prosecuting or circuit attorney shall give notification of
2 receipt and shall provide such report, upon request, to the state
3 fire marshal, the [division] department of insurance, financial
4 and professional regulation and the law enforcement agency having
5 jurisdiction over the fire loss.

6 324.001. 1. For the purposes of this section, the
7 following terms mean:

8 (1) "Department", the department of insurance, financial
9 and professional regulation;

10 (2) "Director", the director of the division of
11 professional registration; and

12 (3) "Division", the division of professional registration.

13 2. There is hereby established a "Division of Professional
14 Registration" assigned to the department of insurance, financial
15 and professional regulation as a type III transfer, headed by a
16 director appointed by the governor with the advice and consent of
17 the senate. All of the general provisions, definitions and
18 powers enumerated in section 1 of the Omnibus State
19 Reorganization Act of 1974 and Executive Order 6-04 shall apply
20 to this department and its divisions, agencies and personnel.

21 3. The director of the division of professional
22 registration shall promulgate rules and regulations which
23 designate for each board or commission assigned to the division
24 the renewal date for licenses or certificates. After the initial
25 establishment of renewal dates, no director of the division shall
26 promulgate a rule or regulation which would change the renewal
27 date for licenses or certificates if such change in renewal date
28 would occur prior to the date on which the renewal date in effect

1 at the time such new renewal date is specified next occurs. Each
2 board or commission shall by rule or regulation establish
3 licensing periods of one, two, or three years. Registration fees
4 set by a board or commission shall be effective for the entire
5 licensing period involved, and shall not be increased during any
6 current licensing period. Persons who are required to pay their
7 first registration fees shall be allowed to pay the pro rata
8 share of such fees for the remainder of the period remaining at
9 the time the fees are paid. Each board or commission shall
10 provide the necessary forms for initial registration, and
11 thereafter the director may prescribe standard forms for renewal
12 of licenses and certificates. Each board or commission shall by
13 rule and regulation require each applicant to provide the
14 information which is required to keep the board's records
15 current. Each board or commission shall issue the original
16 license or certificate.

17 4. The division shall provide clerical and other staff
18 services relating to the issuance and renewal of licenses for all
19 the professional licensing and regulating boards and commissions
20 assigned to the division. The division shall perform the
21 financial management and clerical functions as they each relate
22 to issuance and renewal of licenses and certificates. "Issuance
23 and renewal of licenses and certificates" means the ministerial
24 function of preparing and delivering licenses or certificates,
25 and obtaining material and information for the board or
26 commission in connection with the renewal thereof. It does not
27 include any discretionary authority with regard to the original
28 review of an applicant's qualifications for licensure or

1 certification, or the subsequent review of licensee's or
2 certificate holder's qualifications, or any disciplinary action
3 contemplated against the licensee or certificate holder. The
4 division may develop and implement microfilming systems and
5 automated or manual management information systems.

6 5. The director of the division shall maintain a system of
7 accounting and budgeting, in cooperation with the director of the
8 department, the office of administration, and the state auditor's
9 office, to ensure proper charges are made to the various boards
10 for services rendered to them. The general assembly shall
11 appropriate to the division and other state agencies from each
12 board's funds, moneys sufficient to reimburse the division and
13 other state agencies for all services rendered and all facilities
14 and supplies furnished to that board.

15 6. For accounting purposes, the appropriation to the
16 division and to the office of administration for the payment of
17 rent for quarters provided for the division shall be made from
18 the "Professional Registration Fees Fund", which is hereby
19 created, and is to be used solely for the purpose defined in
20 subsection 5 of this section. The fund shall consist of moneys
21 deposited into it from each board's fund. Each board shall
22 contribute a prorated amount necessary to fund the division for
23 services rendered and rent based upon the system of accounting
24 and budgeting established by the director of the division as
25 provided in subsection 5 of this section. Transfers of funds to
26 the professional registration fees fund shall be made by each
27 board on July first of each year; provided, however, that the
28 director of the division may establish an alternative date or

1 dates of transfers at the request of any board. Such transfers
2 shall be made until they equal the prorated amount for services
3 rendered and rent by the division. The provisions of section
4 33.080, RSMo, to the contrary notwithstanding, money in this fund
5 shall not be transferred and placed to the credit of general
6 revenue.

7 7. At the end of each biennium, the state treasurer shall
8 transfer the balance in the fund created in subsection 6 of this
9 section in excess of two hundred percent of the previous fiscal
10 year's expenditures into the state general revenue fund.

11 8. The director of the division shall be responsible for
12 collecting and accounting for all moneys received by the division
13 or its component agencies. Any money received by a board or
14 commission shall be promptly given, identified by type and
15 source, to the director. The director shall keep a record by
16 board and state accounting system classification of the amount of
17 revenue the director receives. The director shall promptly
18 transmit all receipts to the department of revenue for deposit in
19 the state treasury to the credit of the appropriate fund. The
20 director shall provide each board with all relevant financial
21 information in a timely fashion. Each board shall cooperate with
22 the director by providing necessary information.

23 9. All educational transcripts, test scores, complaints,
24 investigatory reports, and information pertaining to any person
25 who is an applicant or licensee of any agency assigned to the
26 division of professional registration by statute or by the
27 department are confidential and may not be disclosed to the
28 public or any member of the public, except with the written

1 consent of the person whose records are involved. The agency
2 which possesses the records or information shall disclose the
3 records or information if the person whose records or information
4 is involved has consented to the disclosure. Each agency is
5 entitled to the attorney-client privilege and work-product
6 privilege to the same extent as any other person. Provided,
7 however, that any board may disclose confidential information
8 without the consent of the person involved in the course of
9 voluntary interstate exchange of information, or in the course of
10 any litigation concerning that person, or pursuant to a lawful
11 request, or to other administrative or law enforcement agencies
12 acting within the scope of their statutory authority.
13 Information regarding identity, including names and addresses,
14 registration, and currency of the license of the persons
15 possessing licenses to engage in a professional occupation and
16 the names and addresses of applicants for such licenses is not
17 confidential information.

18 10. Any deliberations conducted and votes taken in
19 rendering a final decision after a hearing before an agency
20 assigned to the division shall be closed to the parties and the
21 public. Once a final decision is rendered, that decision shall
22 be made available to the parties and the public.

23 11. (1) The following boards and commissions are assigned
24 by specific type transfers to the division of professional
25 registration: Missouri state board of accountancy, chapter 326,
26 RSMo; board of cosmetology and barber examiners, chapters 328 and
27 329, RSMo; state board of registration for architects,
28 professional engineers and professional land surveyors and

1 landscape architects, chapter 327, RSMo; state board of
2 chiropractic examiners, chapter 331, RSMo; state board of
3 registration for the healing arts, chapter 334, RSMo; Missouri
4 dental board, chapter 332, RSMo; state board of embalmers and
5 funeral directors, chapter 333, RSMo; state board of optometry,
6 chapter 336, RSMo; state board of nursing, chapter 335, RSMo;
7 board of pharmacy, chapter 338, RSMo; state board of podiatry,
8 chapter 330, RSMo; Missouri real estate commission, chapter 339,
9 RSMo; and Missouri veterinary medical board chapter 340, RSMo.

10 The governor shall appoint members of these boards by and with
11 the advice and consent of the senate.

12 (2) The boards and commissions assigned to the division
13 shall exercise all their respective statutory duties and powers,
14 except those clerical and other staff services involving
15 collecting and accounting for moneys and financial management
16 relating to the issuance and renewal of licenses, which services
17 shall be provided by the division, within the appropriation
18 therefor. Nothing herein shall prohibit employment of
19 professional examining or testing services from professional
20 associations or others as required by the boards or commissions
21 on contract. Nothing herein shall be construed to affect the
22 power of a board or commission to expend its funds as
23 appropriated. However, the division shall review the expense
24 vouchers of each board. The results of such review shall be
25 submitted to the board reviewed and to the house and senate
26 appropriations committees annually.

27 (3) Notwithstanding any other provisions of law, the
28 director of the division shall exercise only those management

1 functions of the boards and commissions specifically provided in
2 the Reorganization Act of 1974, and those relating to the
3 allocation and assignment of space, personnel other than board
4 personnel, and equipment.

5 (4) "Board personnel", as used in this section or chapters
6 317, 324, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336,
7 337, 338, 339, 340, and 345, RSMo, shall mean personnel whose
8 functions and responsibilities are in areas not related to the
9 clerical duties involving the issuance and renewal of licenses,
10 to the collecting and accounting for moneys, or to financial
11 management relating to issuance and renewal of licenses;
12 specifically included are executive secretaries (or comparable
13 positions), consultants, inspectors, investigators, counsel, and
14 secretarial support staff for these positions; and such other
15 positions as are established and authorized by statute for a
16 particular board or commission. Boards and commissions may retain
17 legal counsel or representation as authorized by law or by
18 agreement with the attorney general or with the director of the
19 department, who may employ such personnel or make agreement with
20 private counsel. Boards and commissions may employ temporary
21 personnel if the board is unable to meet its responsibilities
22 with the employees authorized above. Any board or commission
23 which hires temporary employees shall annually provide the
24 division director and the appropriation committees of the general
25 assembly with a complete list of all persons employed in the
26 previous year, the length of their employment, the amount of
27 their remuneration and a description of their responsibilities.

28 (5) Board personnel for each board or commission shall be

1 employed by and serve at the pleasure of the board or commission,
2 shall be supervised as the board or commission designates, and
3 shall have their duties and compensation prescribed by the board
4 or commission, within appropriations for that purpose, except
5 that compensation for board personnel shall not exceed that
6 established for comparable positions as determined by the board
7 or commission pursuant to the job and pay plan of the department
8 of insurance, financial and professional regulation. Nothing
9 herein shall be construed to permit salaries for any board
10 personnel to be lowered except by board action.

11 12. All the powers, duties and functions of the division of
12 athletics, chapter 317, RSMo, and others, are assigned by type I
13 transfer to the division of professional registration.

14 13. Wherever the laws, rules or regulations of this state
15 make reference to the "division of professional registration of
16 the department of economic development", such references shall be
17 deemed to refer to the division of professional registration.

18 324.002. Each board or commission shall receive complaints
19 concerning its licensees' business or professional practices.
20 Each board or commission shall establish by rule a procedure for
21 the handling of such complaints prior to the filing of formal
22 complaints before the administrative hearing commission. The
23 rule shall provide, at a minimum, for the logging of each
24 complaint received, the recording of the licensee's name, the
25 name of the complaining party, the date of the complaint, and a
26 brief statement of the complaint and its ultimate disposition.
27 The rule shall provide for informing the complaining party of the
28 progress of the investigation, the dismissal of the charges or

1 the filing of a complaint before the administrative hearing
2 commission.

3 324.015. The director of the division of professional
4 registration shall establish by rule the compensation amount and
5 guidelines for each member of the boards and committees in the
6 division of professional registration. Each member shall receive
7 as compensation for their services an amount not to exceed one
8 hundred dollars per day while discharging their duties, and shall
9 be entitled to receive their necessary traveling and other
10 expenses incurred while actually engaged in the performance of
11 their duties as such members.

12 324.016. No new licensing activity or other statutory
13 requirements assigned to the division of professional
14 registration shall become effective until expenditures or
15 personnel are specifically appropriated for the purpose of
16 conducting the business as required and the initial rules filed,
17 if appropriate, have become effective. The director of the
18 division of professional registration shall have the authority to
19 borrow funds from any agency within the division to commence
20 operations upon appropriation for such purpose. This authority
21 shall cease at such time that a sufficient fund has been
22 established by the agency to fund its operations and repay the
23 amount borrowed.

24 324.017. 1. Contrary provisions of the law
25 notwithstanding, no complaint, investigatory report or
26 information received from any source must be disclosed prior to
27 its review by the appropriate agency.

28 2. At its discretion an agency may disclose complaints,

1 completed investigatory reports and information obtained from
2 state administrative and law enforcement agencies to a licensee
3 or license applicant in order to further an investigation or to
4 facilitate settlement negotiations.

5 3. Information obtained from a federal administrative or
6 law enforcement agency shall be disclosed only after the agency
7 has obtained written consent to the disclosure from the federal
8 administrative or law enforcement agency.

9 4. At its discretion an agency may disclose complaints and
10 investigatory reports in the course of a voluntary interstate
11 exchange of information, or in the course of any litigation
12 concerning a licensee or license applicant, or pursuant to a
13 lawful request, or to other state or federal administrative or
14 law enforcement agencies.

15 5. Except as disclosure is specifically provided above and
16 in section 610.021, RSMo, deliberations, votes or minutes of
17 closed proceedings of agencies shall not be subject to disclosure
18 or discovery.

19 324.021. When making appointments to the boards governed by
20 sections 209.270 to 209.339, RSMo, sections 256.010 to 256.453,
21 RSMo, and chapters 324, 326, 327, 328, 329, 330, 331, 332, 333,
22 334, 335, 336, 337, 338, 339, 340, 345, and 346, RSMo, the
23 governor shall take affirmative action to appoint women and
24 members of minority groups. In addition, the governor shall not
25 discriminate against or in favor of any person on the basis of
26 race, sex, religion, national origin, ethnic background, or
27 language.

28 324.022. Any rule or portion of a rule, as that term is

1 defined in section 536.010, RSMo, that is created under the
2 authority delegated in sections 209.270 to 209.339, RSMo,
3 sections 214.270 to 214.516, RSMo, sections 256.010 to 256.453,
4 RSMo, and 317, 324, chapters 326, 327, 328, 329, 330, 331, 332,
5 333, 334, 335, 336, 337, 338, 339, 340, 345, and 346, RSMo, shall
6 become effective only if it complies with and is subject to all
7 of the provisions of chapter 536, RSMo, and, if applicable,
8 section 536.028, RSMo. This section and chapter 536, RSMo, are
9 nonseverable and if any of the powers vested with the general
10 assembly pursuant to chapter 536, RSMo, to review, to delay the
11 effective date, or to disapprove and annul a rule are
12 subsequently held unconstitutional, then the grant of rulemaking
13 authority and any rule proposed or adopted after August 28, 2007,
14 shall be invalid and void.

15 324.024. Notwithstanding any provision of law to the
16 contrary, every application for a license, certificate,
17 registration, or permit, or renewal of a license, certificate,
18 registration, or permit issued in this state shall contain the
19 Social Security number of the applicant. This provision shall
20 not apply to an original application for a license, certificate,
21 registration, or permit submitted by a citizen of a foreign
22 country who has never been issued a Social Security number and
23 who previously has not been licensed by any other state, United
24 States territory, or federal agency. A citizen of a foreign
25 country applying for licensure with the division of professional
26 registration shall be required to submit his or her visa or
27 passport identification number in lieu of the Social Security
28 number.

1 324.026. An orientation program for appointees to all
2 boards or commissions in the division of professional
3 registration shall be prepared under the direction of the
4 director of the division, which shall acquaint new appointees
5 with their duties and provide available information on subject
6 matters of concern to the board or commission to which each
7 public member has been appointed.

8 324.028. 1. Any member authorized under the provisions of
9 sections 256.459, RSMo, 324.063, 324.177, 324.203, 324.243,
10 324.406, and 324.478, RSMo, 326.259, RSMo, 327.031, RSMo,
11 328.030, RSMo, 329.190, RSMo, 330.110, RSMo, 331.090, RSMo,
12 332.021, RSMo, 333.151, RSMo, 334.120, 334.430, 334.625, 334.717,
13 334.736, and 334.830, RSMo, 335.021, RSMo, 336.130, RSMo,
14 337.050, RSMo, 338.110, RSMo, 339.120, RSMo, 340.120, RSMo,
15 345.080, RSMo, and 346.120, RSMo, who misses three consecutive
16 regularly scheduled meetings of the board or council on which he
17 serves shall forfeit his membership on that board or council. A
18 new member shall be appointed to the respective board or council
19 by the governor with the advice and consent of the senate.

20 2. The minutes of each board or council meeting shall be
21 posted on the web page of the respective board or council.

22 324.029. Except as otherwise specifically provided by law,
23 no license for any occupation or profession shall be denied
24 solely on the grounds that an applicant has been previously
25 convicted of a felony.

26 324.031. 1. All fees charged by each board assigned to the
27 division of professional registration shall be collected by that
28 division and promptly transmitted to the department of revenue

1 for deposit in the state treasury, credited to the proper account
2 as provided by law.

3 2. The division and its component agencies shall permit any
4 licensee to submit payment for fees established by rule in the
5 form of personal check, money order, or cashier's check. All
6 checks or money orders shall be made payable to the appropriate
7 board. Any check or financial instrument which is returned to
8 the division or one of its agencies due to insufficient funds, a
9 closed account, or for other circumstances in which the check or
10 financial instrument is not honored may subject an individual to
11 additional costs, substantial penalties, or other actions by the
12 division or one of its agencies. In such cases involving renewal
13 of licenses, the renewal license may be withheld, and if issued,
14 is not valid until the appropriate fee and any additional costs
15 are collected. The division may require the payment of collection
16 costs or other expenses. The affected board may establish penalty
17 fees by rule and may suspend or revoke a license if such behavior
18 is repetitive or the licensee fails to pay required penalty fees.

19 3. License renewal fees are generally nonrefundable.
20 Overpayments or other incorrect fees may be refundable. The
21 division shall establish a refund reserve through the
22 appropriation to the professional registration fees fund.

23 4. Notwithstanding any other provision of law to the
24 contrary, no board, commission or any other registration,
25 licensing or certifying agency of the division of professional
26 registration shall be required to collect or distribute any fee
27 which is required for administering any test to qualify for a
28 license, registration or certificate, if any portion of the fee

1 is to be remitted to a private testing service.

2 324.032. The division of professional registration shall
3 maintain, for each board in the division, a registry of each
4 person holding a current license, permit or certificate issued by
5 that board. The registry shall contain the name, Social Security
6 number and address of each person licensed or registered together
7 with other relevant information as determined by the board. The
8 registry for each board shall at all times be available to the
9 board and copies shall be supplied to the board on request.

10 Copies of the registry, except for the registrant's Social
11 Security number, shall be available from the division or the
12 board to any individual who pays the reasonable copying cost.
13 Any individual may copy the registry during regular business
14 hours. The information in the registry shall be furnished upon
15 request to the division of child support enforcement. Questions
16 concerning the currency of license of any individual shall be
17 answered, without charge, by the appropriate board. Each year
18 each board may publish, or cause to be published, a directory
19 containing the name and address of each person licensed or
20 registered for the current year together with any other
21 information the board deems necessary. Any expense incurred by
22 the state relating to such publication shall be charged to the
23 board. An official copy of any such publication shall be filed
24 with the director.

25 324.034. 1. Notwithstanding other provisions of law, the
26 director of the division of professional registration may destroy
27 records and documents of the division or the boards in the
28 division at any time if such records and documents have been

1 photographed, microphotographed, imaged, electronically
2 generated, electronically recorded, photostatted, reproduced on
3 film or other process capable of producing a clear, accurate and
4 permanent copy of the original. Such film or reproducing material
5 shall be of durable material and the device used to reproduce the
6 records, reports, returns and other related documents on film or
7 material shall be such as to accurately reproduce and perpetuate
8 the original records and documents in all details.

9 2. The reproductions so made may be used as permanent
10 records of the original. When microfilm, electronic image, or a
11 similar reproduction is used as a permanent record by the
12 director of revenue, one copy shall be stored in a fireproof
13 vault and other copies may be made for use by any person entitled
14 thereto. All reproductions shall retain the same confidentiality
15 as is provided in the law regarding the original record.

16 3. Such photostatic copy, photograph, microphotograph,
17 image, electronically generated, electronically recorded or other
18 process copy shall be deemed to be an original record for all
19 purposes, and shall be admissible in evidence in all courts or
20 administrative agencies. A transcript, exemplification or
21 certified copy of any records or documents made from such
22 photostatic copy, photograph, microphotograph, electronically
23 generated, electronically recorded or other process copy shall,
24 for all purposes be deemed to be a transcript, exemplification or
25 certified copy of the original and shall be admissible in
26 evidence in all courts or administrative agencies. No document
27 shall be admissible pursuant to this section unless the offeror
28 shall comply with section 490.692, RSMo, when applicable.

1 4. "Records and documents" include, but are not limited to,
2 papers, documents, facsimile information, microphotographic
3 process, electronically generated or electronically recorded
4 image or information, deposited or filed with the division of
5 professional registration or any of the boards in the division.

6 324.036. Notwithstanding any other law to the contrary, the
7 director of the division of professional registration is
8 authorized to contract with third parties to collect, account for
9 and deposit fees on behalf of the division and licensing agencies
10 within the division.

11 324.038. 1. Whenever a board within or assigned to the
12 division of professional registration, including the division
13 itself when so empowered, may refuse to issue a license for
14 reasons which also serve as a basis for filing a complaint with
15 the administrative hearing commission seeking disciplinary action
16 against a holder of a license, the board, as an alternative to
17 refusing to issue a license, may, at its discretion, issue to an
18 applicant a license subject to probation.

19 2. The board shall notify the applicant in writing of the
20 terms of the probation imposed, the basis therefor, and the date
21 such action shall become effective. The notice shall also advise
22 the applicant of the right to a hearing before the administrative
23 hearing commission, if the applicant files a complaint with the
24 administrative hearing commission within thirty days of the date
25 of delivery or mailing by certified mail of written notice of the
26 probation. If the board issues a probated license, the applicant
27 may file, within thirty days of the date of delivery or mailing
28 by certified mail of written notice of the probation, a written

1 complaint with the administrative hearing commission seeking
2 review of the board's determination. Such complaint shall set
3 forth that the applicant or licensee is qualified for nonprobated
4 licensure pursuant to the laws and administrative regulations
5 relating to his or her profession. Upon receipt of such
6 complaint the administrative hearing commission shall cause a
7 copy of such complaint to be served upon the board by certified
8 mail or by delivery of such copy to the office of the board,
9 together with a notice of the place of and the date upon which
10 the hearing on such complaint will be held. Hearings shall be
11 held pursuant to chapter 621, RSMo. The burden shall be on the
12 board to demonstrate the existence of the basis for imposing
13 probation on the licensee. If no written request for a hearing
14 is received by the administrative hearing commission within the
15 thirty-day period, the right to seek review of the board's
16 decision shall be considered waived.

17 3. If the probation imposed includes restrictions or
18 limitations on the scope of practice, the license issued shall
19 plainly state such restriction or limitation. When such
20 restriction or limitation is removed, a new license shall be
21 issued.

22 324.039. There shall be established in each board within
23 the division of professional registration, including the division
24 itself when empowered with licensing authority, which was on
25 August 28, 1998, required or authorized to revoke a license for
26 failure to submit an application for renewal, failure to provide
27 information required for renewal or nonpayment of the required
28 renewal fee, a classification for a licensee who, desires to

1 remove himself or herself from participating in the licensing
2 system of the board or division. This classification shall be
3 distinguished from revocation of a license and from surrender of
4 a license pursuant to an agreement between the board or division
5 and the licensee filed with and approved by the administrative
6 hearing commission. This classification shall not be available
7 to a licensee during the time there is an investigation of the
8 licensee or the licensee's practices or during the pendency of a
9 disciplinary complaint filed with the administrative hearing
10 commission. Each board within the division or the division when
11 empowered with licensing authority shall establish by rule
12 qualifications for such classification and procedures for a
13 licensee to request an inactive license as provided in this
14 section. Notwithstanding any other law to the contrary, no board
15 within the division or the division shall be required to revoke a
16 license when the licensee qualifies for the classification
17 authorized by this section, as provided by rule. An inactive
18 license authorized by this section shall be subject to the same
19 requirements for reinstatement or restoration as a lapsed,
20 expired or revoked license due to failure to renew the license.
21 This section shall not affect those boards which are otherwise
22 authorized to classify a license as inactive.

23 324.041. For the purpose of determining whether cause for
24 discipline or denial exists under the statutes of any board,
25 commission or committee within the division of professional
26 registration, any licensee, registrant, permittee or applicant
27 that test positive for a controlled substance, as defined in
28 chapter 195, RSMo, is presumed to have unlawfully possessed the

1 controlled substance in violation of the drug laws or rules and
2 regulations of this state, any other state or the federal
3 government unless he or she has a valid prescription for the
4 controlled substance. The burden of proof that the controlled
5 substance was not unlawfully possessed in violation of the drug
6 laws or rules and regulations of this state, any other state or
7 the federal government is upon the licensee, registrant,
8 permittee or applicant.

9 324.042. Any board, commission or committee within the
10 division of professional registration may impose additional
11 discipline when it finds after hearing that a licensee,
12 registrant or permittee has violated any disciplinary terms
13 previously imposed or agreed to pursuant to settlement. The
14 board, commission or committee may impose as additional
15 discipline, any discipline it would be authorized to impose in an
16 initial disciplinary hearing.

17 324.043. 1. Except as provided in this section, no
18 disciplinary proceeding against any person or entity licensed,
19 registered or certified to practice a profession within the
20 division of professional registration shall be initiated unless
21 such action is commenced within three years of the date upon
22 which the licensing, registering or certifying agency received
23 notice of an alleged violation of an applicable statute or
24 regulation.

25 2. For the purpose of this section, notice shall be limited
26 to:

27 (1) A written complaint;

28 (2) Notice of final disposition of a malpractice claim,

1 including exhaustion of all extraordinary remedies and appeals;

2 (3) Notice of exhaustion of all extraordinary remedies and
3 appeals of a conviction based upon a criminal statute of this
4 state, any other state or the federal government;

5 (4) Notice of exhaustion of all extraordinary remedies and
6 appeals in a disciplinary action by a hospital, state licensing,
7 registering or certifying agency, or an agency of the federal
8 government.

9 3. For the purposes of this section, an action is commenced
10 when a complaint is filed by the agency with the administrative
11 hearing commission, any other appropriate agency or in a court;
12 or when a complaint is filed by the agency's legal counsel with
13 the agency in respect to an automatic revocation or a probation
14 violation.

15 4. Disciplinary proceedings based upon repeated negligence
16 shall be exempt from all limitations set forth in this section.

17 5. Disciplinary proceedings based upon a complaint
18 involving sexual misconduct shall be exempt from all limitations
19 set forth in this section.

20 6. Any time limitation provided in this section shall be
21 tolled:

22 (1) During any time the accused licensee, registrant or
23 certificant is practicing exclusively outside the state of
24 Missouri or residing outside the state of Missouri and not
25 practicing in Missouri;

26 (2) As to an individual complainant, during the time when
27 such complainant is less than eighteen years of age;

28 (3) During any time the accused licensee, registrant or

1 certificant maintains legal action against the agency; or

2 (4) When a settlement agreement is offered to the accused
3 licensee, registrant or certificant, in an attempt to settle such
4 disciplinary matter without formal proceeding pursuant to section
5 621.045, RSMo, until the accused licensee, registrant or
6 certificant rejects or accepts the settlement agreement.

7 7. The licensing agency may, in its discretion, toll any
8 time limitation when the accused licensee, registrant or
9 certificant enters into and participates in a treatment program
10 for chemical dependency or mental impairment.

11 324.050. 1. Sections 324.050 to 324.089 shall be known and
12 may be cited as the "Occupational Therapy Practice Act".

13 2. For the purposes of sections 324.050 to 324.089, the
14 following terms mean:

15 (1) "Board", the Missouri board of occupational therapy;

16 (2) "Certifying entity", the nongovernmental agency or
17 association which certifies or registers individuals who have
18 completed academic and training requirements;

19 (3) "Director", the director of the division of
20 professional registration;

21 (4) "Division", the division of professional registration
22 [of the department of economic development];

23 (5) "Occupational therapist", a person licensed to practice
24 occupational therapy as defined in this section and whose license
25 issued pursuant to sections 324.050 to 324.089;

26 (6) "Occupational therapy", the use of purposeful activity
27 or interventions designed to achieve functional outcomes which
28 promote health, prevent injury or disability and which develop,

1 improve, sustain or restore the highest possible level of
2 independence of any individual who has an injury, illness,
3 cognitive impairment, psychosocial dysfunction, mental illness,
4 developmental or learning disability, physical disability or
5 other disorder or condition. It shall include assessment by
6 means of skill observation or evaluation through the
7 administration and interpretation of standardized or
8 nonstandardized tests and measurements. Occupational therapy
9 services include, but are not limited to:

10 (a) The assessment and provision of treatment in
11 consultation with the individual, family or other appropriate
12 persons;

13 (b) Interventions directed toward developing, improving,
14 sustaining or restoring daily living skills, including self-care
15 skills and activities that involve interactions with others and
16 the environment, work readiness or work performance, play skills
17 or leisure capacities or enhancing educational performances
18 skills;

19 (c) Developing, improving, sustaining or restoring
20 sensorimotor, oral-motor, perceptual or neuromuscular
21 functioning; or emotional, motivational, cognitive or
22 psychosocial components of performance; and

23 (d) Education of the individual, family or other
24 appropriate persons in carrying out appropriate interventions.

25
26 Such services may encompass assessment of need and the design,
27 development, adaptation, application or training in the use of
28 assistive technology devices; the design, fabrication or

1 application of rehabilitative technology such as selected
2 orthotic devices, training in the use of orthotic or prosthetic
3 devices; the application of ergonomic principles; the adaptation
4 of environments and processes to enhance functional performance;
5 or the promotion of health and wellness;

6 (7) "Occupational therapy aide", a person who assists in
7 the practice of occupational therapy under the direct supervision
8 of an occupational therapist or occupational therapy assistant at
9 all times and whose activities require an understanding of
10 occupational therapy but do not require training in the basic
11 anatomical, biological, psychological and social sciences
12 involved in the practice of occupational therapy;

13 (8) "Occupational therapy assistant", a person who is
14 licensed as an occupational therapy assistant by the division, in
15 collaboration with the board. The function of an occupational
16 therapy assistant is to assist an occupational therapist in the
17 delivery of occupational therapy services in compliance with
18 federal regulations and rules promulgated by the division, in
19 collaboration with the Missouri board of occupational therapy.

20 324.065. 1. The board shall elect annually a chairperson
21 and a vice chairperson from their number.

22 2. The division, in collaboration with the board, shall
23 adopt, implement, rescind, amend and administer such rules and
24 regulations as may be necessary to carry out the provisions of
25 sections 324.050 to 324.089. The division, in collaboration with
26 the board, may promulgate necessary rules compatible with
27 sections 324.050 to 324.089, including, but not limited to, rules
28 relating to professional conduct, continuing competency

1 requirements for renewal of licenses, approval of continuing
2 competency programs and to the establishment of ethical standards
3 of practice for persons holding a license or permit to practice
4 occupational therapy in this state.

5 3. The board shall convene at the request of the director
6 or as the board shall determine. The board shall hold regular
7 meetings at least four times per year.

8 4. Each member of the board shall receive as compensation,
9 an amount set [by the division not to exceed fifty dollars per
10 day,] under section 324.015 for each day devoted to the affairs
11 of the board and may be reimbursed for actual and necessary
12 expenses incurred in the performance of the member's official
13 duties.

14 5. No rule or portion of a rule promulgated pursuant to the
15 authority of sections 324.050 to 324.089 shall become effective
16 unless it has been promulgated pursuant to the provisions of
17 section 536.024, RSMo.

18 324.128. As used in sections 324.125 to 324.183, the
19 following terms mean:

20 (1) "Board", the state board of registration for the
21 healing arts;

22 (2) "Division", the division of professional registration
23 [of the department of economic development];

24 (3) "Extracorporeal circulation", the diversion of a
25 patient's blood through a heart-lung machine or a similar device
26 that assumes the functions of the patient's heart, lungs, kidney,
27 liver or other organs;

28 (4) "Licensed clinical perfusionist", a person licensed

1 pursuant to sections 324.125 to 324.183;

2 (5) "Perfusion", the functions necessary for the support,
3 treatment, measurement or supplementation of the cardiovascular,
4 circulatory, respiratory systems or other organs, or a
5 combination of such activities, and to ensure the safe management
6 of physiologic functions by monitoring and analyzing the
7 parameters of the systems under an order and under the
8 supervision of a licensed physician, including:

9 (a) The use of extracorporeal circulation, long-term
10 cardiopulmonary support techniques including extracorporeal
11 carbon-dioxide removal and extracorporeal membrane oxygenation
12 and associated therapeutic and diagnostic technologies;

13 (b) Counterpulsation, ventricular assistance,
14 autotransfusion, blood conservation techniques, myocardial and
15 organ preservation, extracorporeal life support and isolated limb
16 perfusion;

17 (c) The use of techniques involving blood management,
18 advanced life support and other related functions; and

19 (d) In the performance of the acts described in this
20 subdivision:

21 a. The administration of:

22 i. Pharmacological and therapeutic agents;

23 ii. Blood products or anesthetic agents through the
24 extracorporeal circuit or through an intravenous line as ordered
25 by a physician;

26 b. The performance and use of:

27 i. Anticoagulation monitoring and analysis;

28 ii. Physiologic monitoring and analysis;

1 iii. Blood gas and chemistry monitoring and analysis;

2 iv. Hematologic monitoring and analysis;

3 v. Hypothermia and hyperthermia;

4 vi. Hemoconcentration and hemodilution;

5 vii. Hemodialysis;

6 c. The observation of signs and symptoms related to
7 perfusion services, the determination of whether the signs and
8 symptoms exhibit abnormal characteristics and the implementation
9 of appropriate reporting, clinical perfusion protocols or changes
10 in, or the initiation of, emergency procedures;

11 (6) "Perfusion protocols", perfusion-related policies and
12 protocols developed or approved by a licensed health care
13 facility or a physician through collaboration with
14 administrators, licensed clinical perfusionists and other health
15 care professionals;

16 (7) "Provisional clinical licensed perfusionist", a person
17 provisionally licensed pursuant to sections 324.125 to 324.183.

18 324.159. The board shall:

19 (1) Adopt and publish a code of ethics;

20 (2) Establish the qualifications and fitness of applicants
21 of licenses, renewal of licenses and reciprocal licenses;

22 (3) Revoke, suspend or deny a license, suspend a license or
23 reprimand a license holder for a violation of sections 324.125 to
24 324.183, the code of ethics or the rules adopted by the board;

25 (4) Provide for the expenditure of funds necessary for the
26 proper administration of its assigned duties;

27 (5) Establish reasonable and necessary fees for the
28 administration and implementation of sections 324.125 to 324.183.

1 Fees shall be established at a rate that does not significantly
2 exceed the cost of administering the provisions of sections
3 324.125 to 324.183;

4 (6) Establish continuing professional education
5 requirements for licensed clinical perfusionists and provisional
6 licensed clinical perfusionists, the standards of which shall be
7 at least as stringent as those of the American Board of
8 Cardiovascular Perfusion or its successor agency;

9 (7) Within the limits of its appropriation, employ and
10 remove board personnel, as defined in subdivision (4) of
11 subsection [15] 10 of section [620.010] 324.001, RSMo, as may be
12 necessary for the efficient operation of the board;

13 (8) Adopt the training and clinical competency requirements
14 established by the department of health and senior services
15 through hospital licensing regulations promulgated pursuant to
16 chapter 197, RSMo. The provisions of sections 324.125 to 324.183
17 to the contrary notwithstanding, the board shall not regulate a
18 perfusionist's training, education or fitness to practice except
19 as specifically provided by the hospital licensing regulations of
20 the department of health and senior services. In promulgating
21 such regulations, the department of health and senior services
22 shall adopt the standards of the American Board of Cardiovascular
23 Perfusion, or its successor organization, or comparable standards
24 for training and experience. The department shall by rule and
25 regulation provide that individuals providing perfusion services
26 who do meet such standards may continue their employment in
27 accordance with section 324.130. The department shall also
28 establish standards for provisional licensed clinical

1 perfusionists pursuant to section 324.147.

2 324.177. 1. There is hereby established an "Advisory
3 Commission for Clinical Perfusionists" which shall guide, advise
4 and make recommendations to the board. The commission shall
5 approve the examination required by section 324.133 and shall
6 assist the board in carrying out the provisions of sections
7 324.125 to 324.183.

8 2. The advisory commission shall consist of five
9 perfusionist members and two public members which shall be
10 appointed by the governor with the advice and consent of the
11 senate. The members of the commission shall be appointed for
12 terms of six years; except those first appointed, of which one
13 shall be appointed for a term of one year, one shall be appointed
14 for a term of two years, one shall be appointed for a term of
15 three years, one shall be appointed for a term of four years, one
16 shall be appointed for a term of five years and one shall be
17 appointed for a term of six years. The nonpublic commission
18 members shall be residents of the state of Missouri for at least
19 one year, shall be United States citizens and shall meet all the
20 requirements for licensing provided in sections 324.125 to
21 324.183, shall be licensed pursuant to sections 324.125 to
22 324.183, except the members of the first commission, who shall be
23 licensed within six months of their appointment and are actively
24 engaged in the practice of perfusion. If a member of the
25 commission shall, during the member's term as a commission
26 member, remove the member's domicile from the state of Missouri,
27 then the commission shall immediately notify the governor and the
28 seat of that commission member shall be declared vacant. All

1 such vacancies shall be filled by appointment as in the same
2 manner as the preceding appointment. The public members shall be
3 at the time of the members' appointment citizens of the United
4 States; residents of the state for a period of at least one year
5 and registered voters; persons who are not and never were members
6 of any profession licensed or regulated pursuant to sections
7 324.125 to 324.183 or the spouse of such person; persons who do
8 not have and never have had a material, financial interest in
9 either the provision of the professional services regulated by
10 sections 324.125 to 324.183, or an activity or organization
11 directly related to any profession licensed or regulated by
12 sections 324.125 to 324.183.

13 3. Notwithstanding any other provision of law to the
14 contrary, any appointed member of the commission shall receive as
15 compensation an amount established [by the director of the
16 division of professional registration not to exceed seventy
17 dollars] under section 324.015 per day for commission business
18 plus actual and necessary expenses. The director of the division
19 of professional registration shall establish by rule guidelines
20 for payment. All staff for the commission shall be provided by
21 the division of professional registration.

22 4. A member of the commission may be removed if the member:

- 23 (1) Does not have, at the time of appointment, the
24 qualifications required for appointment to the commission;
25 (2) Does not maintain during service on the commission the
26 qualifications required for appointment to the commission;
27 (3) Violates any provision of sections 324.125 to 324.183;
28 (4) Cannot discharge the member's duties for a substantial

1 part of the term for which the member is appointed because of
2 illness or disability; or

3 (5) Is absent from more than half of the regularly
4 scheduled commission meetings that the member is eligible to
5 attend during a calendar year, unless the absence is excused by a
6 majority vote of the commission.

7 324.200. 1. Sections 324.200 to 324.225 shall be known and
8 may be cited as the "Dietitian Practice Act".

9 2. As used in sections 324.200 to 324.225, the following
10 terms shall mean:

11 (1) "Commission on Accreditation for Dietetics Education
12 (CADE)", the American Dietetic Association's accrediting agency
13 for education programs preparing students for professions as
14 registered dietitians;

15 (2) "Committee", the state committee of dietitians
16 established in section 324.203;

17 (3) "Dietetics practice", the application of principles
18 derived from integrating knowledge of food, nutrition,
19 biochemistry, physiology, management, and behavioral and social
20 science to achieve and maintain the health of people by providing
21 nutrition assessment and nutrition care services. The primary
22 function of dietetic practice is the provision of nutrition care
23 services that shall include, but not be limited to:

24 (a) Assessing the nutrition needs of individuals and groups
25 and determining resources and constraints in the practice
26 setting;

27 (b) Establishing priorities, goals, and objectives that
28 meet nutrition needs and are consistent with available resources

1 and constraints;

2 (c) Providing nutrition counseling or education in health
3 and disease;

4 (d) Developing, implementing, and managing nutrition care
5 systems;

6 (e) Evaluating, making changes in, and maintaining
7 appropriate standards of quality and safety in food and in
8 nutrition services;

9 (f) Engaged in medical nutritional therapy as defined in
10 subdivision (8) of this section;

11 (4) "Dietitian", one engaged in dietetic practice as
12 defined in subdivision (3) of this section;

13 (5) "Director", the director of the division of
14 professional registration [in the department of economic
15 development];

16 (6) "Division", the division of professional registration
17 [of economic development];

18 (7) "Licensed dietitian", a person who is licensed pursuant
19 to the provisions of sections 324.200 to 324.225 to engage in the
20 practice of dietetics or medical nutrition therapy;

21 (8) "Medical nutrition therapy", nutritional diagnostic,
22 therapy, and counseling services which are furnished by a
23 registered dietitian;

24 (9) "Registered dietitian", a person who:

25 (a) Has completed a minimum of a baccalaureate degree
26 granted by a United States regionally accredited college or
27 university or foreign equivalent;

28 (b) Completed the academic requirements of a didactic

1 program in dietetics, as approved by CADE;

2 (c) Successfully completed the registration examination for
3 dietitians; and

4 (d) Accrued seventy-five hours of approved continuing
5 professional units every five years; as determined by the
6 committee on dietetic registration.

7 324.203. 1. There is hereby created within the division of
8 professional registration, a committee to be known as the "State
9 Committee of Dietitians". The committee shall assist the
10 division in administering and enforcing the provisions of
11 sections 324.200 to 324.225, adopt, publish, and enforce such
12 rules and regulations within the scope and purview of the
13 provisions of sections 324.200 to 324.225 as may be considered to
14 be necessary or proper for the effective administration and
15 interpretation of the provisions of sections 324.200 to 324.225,
16 and for the conduct of its business and management of its
17 internal affairs.

18 2. The committee shall approve the examination required by
19 section 324.210.

20 3. The committee shall consist of six members including one
21 public member, appointed by the governor with the advice and
22 consent of the senate. Each member of the committee shall be a
23 citizen of the United States and a resident of this state, and,
24 except as provided in this section and except for the first
25 members appointed, shall be licensed as a dietitian by this
26 state. Beginning with the first appointments made after August
27 28, 1998, two members shall be appointed for four years, two
28 members shall be appointed for three years and two members shall

1 be appointed for two years. Thereafter, all members shall be
2 appointed to serve four-year terms. No person shall be eligible
3 for reappointment who has served as a member of the committee for
4 a total of eight years. The membership of the committee shall
5 reflect the differences in levels of education and work
6 experience with consideration being given to race, gender, and
7 ethnic origins. No more than three members shall be from the
8 same political party. The membership shall be representative of
9 the various geographic regions of the state.

10 4. A vacancy in the office of a member shall be filled by
11 appointment by the governor for the remainder of the unexpired
12 term.

13 5. Each member of the committee shall receive as
14 compensation an amount set [by the division not to exceed fifty
15 dollars,] under section 324.015 for each day devoted to the
16 affairs of the committee and shall be reimbursed for necessary
17 and actual expenses incurred in the performance of the member's
18 official duties. The director[, in collaboration with the
19 department of economic development,] of the division of
20 professional registration shall establish by rule, guidelines for
21 payment. All staff for the committee shall be provided by the
22 division.

23 6. The committee shall hold an annual meeting at which it
24 shall elect from its membership a chairperson and secretary. The
25 committee may hold such additional meetings as may be required in
26 the performance of its duties, provided that notice of every
27 meeting shall be given to each member at least three days prior
28 to the date of the meeting. A quorum of the committee shall

1 consist of a majority of its members.

2 7. The governor may remove a committee member for
3 misconduct, incompetency, neglect of the member's official
4 duties, or for cause.

5 8. The public member shall be at the time of the person's
6 appointment a citizen of the United States; a resident of this
7 state for a period of one year and a registered voter; a person
8 who is not and never was a member of any profession licensed or
9 regulated by sections 324.200 to 324.225, or the spouse of such a
10 person; and a person who does not have and never has had a
11 material financial interest in either the providing of the
12 professional services regulated by sections 324.200 to 324.225,
13 or an activity or organization directly related to any profession
14 licensed or regulated by sections 324.200 to 324.225. The duties
15 of the public member shall not include the determination of the
16 technical requirements to be met for licensure or whether any
17 person meets such technical requirements or of the technical
18 competence or technical judgment of a licensee or a candidate for
19 licensure.

20 324.240. As used in sections 324.240 to 324.275, the
21 following terms shall mean:

22 (1) "Board", the board of therapeutic massage;

23 (2) "Certified mentor", a practitioner who is qualified for
24 license in this state pursuant to sections 324.240 to 324.275 and
25 who has practiced professionally for five years, with an average
26 of four hundred fifty hours per year of teaching and massage
27 hours and who has been approved by the board as a massage therapy
28 instructor;

1 (3) "Director", the director of the division of
2 professional registration [of the department of economic
3 development];

4 (4) "Division", the division of professional registration
5 [of the department of economic development];

6 (5) "Massage business", any place of business in which
7 massage therapy is practiced;

8 (6) "Massage therapist", a health care practitioner who
9 provides or offers to provide massage therapy, as provided in
10 sections 324.240 to 324.275, to any person at no cost or for a
11 fee, monetary or otherwise, implying that the massage therapist
12 is trained, experienced and licensed in massage therapy, and who
13 holds a current, valid license to practice massage therapy;

14 (7) "Massage therapy", a health care profession which
15 involves the treatment of the body's tonus system through the
16 scientific or skillful touching, rubbing, pressing or other
17 movements of the soft tissues of the body with the hands,
18 forearms, elbows, or feet, or with the aid of mechanical
19 apparatus, for relaxation, therapeutic, remedial or health
20 maintenance purposes to enhance the mental and physical
21 well-being of the client, but does not include the prescription
22 of medication, spinal or joint manipulation, the diagnosis of
23 illness or disease, or any service or procedure for which a
24 license to practice medicine, chiropractic, physical therapy, or
25 podiatry is required by law, or to those occupations defined in
26 chapter 329, RSMo;

27 (8) "Massage therapy instructor", an individual who
28 possesses teaching credentials satisfactory to the board for the

1 purpose of teaching massage therapy;

2 (9) "Person", an individual, corporation, association or
3 other legal entity.

4 324.243. 1. There is hereby established in the division of
5 professional registration [in the department of economic
6 development] the "Board of Therapeutic Massage" which shall
7 guide, advise and make recommendations to the division and
8 fulfill other responsibilities designated by sections 324.240 to
9 324.275. The board shall approve the examination required by
10 section 324.265 and shall assist the division in carrying out the
11 provisions of sections 324.240 to 324.275.

12 2. The board shall consist of seven voting members,
13 including one public member, and one nonvoting member, appointed
14 by the governor with the advice and consent of the senate. Each
15 member of the board shall be a citizen of the United States and a
16 resident of this state and, except for the members first
17 appointed, shall be licensed as a massage therapist by this
18 state. The nonvoting member shall be a member of the massage
19 education community in the state and shall serve a four-year
20 term. Beginning with the appointments made after August 28,
21 1998, three voting members shall be appointed for four years, two
22 voting members shall be appointed for three years and two voting
23 members shall be appointed for two years. Thereafter, all voting
24 members shall be appointed to serve four-year terms. No person
25 shall be eligible for reappointment who has served as a member of
26 the board for a total of eight years. The membership of the
27 board shall reflect the differences in work experience and the
28 professional affiliations of therapists with consideration being

1 given to race, gender and ethnic origins.

2 3. A vacancy in the office of a member shall be filled by
3 appointment by the governor for the remainder of the unexpired
4 term.

5 4. The board shall hold an annual meeting at which it shall
6 elect from its membership a chairperson, vice chairperson and
7 secretary. The board may hold such additional meetings as may be
8 required in the performance of its duties, provided that notice
9 of every meeting shall be given to each member at least three
10 days prior to the date of the meeting. A quorum of the board
11 shall consist of a majority of its voting members.

12 5. The governor may remove a board member for misconduct,
13 incompetence or neglect of official duties after giving the board
14 member written notice of the charges and allowing the board
15 member an opportunity to be heard.

16 6. The public member shall be, at the time of appointment,
17 a citizen of the United States; a resident of this state for a
18 period of one year and a registered voter; but may not have been
19 a member of any profession licensed or regulated pursuant to
20 sections 324.240 to 324.275 or an immediate family member of such
21 a person; and may not have had a material, financial interest in
22 either the providing of massage therapy as defined in sections
23 324.240 to 324.275 or in an activity or organization directly
24 related to any profession licensed or regulated pursuant to
25 sections 324.240 to 324.275. The duties of the public member
26 shall not include any determination of the technical requirements
27 to be met for licensure, whether a candidate for licensure meets
28 such technical requirements, or of the technical competence or

1 technical judgment of a licensee or a candidate for licensure.

2 7. The professional members shall not be officers in a
3 professional massage organization, nor may they be the owners or
4 managers of any massage educational entity.

5 8. Notwithstanding any other provision of law to the
6 contrary, any appointed member of the board shall receive as
7 compensation an amount established [by the director of the
8 division of professional registration not to exceed seventy
9 dollars] under section 324.015 per day for commission business
10 plus actual and necessary expenses. The director of the division
11 of professional registration shall establish by rule guidelines
12 for payment. All staff for the board shall be provided by the
13 division.

14 324.400. As used in sections 324.400 to 324.439, the
15 following terms mean:

16 (1) "Council", the interior design council created in
17 section 324.406;

18 (2) ["Department", the department of economic development;

19 (3)] "Division", the division of professional registration
20 [of the department of economic development];

21 [(4)] (3) "Registered interior designer", a design
22 professional who provides services including preparation of
23 documents and specifications relative to nonload-bearing interior
24 construction, furniture, finishes, fixtures and equipment and who
25 meets the criteria of education, experience and examination as
26 provided in sections 324.400 to 324.439.

27 324.406. 1. There is hereby created within the division of
28 professional registration a council to be known as the "Interior

1 Design Council". The council shall consist of four interior
2 designers and one public member appointed by the governor with
3 the advice and consent of the senate. The governor shall give
4 due consideration to the recommendations by state organizations
5 of the interior design profession for the appointment of the
6 interior design members to the council. Council members shall be
7 appointed to serve a term of four years; except that of the
8 members first appointed, one interior design member and the
9 public member shall be appointed for terms of four years, one
10 member shall be appointed for a term of three years, one member
11 shall be appointed for a term of two years and one member shall
12 be appointed for a term of one year. No member of the council
13 shall serve more than two terms.

14 2. Each council member, other than the public member, shall
15 be a citizen of the United States, a resident of the state of
16 Missouri for at least one year, meet the qualifications for
17 professional registration, practice interior design as the
18 person's principal livelihood and, except for the first members
19 appointed, be registered pursuant to sections 324.400 to 324.439
20 as an interior designer.

21 3. The public member shall be, at the time of such person's
22 appointment, a citizen of the United States, a registered voter,
23 a person who is not and never was a member of the profession
24 regulated by sections 324.400 to 324.439 or the spouse of such a
25 person and a person who does not have and never has had a
26 material financial interest in the providing of the professional
27 services regulated by sections 324.400 to 324.439. The duties of
28 the public member shall not include the determination of the

1 technical requirements for the registration of persons as
2 interior designers. The provisions of section [620.132, RSMo,]
3 324.028, pertaining to public members of certain state boards and
4 commissions shall apply to the public member of the council.

5 4. Members of the council may be removed from office for
6 cause. Upon the death, resignation or removal from office of any
7 member of the council, the appointment to fill the vacancy shall
8 be for the unexpired portion of the term so vacated and shall be
9 filled in the same manner as the first appointment and due notice
10 be given to the state organizations of the interior design
11 profession prior to the appointment.

12 5. Each member of the council may receive as compensation
13 an amount set [by the division not to exceed fifty dollars per
14 day] under section 324.015 for each day devoted to the affairs of
15 the council and shall be reimbursed for the member's reasonable
16 and necessary expenses incurred in the official performance of
17 the member's duties as a member of the council. The director[,
18 in collaboration with the department of economic development,]
19 shall establish by rule, guidelines for payment.

20 6. The council shall meet at least twice each year and
21 advise the division on matters within the scope of sections
22 324.400 to 324.439. The organization of the council shall be
23 established by the members of the council.

24 7. The council may sue and be sued as the interior design
25 council and the council members need not be named as parties.
26 Members of the council shall not be personally liable either
27 jointly or severally for any act committed in the performance of
28 their official duties as council members. No council member

1 shall be personally liable for any costs which accrue in any
2 action by or against the council.

3 324.475. For the purposes of sections 324.475 to 324.499,
4 the following terms mean:

5 (1) "Acupuncture", the use of needles inserted into the
6 body by piercing of the skin and related modalities, for the
7 assessment, evaluation, prevention, treatment or correction of
8 any abnormal physiology or pain by means of controlling and
9 regulating the flow and balance of energy in the body so as to
10 restore the body to its proper functioning and state of health;

11 (2) "Acupuncturist", any person licensed as provided in
12 sections 324.475 to 324.499, to practice acupuncture as defined
13 in subdivision (1) of this section;

14 (3) "Auricular detox technician", a person trained solely
15 in, and who performs only, auricular detox treatment. An
16 auricular detox technician shall practice under the supervision
17 of a licensed acupuncturist. Such treatment shall take place in
18 a hospital, clinic or treatment facility which provides
19 comprehensive substance abuse services, including counseling, and
20 maintains all licenses and certifications necessary and
21 applicable;

22 (4) "Auricular detox treatment", a very limited procedure
23 consisting of acupuncture needles inserted into specified points
24 in the outer ear of a person undergoing treatment for drug or
25 alcohol abuse or both drug and alcohol abuse;

26 (5) "Board", the state board of chiropractic examiners
27 established in chapter 331, RSMo;

28 (6) "Committee", the Missouri acupuncture advisory

1 committee;

2 (7) "Department", the [Missouri] department of [economic
3 development] insurance, financial and professional regulation;

4 (8) "Director", the director of the division of
5 professional registration;

6 (9) "Division", the division of professional registration
7 [of the department of economic development];

8 (10) "License", the document of authorization issued by the
9 board for a person to engage in the practice of acupuncture.

10 324.478. 1. There is hereby created within the division of
11 professional registration a committee to be known as the
12 "Missouri Acupuncturist Advisory Committee". The committee shall
13 consist of five members, all of whom shall be citizens of the
14 United States and registered voters of the state of Missouri.
15 The governor shall appoint the members of the committee with the
16 advice and consent of the senate for terms of four years; except
17 as provided in subsection 2 of this section. Three committee
18 members shall be acupuncturists. Such members shall at all times
19 be holders of licenses for the practice of acupuncture in this
20 state; except for the members of the first committee who shall
21 meet the requirements for licensure pursuant to sections 324.475
22 to 324.499. One member shall be a current board member of the
23 Missouri state board for chiropractic examiners. The remaining
24 member shall be a public member. All members shall be chosen
25 from lists submitted by the director of the division of
26 professional registration. The president of the Acupuncture
27 Association of Missouri in office at the time shall, at least
28 ninety days prior to the expiration of the term of a board

1 member, other than the public member, or as soon as feasible
2 after a vacancy on the board otherwise occurs, submit to the
3 director of the division of professional registration a list of
4 five acupuncturists qualified and willing to fill the vacancy in
5 question, with the request and recommendation that the governor
6 appoint one of the five persons so listed, and with the list so
7 submitted, the president of the Acupuncture Association of
8 Missouri shall include in his or her letter of transmittal a
9 description of the method by which the names were chosen by that
10 association.

11 2. The initial appointments to the committee shall be one
12 member for a term of one year, one member for a term of two
13 years, one member for a term of three years and two members for a
14 term of four years.

15 3. The public member of the committee shall not be and
16 never has been a member of any profession regulated by the
17 provisions of sections 324.475 to 324.499, or the spouse of any
18 such person; and a person who does not have and never has had a
19 material financial interest in either the providing of the
20 professional services regulated by the provisions of sections
21 324.475 to 324.499 or an activity or organization directly
22 related to the profession regulated pursuant to sections 324.475
23 to 324.499.

24 4. Any member of the committee may be removed from the
25 committee by the governor for neglect of duty required by law,
26 for incompetency or for unethical or dishonest conduct. Upon the
27 death, resignation, disqualification or removal of any member of
28 the committee, the governor shall appoint a successor. A vacancy

1 in the office of any member shall only be filled for the
2 unexpired term.

3 5. The acupuncturist advisory committee shall:

4 (1) Review all applications for licensure;

5 (2) Advise the board on all matters pertaining to the
6 licensing of acupuncturists;

7 (3) Review all complaints and/or investigations wherein
8 there is a possible violation of sections 324.475 to 324.499 or
9 regulations promulgated pursuant thereto and make recommendations
10 and referrals to the board on complaints the committee determines
11 to warrant further action;

12 (4) Follow the provisions of the board's administrative
13 practice procedures in conducting all official duties;

14 (5) Recommend for prosecution violations of sections
15 324.475 to 324.499 to an appropriate prosecuting or circuit
16 attorney;

17 (6) Assist the board, as needed and when requested by the
18 board, in conducting any inquiry or disciplinary proceedings
19 initiated as a result of committee recommendation and referral
20 pursuant to subdivision (3) of this subsection.

21 6. Each member of the advisory committee shall receive as
22 compensation an amount established under section 324.005 for each
23 day devoted to the affairs of the committee, and shall be
24 entitled to receive their necessary traveling and other expenses
25 incurred while actually engaged in the performance of their
26 duties as such members.

27 324.526. 1. Notwithstanding any other law to the contrary,
28 the director of the division of professional registration shall

1 issue a temporary license to practice tattooing, body piercing,
2 or branding under the following requirements:

3 (1) The applicant for temporary licensure is entering the
4 state for the sole purpose of participating in a state or
5 national convention at which the applicant will be practicing the
6 profession of tattooing, body piercing, or branding;

7 (2) The applicant files a completed application with the
8 division at least two days prior to the start of the convention
9 and tenders a fee of fifty dollars; and

10 (3) The applicant is otherwise qualified for licensure
11 under sections 324.520 to 324.526 and the rule promulgated under
12 the authority of this statute.

13 2. A temporary license to practice tattooing, body
14 piercing, or branding issued under this section shall be valid
15 for a period not to exceed fourteen days and shall not be
16 renewable.

17 3. Notwithstanding the requirements of sections [620.127]
18 324.024 and [620.145] 324.032, RSMo, an applicant for temporary
19 licensure under this section shall not be required to provide a
20 Social Security number if the application is submitted by a
21 citizen of a foreign country who has not yet been issued a Social
22 Security number and who previously has not been licensed by any
23 other state, United States territory, or federal agency. A
24 citizen of a foreign country who applies for a temporary permit
25 under this section shall provide the division of professional
26 registration with his or her visa or passport identification
27 number in lieu of the Social Security number.

28 325.010. As used in sections 325.010 to 325.055, unless the

1 context clearly requires another meaning, the following words and
2 phrases mean:

3 (1) "Director", the director of the [division] department
4 of insurance, financial and professional regulation of the state
5 of Missouri;

6 (2) "Public adjuster", any person, partnership, association
7 or corporation engaging in the adjustment or settlement of claims
8 for losses or damages arising out of policies of fire or allied
9 lines of insurances; but does not include persons, partnerships,
10 associations or corporations engaged in the adjustment or
11 settlement of claims for losses or damages arising out of other
12 types of policies for casualty insurance; and does not include
13 attorneys at law; and does not include an agent or employee of an
14 issuer of policies of insurance against loss or damage by fire or
15 allied casualty; nor to an insurance broker acting as an adjuster
16 without compensation for a client for whom he is acting as
17 broker;

18 (3) "Public adjuster solicitor", any person, other than
19 clerical employees, employed by a public adjuster who solicits or
20 aids in securing any contract for adjustment for a public
21 adjuster, or who acts for or with a public adjuster in making
22 settlements or adjustments of claims.

23 326.265. 1. The board shall elect annually one of its
24 members as president, one as vice president, one as secretary and
25 one as treasurer, and shall make an annual report to the governor
26 and the general assembly. The board shall file and preserve all
27 written applications, petitions, complaints, charges or requests
28 made or presented to the board and all affidavits and other

1 verified documents, and shall keep accurate records and minutes
2 of its proceedings. A copy of any entry in the register, or of
3 any records or minutes of the board, certified by the president
4 or secretary of the board under its seal shall constitute and
5 have the full force and effect of the original.

6 2. The board may employ legal counsel and board personnel
7 as defined in subdivision (4) of subsection [15] 10 of section
8 [620.010] 324.001, RSMo, and incur such travel and other expense
9 as in its judgment shall be necessary for the effective
10 administration of this chapter.

11 3. The board may also appoint a continuing education
12 committee of not less than five members consisting of certified
13 public accountants of this state. Such committee shall:

14 (1) Evaluate continuing education programs to determine if
15 they meet continuing education regulations adopted by the board;

16 (2) Consider applications for exceptions to continuing
17 education regulations adopted pursuant to the provisions of
18 section 326.271; and

19 (3) Consider other matters regarding continuing education
20 as may be assigned by the board.

21 326.268. 1. The board may prescribe by rule the dates and
22 places for holding regular meetings and regulate the call, notice
23 and holding of special meetings. Four members of the board shall
24 constitute a quorum at any regular meeting or special meeting.

25 2. The board shall determine by rule the dates and times of
26 examination of applicants. Examination of applicants shall be
27 held at least twice annually. The board may determine by rule
28 the method for publicizing the times and places of the

1 examination. The board may require any or all applicants to
2 appear in person before the board to answer questions regarding
3 their qualifications and may, in the board's discretion, require
4 evidence in support of the statements of the applicant.

5 3. The required examination shall test the applicant's
6 knowledge of the subjects of accounting and auditing, and such
7 other related subjects as the board may specify by rule,
8 including but not limited to business law and taxation. The
9 board shall prescribe by rule the methods of applying for and
10 conducting the examination, including methods for grading and
11 passing grades; provided, however, that the board shall, to the
12 extent possible, ensure the examination, grading of the
13 examination and the passing grades are uniform with those
14 applicable in other states. The board may make use of all or any
15 part of the Uniform Certified Public Accountant Examination and
16 Advisory Grading Service of the American Institute of Certified
17 Public Accountants and may contract with third parties to perform
18 administrative services with respect to the examination as the
19 board deems appropriate.

20 4. The board may determine by rule the examination fee.

21 5. Each member of the board shall receive as compensation
22 an amount set [by the board not to exceed seventy dollars] under
23 section 324.015, RSMo, for each day devoted to the affairs of the
24 board, and shall be reimbursed for necessary and actual expenses
25 incurred in the performance of the member's official duties.

26 [All claims for compensation and expenses shall be presented and
27 allowed in open meetings of the board.] No compensation or
28 expenses of members of the board, its officers or employees shall

1 be charged against the general funds of the state, but shall be
2 paid out of the state board of accountancy fund.

3 327.011. As used in this chapter, the following words and
4 terms shall have the meanings indicated:

5 (1) "Accredited degree program from a school of
6 architecture", a degree from any school or other institution
7 which teaches architecture and whose curricula for the degree in
8 question have been, at the time in question, certified as
9 accredited by the National Architectural Accrediting Board;

10 (2) "Accredited school of landscape architecture", any
11 school or other institution which teaches landscape architecture
12 and whose curricula on the subjects in question are or have been
13 at the times in question certified as accredited by the Landscape
14 Architecture Accreditation Board of the American Society of
15 Landscape Architects;

16 (3) "Accredited school of engineering", any school or other
17 institution which teaches engineering and whose curricula on the
18 subjects in question are or have been, at the time in question
19 certified as accredited by the engineering accreditation
20 commission of the accreditation board for engineering and
21 technology or its successor organization;

22 (4) "Architect", any person authorized pursuant to the
23 provisions of this chapter to practice architecture in Missouri,
24 as the practice of architecture is defined in section 327.091;

25 (5) "Board", the Missouri board for architects,
26 professional engineers, professional land surveyors and landscape
27 architects;

28 (6) "Corporation", any general business corporation,

1 professional corporation or limited liability company;

2 (7) "Department", the department of [economic development]
3 insurance, financial and professional regulation;

4 (8) "Division", the division of professional registration
5 [in the department of economic development];

6 (9) "Landscape architect", any person licensed pursuant to
7 the provisions of sections 327.600 to 327.635 who is qualified to
8 practice landscape architecture by reason of special knowledge
9 and the use of biological, physical, mathematical and social
10 sciences and the principles and methods of analysis and design of
11 the land, has demonstrated knowledge and ability in such areas,
12 and has been duly licensed as a landscape architect by the board
13 on the basis of professional education, examination and
14 experience in landscape architecture;

15 (10) "Partnership", any partnership or limited liability
16 partnership;

17 (11) "Person", any person, corporation, firm, partnership,
18 association or other entity;

19 (12) "Professional engineer", any person authorized
20 pursuant to the provisions of this chapter to practice as a
21 professional engineer in Missouri, as the practice of engineering
22 is defined in section 327.181;

23 (13) "Professional land surveyor", any person authorized
24 pursuant to the provisions of this chapter to practice as a
25 professional land surveyor in Missouri as the practice of land
26 surveying is defined in section 327.272.

27 327.051. 1. The board shall meet at least twice a year at
28 such times and places as are fixed by the board.

1 2. The board may appoint and employ legal counsel and such
2 board personnel, as defined in subdivision (4) of subsection [15]
3 10 of section [620.010] 324.001, RSMo, as it deems necessary
4 within the appropriation therefor.

5 3. The board shall keep records of its official acts and
6 decisions and certified copies of any such records attested by
7 the executive director with the board's seal affixed shall be
8 received as evidence in all courts to the same extent as the
9 board's original records would be received.

10 4. Each member of the board shall receive as compensation
11 an amount set [by the board not to exceed fifty dollars] under
12 section 324.015, RSMo, for each day devoted to the affairs of the
13 board, and shall be entitled to reimbursement of such member's
14 expenses necessarily incurred in the discharge of such member's
15 official duties.

16 329.015. 1. There is hereby created and established a
17 "Board of Cosmetology and Barber Examiners" for the purpose of
18 licensing all persons engaged in the practice of cosmetology,
19 manicuring, esthetics, and barbering, including but not limited
20 to shaving or trimming the beard or cutting the hair; and to
21 fulfill all other duties and responsibilities delegated by
22 chapter 328, RSMo, as it pertains to barbers and this chapter as
23 it pertains to cosmetologists. The duties and responsibilities
24 of the board of cosmetology and barber examiners as such duties
25 and responsibilities pertain to barbers and cosmetologists shall
26 not take full force and effect until such time as the governor
27 appoints the members of the board of cosmetology and barber
28 examiners and the appointments are confirmed by the senate. At

1 such time, the powers and duties of the board of barber examiners
2 and the state board of cosmetology shall be merged into the board
3 under section 329.023.

4 2. The governor shall appoint members to the board by and
5 with the advice and consent of the senate. The board shall
6 consist of eleven members each of whom are United States citizens
7 and who have been residents of this state for at least one year
8 immediately preceding their appointment. Of these eleven
9 members, three shall be licensed cosmetologists holding a Class
10 CA license classification, one shall be an accredited cosmetology
11 school owner as defined in section 329.010, one shall be the
12 owner of a school licensed under subsection 1 of section 329.040,
13 one shall be a cosmetologist with a license of any type of
14 cosmetology classification, three shall be licensed barbers, and
15 two shall be voting public members. All members, except the
16 public members and the accredited cosmetology school owner
17 member, shall be cosmetologists and barbers duly registered as
18 such and licensed under the laws of this state and shall have
19 been actively engaged in the lawful practice of their profession
20 for a period of at least five years immediately preceding their
21 appointment. All members of the board, including public members
22 and the accredited cosmetology school owner member, shall be
23 chosen from lists submitted by the director of the division of
24 professional registration.

25 3. Upon the appointment of the initial board members, at
26 least two cosmetologist members and two barber members shall be
27 appointed by the governor to serve a term of four years; two
28 cosmetologist members, one barber member and a public member

1 shall be appointed to serve a term of three years, and the
2 remaining members of the initial board shall be appointed for a
3 term of two years. Thereafter, all members shall be appointed by
4 the governor by and with the advice and consent of the senate to
5 serve four-year terms. The governor shall appoint members to
6 fill any vacancies, whether it occurs by the expiration of a term
7 or otherwise; provided, however, that any board member shall
8 serve until his or her successor is appointed and duly qualified.
9 No person shall be eligible for reappointment that has served as
10 a member of the board for a total of twelve years.

11 4. At the time of appointment, the public members shall be
12 citizens of the United States, residents of this state for a
13 period of at least one year immediately preceding their
14 appointment, and a registered voter. The public members and the
15 spouse of such members shall be persons who are not and never
16 were a member of any profession licensed or regulated by the
17 board. The public members and the spouse of such members shall
18 be persons who do not have and never have had a material
19 financial interest in the provision of the professional services
20 regulated by the board, or an activity or organization directly
21 related to any professions licensed or regulated by the board.
22 The duties of the public members and the accredited school owner
23 member shall not include the determination of the technical
24 requirements to be met for licensure, or whether any person meets
25 such technical requirements, or of the technical competence or
26 technical judgment of a licensee or a candidate for licensure.

27 5. Any member who is a school owner shall not be allowed
28 access to the testing and examination materials nor shall any

1 such member be allowed to attend the administration of the
2 examinations, except when such member is being examined for
3 licensure.

4 6. The members of the board shall receive as compensation
5 for their services the sum set [by the board not to exceed
6 seventy dollars] under section 324.015, RSMo, for each day
7 actually spent in attendance at meetings of the board plus actual
8 and necessary expenses.

9 329.025. 1. The board shall have power to:

10 (1) Prescribe by rule for the examination of applicants for
11 licensure to practice the classified occupations of barbering and
12 cosmetology and issue licenses;

13 (2) Prescribe by rule for the inspection of barber and
14 cosmetology establishments and schools and appoint the necessary
15 inspectors and examining assistants;

16 (3) Prescribe by rule for the inspection of establishments
17 and schools of barbering and cosmetology as to their sanitary
18 conditions and to appoint the necessary inspectors and, if
19 necessary, examining assistants;

20 (4) Set the amount of the fees that this chapter and
21 chapter 328, RSMo, authorize and require, by rules promulgated
22 under section 536.021, RSMo. The fees shall be set at a level
23 sufficient to produce revenue that shall not substantially exceed
24 the cost and expense of administering this chapter and chapter
25 328, RSMo;

26 (5) Employ and remove board personnel, as set forth in
27 subdivision (4) of subsection [15] 10 of section [620.010]
28 324.001, RSMo, including an executive secretary or comparable

1 position, inspectors, investigators, legal counsel and
2 secretarial support staff, as may be necessary for the efficient
3 operation of the board, within the limitations of its
4 appropriation;

5 (6) Elect one of its members president, one vice president,
6 and one secretary with the limitation that no single profession
7 can hold the positions of president and vice president at the
8 same time;

9 (7) Promulgate rules necessary to carry out the duties and
10 responsibilities designated by this chapter and chapter 328,
11 RSMo;

12 (8) Determine the sufficiency of the qualifications of
13 applicants; and

14 (9) Prescribe by rule the minimum standards and methods of
15 accountability for the schools of barbering and cosmetology
16 licensed under this chapter and chapter 328, RSMo.

17 2. The board shall create no expense exceeding the sum
18 received from time to time from fees imposed under this chapter
19 and chapter 328, RSMo.

20 3. A majority of the board, with at least one
21 representative of each profession being present, shall constitute
22 a quorum for the transaction of business.

23 4. The board shall meet not less than six times annually.

24 5. Any rule or portion of a rule, as that term is defined
25 in section 536.010, RSMo, that is created under the authority
26 delegated in this chapter and chapter 328, RSMo, shall become
27 effective only if it complies with and is subject to all of the
28 provisions of chapter 536, RSMo, and, if applicable, section

1 536.028, RSMo. This section and chapter 536, RSMo, are
2 nonseverable and if any of the powers vested with the general
3 assembly under chapter 536, RSMo, to review, to delay the
4 effective date or to disapprove and annul a rule are subsequently
5 held unconstitutional, then the grant of rulemaking authority and
6 any rule proposed or adopted after August 28, 2001, shall be
7 invalid and void.

8 329.028. 1. There is hereby created in the state treasury
9 a fund to be known as the "Board of Cosmetology and Barber
10 Examiners Fund", which shall consist of all moneys collected by
11 the board. All fees provided for in this chapter and chapter
12 328, RSMo, shall be payable to the director of the division of
13 professional registration [in the department of economic
14 development], who shall keep a record of the account showing the
15 total payments received and shall immediately thereafter transmit
16 them to the department of revenue for deposit in the state
17 treasury to the credit of the board of cosmetology and barber
18 examiners fund. All the salaries and expenses for the operation
19 of the board shall be appropriated and paid from such fund.

20 2. The provisions of section 33.080, RSMo, to the contrary
21 notwithstanding, money in this fund shall not be transferred and
22 placed to the credit of general revenue until the amount in the
23 fund at the end of the biennium exceeds two times the amount of
24 the appropriation from the board's funds for the preceding fiscal
25 year or, if the board requires by rule license renewal less
26 frequently than yearly, then three times the appropriation from
27 the board's funds for the preceding fiscal year. The amount, if
28 any, in the fund which shall lapse is that amount in the fund

1 which exceeds the appropriate multiple of the appropriations from
2 the board's funds for the preceding fiscal year.

3 3. Upon appointment by the governor and confirmation by the
4 senate of the board, all moneys deposited in the board of barbers
5 fund created in section 328.050, RSMo, and the state board of
6 cosmetology fund created in section 329.240, shall be transferred
7 to the board of cosmetology and barber examiners fund created in
8 subsection 1 of this section. The board of barbers fund and the
9 state board of cosmetology fund shall be abolished when all
10 moneys are transferred to the board of cosmetology and barber
11 examiners fund.

12 329.210. 1. The board shall have power to:

13 (1) Prescribe by rule for the examinations of applicants
14 for licensure to practice the classified occupation of
15 cosmetology and issue licenses;

16 (2) Prescribe by rule for the inspection of cosmetology
17 establishments and schools and appoint the necessary inspectors
18 and examining assistants;

19 (3) Prescribe by rule for the inspection of establishments
20 and schools of cosmetology as to their sanitary conditions and to
21 appoint the necessary inspectors and, if necessary, examining
22 assistants; and set the amount of the fees which this chapter
23 authorizes and requires, by rules and regulations promulgated
24 pursuant to section 536.021, RSMo. The fees shall be set at a
25 level sufficient to produce revenue which shall not substantially
26 exceed the cost and expense of administering this chapter;

27 (4) Employ and remove board personnel, as defined in
28 subdivision (4) of subsection [15] 10 of section [620.010]

1 324.001, RSMo, as may be necessary for the efficient operation of
2 the board, within the limitations of its appropriation;

3 (5) Elect one of its members president, one vice president
4 and one secretary;

5 (6) Determine the sufficiency of the qualifications of
6 applicants; and

7 (7) Prescribe by rule the minimum standards and methods of
8 accountability for the schools of cosmetology licensed pursuant
9 to this chapter.

10 2. The board shall create no expense exceeding the sum
11 received from time to time from fees imposed pursuant to this
12 chapter.

13 3. Any rule or portion of a rule, as that term is defined
14 in section 536.010, RSMo, that is created under the authority
15 delegated in this chapter shall become effective only if it
16 complies with and is subject to all of the provisions of chapter
17 536, RSMo, and, if applicable, section 536.028, RSMo. This
18 section and chapter 536, RSMo, are nonseverable and if any of the
19 powers vested with the general assembly pursuant to chapter 536,
20 RSMo, to review, to delay the effective date or to disapprove and
21 annul a rule are subsequently held unconstitutional, then the
22 grant of rulemaking authority and any rule proposed or adopted
23 after August 28, 2001, shall be invalid and void.

24 330.110. 1. The board shall be composed of five members
25 including one voting public member, to be appointed by the
26 governor with the advice and consent of the senate. Vacancies on
27 the board shall be filled in like manner. The term of office of
28 each member shall be four years. Each member of the board shall

1 receive as compensation an amount set [by the board not to exceed
2 seventy dollars] under section 324.015, RSMo, for each day
3 devoted to the affairs of the board, and shall be entitled to
4 reimbursement of the member's expenses necessarily incurred in
5 the discharge of the member's official duties. All members of
6 the board, except the public member, shall be doctors of surgical
7 podiatric medicine duly registered and licensed pursuant to the
8 laws of this state, shall be United States citizens, shall have
9 been residents of this state for at least one year next preceding
10 their appointment and shall have been engaged in the lawful and
11 ethical practice of podiatric medicine for a period of not less
12 than five years. Not more than two of the podiatrists shall
13 belong to the same political party. Members of the board shall
14 not be directly or indirectly interested in any podiatric medical
15 college or the podiatric medical department of any institution of
16 higher learning or in any podiatric medical supply or shoe
17 business. The president of the Missouri Podiatric Medical
18 Association in office at the time shall, at least ninety days
19 prior to the expiration of the term of a board member, other than
20 the public member, or as soon as feasible after a vacancy on the
21 board otherwise occurs, submit to the director of the division of
22 professional registration a list of five doctors of surgical
23 podiatric medicine qualified and willing to fill the vacancy in
24 question, with the request and recommendation that the governor
25 appoint one of the five persons so listed, and with the list so
26 submitted, the president of the Missouri Podiatric Medical
27 Association shall include in his or her letter of transmittal a
28 description of the method by which the names were chosen by that

1 association.

2 2. The public member shall be at the time of the member's
3 appointment a citizen of the United States; a resident of this
4 state for a period of one year and a registered voter; a person
5 who is not and never was a member of any profession licensed or
6 regulated pursuant to this chapter or the spouse of such person;
7 and a person who does not have and never has had a material,
8 financial interest in either the providing of the professional
9 services regulated by this chapter, or an activity or
10 organization directly related to any profession licensed or
11 regulated pursuant to this chapter. All members, including
12 public members, shall be chosen from lists submitted by the
13 director of the division of professional registration. The
14 duties of the public member shall not include the determination
15 of the technical requirements to be met for licensure or whether
16 any person meets such technical requirements or of the technical
17 competence or technical judgment of a licensee or a candidate for
18 licensure.

19 330.190. The board shall investigate all complaints of
20 violations of the provisions of this chapter as provided in
21 ~~[subdivision (6) of subsection 16 of section 620.010]~~ 324.002,
22 RSMo, and shall report any such violations to the proper
23 prosecuting officers or other public officials charged with the
24 enforcement of the provisions of this chapter. The board may
25 employ such board personnel, as defined in subdivision (4) of
26 subsection ~~[16]~~ 10 of section ~~[620.010]~~ 324.001, RSMo, as it
27 deems necessary within appropriations therefor.

28 331.100. 1. The board shall elect a president and

1 secretary at the first regular meeting held after January first
2 of each year. Each member of the board shall receive as
3 compensation for his services [the sum of fifty dollars per day]
4 under section 324.015, RSMo, while discharging the actual duties
5 of the board, and each member shall receive necessary traveling
6 expenses while actually engaged in the performance of his duties
7 as a member of the board.

8 2. The board shall have a common seal, and shall adopt
9 rules and regulations for the application and enforcement of this
10 chapter. The president and secretary shall have power to
11 administer oaths. Four members shall constitute a quorum. They
12 shall publish the dates and places for examinations at least
13 thirty days prior to the meeting. The board shall create no
14 expenses exceeding the sums received from time to time as herein
15 provided.

16 3. The board shall employ such board personnel as may be
17 necessary to carry out the provisions of this chapter. Board
18 personnel shall include an executive secretary or comparable
19 position, inspectors, investigators, attorneys, and secretarial
20 support staff for these positions.

21 4. Board personnel shall have their duties and compensation
22 prescribed by the board within appropriations for that purpose,
23 except that compensation for board personnel shall not exceed
24 that established for comparable positions, as determined by the
25 board, under the job and pay plan of the department of [economic
26 development] insurance, financial and professional regulation.

27 5. Members of the board shall not be personally liable
28 either jointly or separately for any act or acts committed in the

1 performance of their official duties as board members except
2 gross negligence.

3 332.041. 1. The board shall meet at least twice a year at
4 such times and places in the state of Missouri as may be fixed by
5 the board. The board shall elect from its membership a
6 president, a vice president, and a secretary-treasurer, each of
7 whom shall be elected at the times and serve for the terms as are
8 determined by the board, and each of whose duties shall be
9 prescribed by the board.

10 2. The board shall keep records of its official acts, and
11 certified copies of any such records attested by a designee of
12 the board with the board's seal affixed shall be received as
13 evidence in all courts to the same extent as the board's original
14 records would be received.

15 3. Each member of the board shall receive as compensation
16 an amount set [by the board not to exceed fifty dollars] under
17 section 324.015, RSMo, for each day devoted to the affairs of the
18 board, and shall be entitled to reimbursement of his expenses
19 necessarily incurred in the discharge of his official duties.
20 The board may employ and pay legal counsel and such board
21 personnel, as defined in subdivision (4) of subsection [16] 10 of
22 section [620.010] 324.001, RSMo, as it deems necessary within
23 appropriations therefor.

24 332.327. 1. The board may establish an impaired dentist or
25 dental hygienist committee, to be designated as the well-being
26 committee, to promote the early identification, intervention,
27 treatment and rehabilitation of dentists or dental hygienists who
28 may be impaired by reasons of illness, substance abuse, or as a

1 result of any physical or mental condition. The board may enter
2 into a contractual agreement with a nonprofit corporation or a
3 dental association for the purpose of creating, supporting and
4 maintaining a committee to be designated as the well-being
5 committee. The board may promulgate administrative rules subject
6 to the provisions of this section and chapter 536, RSMo, to
7 effectuate and implement any committee formed pursuant to this
8 section. The board may expend appropriated funds necessary to
9 provide for operational expenses of the committee formed pursuant
10 to this section. Any member of the well-being committee, as well
11 as any administrator, staff member, consultant, agent or employee
12 of the committee, acting within the scope of his or her duties
13 and without actual malice and, all other persons who furnish
14 information to the committee in good faith and without actual
15 malice, shall not be liable for any claim of damages as a result
16 of any statement, decision, opinion, investigation or action
17 taken by the committee, or by any individual member of the
18 committee.

19 2. All information, interviews, reports, statements,
20 memoranda or other documents furnished to or produced by the
21 well-being committee, as well as communications to or from the
22 committee, any findings, conclusions, interventions, treatment,
23 rehabilitation or other proceedings of the committee which in any
24 way pertain to a licensee who may be, or who actually is,
25 impaired shall be privileged and confidential.

26 3. All records and proceedings of the well-being committee
27 which pertain or refer to a licensee who may be, or who actually
28 is, impaired shall be privileged and confidential and shall be

1 used by the committee and its members only in the exercise of the
2 proper function of the committee and shall not be considered
3 public records pursuant to chapter 610, RSMo, and shall not be
4 subject to court subpoena or subject to discovery or introduction
5 as evidence in any civil, criminal or administrative proceedings
6 except as provided in subsection 4 of this section.

7 4. The well-being committee may disclose information
8 relative to an impaired licensee only when:

9 (1) It is essential to disclose the information to further
10 the intervention, treatment or rehabilitation needs of the
11 impaired licensee and only to those persons or organization with
12 a need to know;

13 (2) Its release is authorized in writing by the impaired
14 licensee;

15 (3) The committee is required to make a report to the
16 board; or

17 (4) The information is subject to a court order.

18 5. In lieu of pursuing discipline against a dentist or
19 dental hygienist for violating one or more causes stated in
20 subsection 2 of section 332.321, the board may enter into a
21 diversion agreement with a dentist or dental hygienist to refer
22 the licensee to the dental well-being committee under such terms
23 and conditions as are agreed to by the board and licensee for a
24 period not to exceed five years. The board shall enter into no
25 more than two diversion agreements with any individual licensee.
26 If the licensee violates a term or condition of a diversion
27 agreement entered into pursuant to this section, the board may
28 elect to pursue discipline against the licensee pursuant to

1 chapter 621, RSMo, for the original conduct that resulted in the
2 diversion agreement, or for any subsequent violation of
3 subsection 2 of section 332.321. While the licensee participates
4 in the well-being committee, the time limitations of section
5 [620.154] 324.043, RSMo, shall toll pursuant to subsection 7 of
6 section [620.154] 324.043, RSMo. All records pertaining to
7 diversion agreements are confidential and may only be released
8 pursuant to [subdivision (7) of] subsection [14] 8 of section
9 [620.010] 324.001, RSMo.

10 6. The board may disclose information and records to the
11 well-being committee to assist the committee in the
12 identification, intervention, treatment, and rehabilitation of
13 dentists or dental hygienists who may be impaired by reason of
14 illness, substance abuse, or as the result of any physical or
15 mental condition. The well-being committee shall keep all
16 information and records provided by the board confidential to the
17 extent the board is required to treat the information and records
18 as closed to the public pursuant to chapter [620] 324, RSMo.

19 333.221. 1. Each member of the board shall receive as
20 compensation an amount set [by the board not to exceed fifty
21 dollars] under section 324.015, RSMo, for each day devoted to the
22 affairs of the board, and shall be entitled to reimbursement of
23 his expenses necessarily incurred in the discharge of his
24 official duties.

25 2. The board may employ such board personnel, as defined in
26 subdivision (4) of subsection [16] 10 of section [620.010]
27 324.001, RSMo, as is necessary for the administration of this
28 chapter.

1 334.123. The board shall elect its own president and
2 secretary, each to serve for a term of one year, and shall
3 maintain an office and employ an executive director and such
4 other board personnel, as defined in section [620.010] 324.001,
5 RSMo, as the board in its discretion deems necessary. Without
6 limiting the foregoing, the board is specifically authorized to
7 obtain the services of specially trained and qualified persons or
8 organizations to assist in conducting examinations of applicants
9 for licenses and may employ legal counsel. The executive
10 director shall have the degree of bachelor of arts or the
11 equivalent combination of education and experience from which
12 comparable knowledge and abilities can be acquired. The board
13 shall meet annually in Jefferson City and at such other times and
14 places as the members of the board may designate, and shall keep
15 a record of its proceedings and shall cause a register to be kept
16 of all applicants for certificates of licensure. The records and
17 register shall be prima facie evidence of all matters recorded
18 therein. Four members of the board shall constitute a quorum, at
19 least one of whom shall be a graduate of a professional school
20 approved and accredited as reputable by the American Medical
21 Association or the Liaison Committee on Medical Education, and at
22 least one of whom shall be a graduate of a professional school
23 approved and accredited as reputable by the American Osteopathic
24 Association.

25 334.240. Upon receiving information that any provision of
26 sections 334.010, 334.190 and 334.250 has been or is being
27 violated, the secretary of the board or other person designated
28 by the board shall investigate, and upon probable cause

1 appearing, the secretary shall, under the direction of the board,
2 file a complaint with the administrative hearing commission or
3 appropriate official or court. All such complaints shall be
4 handled as provided by rule promulgated pursuant to [subdivision
5 (6) of subsection 16 of section 620.010] 324.002, RSMo.

6 334.400. As used in sections 334.400 to 334.430, the
7 following terms shall mean:

8 (1) "Anesthesiologist", a physician who has completed a
9 residency in anesthesiology approved by the American Board of
10 Anesthesiology or the American Osteopathic Board of
11 Anesthesiology;

12 (2) "Anesthesiologist assistant", a person who meets each
13 of the following conditions:

14 (a) Has graduated from an anesthesiologist assistant
15 program accredited by the American Medical Association's
16 Committee on Allied Health Education and Accreditation or by its
17 successor agency;

18 (b) Has passed the certifying examination administered by
19 the National Commission on Certification of Anesthesiologist
20 Assistants;

21 (c) Has active certification by the National Commission on
22 Certification of Anesthesiologist Assistants; and

23 (d) Provides health care services delegated by a licensed
24 anesthesiologist;

25 (3) "Anesthesiologist assistant supervision agreement", a
26 written agreement, jointly agreed upon protocols or standing
27 order between a supervising anesthesiologist and an
28 anesthesiologist assistant, which provides for the delegation of

1 health care services from a supervising anesthesiologist to an
2 anesthesiologist assistant and the review of such services;

3 (4) "Applicant", any individual who seeks to become
4 licensed as an anesthesiologist assistant;

5 (5) "Continuing education", the offering of instruction or
6 information to license holders for the purpose of maintaining or
7 increasing skills necessary for the safe and competent practice
8 of anesthetic care;

9 (6) "Department", the department of [economic development]
10 insurance, financial and professional regulation or a designated
11 agency thereof;

12 (7) "Immediately available", in the same physical location
13 or facility in which the services are provided;

14 (8) "Physician", an individual licensed pursuant to this
15 chapter to practice medicine and surgery or osteopathic medicine
16 and surgery;

17 (9) "Supervision", medical direction by an anesthesiologist
18 of an anesthesiologist assistant as defined in conditions of 42
19 CFR 415.110 which limits supervision to no more than four
20 anesthesiologist assistants concurrently.

21 334.430. 1. There is hereby established an "Advisory
22 Commission for Anesthesiologist Assistants" which shall guide,
23 advise and make recommendations to the board. The commission
24 shall be responsible for the ongoing examination of the scope of
25 practice and promoting the continuing role of anesthesiologist
26 assistants in the delivery of health care services. The
27 commission shall assist the board in carrying out the provisions
28 of sections 334.400 to 334.430.

1 2. The commission shall be appointed no later than July 1,
2 2005. The commission shall be composed of five members, to be
3 appointed by the governor, with the advice and consent of the
4 senate, as follows:

- 5 (1) One member of the board;
- 6 (2) One licensed anesthesiologist assistant;
- 7 (3) Two licensed, board-certified anesthesiologists; and
- 8 (4) One lay member.

9 3. Each licensed anesthesiologist assistant member shall be
10 a citizen of the United States and a resident of this state, and
11 shall be licensed as an anesthesiologist assistant by this state.
12 Each physician member shall be a United States citizen, a
13 resident of this state and have an active license to practice
14 medicine in this state. The lay member shall be a United States
15 citizen and a resident of this state.

16 4. The licensed anesthesiologist assistant member shall be
17 appointed to serve a three-year term. The anesthesiologist
18 members and lay member shall each be appointed to serve
19 three-year terms, except at the time the commission is created,
20 when one anesthesiologist member will be appointed for a first
21 term of two years while the second anesthesiologist member will
22 be appointed to a three-year term. This will ensure that at
23 least one anesthesiologist member has at least one year's
24 experience as a member of the commission. Neither the
25 anesthesiologist assistant member nor the physician members shall
26 be appointed for more than two consecutive three- year terms.

27 5. The president of the Missouri Society of
28 Anesthesiologists or its successor in office at the time shall,

1 at least ninety days prior to the expiration of a term of an
2 anesthesiologist assistant member or an anesthesiologist member
3 of the commission or as soon as feasible after such a vacancy on
4 the commission otherwise occurs, submit to the director of the
5 division of professional registration a list, not to exceed five
6 individuals per vacancy, of qualified and willing
7 anesthesiologists or anesthesiologist assistants, respectively,
8 to fill the vacancy in question, with the request and
9 recommendation that the governor appoint one of the persons so
10 listed. With the list so submitted, the president of the
11 Missouri Society of Anesthesiologists shall include in a letter
12 of transmittal a description of the method by which the names
13 were chosen by that association.

14 6. Until such time as eligible anesthesiologist assistant
15 candidates are identified, the anesthesiologist assistant seat
16 may remain vacant or may be filled by a qualified
17 anesthesiologist candidate, at the governor's discretion with the
18 advice and consent of the senate. This member may serve no more
19 than two consecutive three-year terms or until an eligible
20 anesthesiologist assistant candidate selected by the governor
21 with the advice and consent of the senate from a list provided as
22 outlined above is appointed.

23 7. Notwithstanding any other provision of law to the
24 contrary, any appointed member of the commission shall receive as
25 compensation an amount established by the director of the
26 division of professional registration [not to exceed seventy
27 dollars per day for commission business plus actual and necessary
28 expenses. The director of the division of professional

1 registration shall establish by rule the guidelines for payment]
2 set under section 324.015, RSMo, for each day devoted to the
3 affairs of the board, and shall be entitled to reimbursement of
4 his or her expenses necessarily incurred in the discharge of his
5 official duties. The board shall provide all staff for the
6 commission.

7 8. The commission shall hold an open annual meeting at
8 which time it shall elect from its membership a chairman and
9 secretary. The commission may hold such additional meetings as
10 may be required in the performance of its duties, provided that
11 notice of every meeting shall be given to each member at least
12 ten days prior to the date of the meeting. A quorum of the
13 commission shall consist of a majority of its members.

14 [9. No licensing activity or other statutory requirements
15 shall become effective until expenditures or personnel are
16 specifically appropriated for the purpose of conducting the
17 business as required to administer the provisions of sections
18 334.400 to 334.430 and the initial rules filed have become
19 effective.]

20 334.625. 1. There is hereby established an "Advisory
21 Commission for Physical Therapists" which shall guide, advise and
22 make recommendations to the board. The commission shall approve
23 the examination required by section 334.530 and shall assist the
24 board in carrying out the provisions of sections 334.500 to
25 334.620.

26 2. The commission shall be appointed no later than October
27 1, 1989, and shall consist of five members appointed by the
28 governor with the advice and consent of the senate. Each member

1 shall be a citizen of the United States and a resident of this
2 state, and shall be licensed as a physical therapist by this
3 state. Members shall be appointed to serve three-year terms,
4 except that the first commission appointed shall consist of one
5 member whose term shall be for one year; two members whose terms
6 shall be for three years; and two members whose terms shall be
7 for two years. The president of the Missouri Physical Therapy
8 Association in office at the time shall, at least ninety days
9 prior to the expiration of the term of a commission member or as
10 soon as feasible after a vacancy on the commission otherwise
11 occurs, submit to the director of the division of professional
12 registration a list of five physical therapists qualified and
13 willing to fill the vacancy in question, with the request and
14 recommendation that the governor appoint one of the five persons
15 so listed, and with the list so submitted, the president of the
16 Missouri Physical Therapy Association shall include in his or her
17 letter of transmittal a description of the method by which the
18 names were chosen by that association.

19 3. Notwithstanding any other provision of law to the
20 contrary, any appointed member of the commission shall receive as
21 compensation an amount established [by the director of the
22 division of professional registration not to exceed seventy
23 dollars] under section 324.015, RSMo, per day for commission
24 business plus actual and necessary expenses. The director of the
25 division of professional registration shall establish by rule
26 guidelines for payment. All staff for the commission shall be
27 provided by the board of healing arts.

28 4. The commission shall hold an annual meeting at which it

1 shall elect from its membership a chairman and secretary. The
2 commission may hold such additional meetings as may be required
3 in the performance of its duties, provided that notice of every
4 meeting must be given to each member at least ten days prior to
5 the date of the meeting. A quorum of the board shall consist of
6 a majority of its members.

7 334.702. As used in sections 334.700 to 334.725, unless the
8 context clearly requires otherwise, the following terms mean:

9 (1) "Athlete", a person who participates in a sanctioned
10 amateur or professional sport or recreational sport activity;

11 (2) "Athletic trainer", a person who meets the
12 qualifications of section 334.708 and who, upon the direction of
13 the team physician and/or consulting physician, practices
14 prevention, emergency care, first aid, treatment, or physical
15 rehabilitation of injuries incurred by athletes in the manner,
16 means, and methods deemed necessary to effect care or
17 rehabilitation, or both;

18 (3) "Board", the Missouri board for the healing arts;

19 (4) "Committee", the athletic trainers advisory committee;

20 (5) "Division", the division of professional registration
21 [of the department of economic development];

22 (6) "Student athletic trainer", a person who assists in the
23 duties usually performed by a licensed athletic trainer and who
24 works under the direct supervision of a licensed athletic
25 trainer.

26 334.720. Notwithstanding any other provision of law to the
27 contrary, any appointed member of the board shall receive as
28 compensation an amount established [by the director of the

1 division of professional registration not to exceed seventy
2 dollars] under section 324.015, RSMo, per day for board business
3 plus actual and necessary expenses. The director of the division
4 of professional registration shall establish by rule guidelines
5 for payment.

6 334.735. 1. As used in sections 334.735 to 334.749, the
7 following terms mean:

8 (1) "Applicant", any individual who seeks to become
9 licensed as a physician assistant;

10 (2) "Certification" or "registration", a process by a
11 certifying entity that grants recognition to applicants meeting
12 predetermined qualifications specified by such certifying entity;

13 (3) "Certifying entity", the nongovernmental agency or
14 association which certifies or registers individuals who have
15 completed academic and training requirements;

16 (4) "Department", the department of [economic development]
17 insurance, financial and professional regulation or a designated
18 agency thereof;

19 (5) "License", a document issued to an applicant by the
20 [department] board acknowledging that the applicant is entitled
21 to practice as a physician assistant;

22 (6) "Physician assistant", a person who has graduated from
23 a physician assistant program accredited by the American Medical
24 Association's Committee on Allied Health Education and
25 Accreditation or by its successor agency, who has passed the
26 certifying examination administered by the National Commission on
27 Certification of Physician Assistants and has active
28 certification by the National Commission on Certification of

1 Physician Assistants who provides health care services delegated
2 by a licensed physician. A person who has been employed as a
3 physician assistant for three years prior to August 28, 1989, who
4 has passed the National Commission on Certification of Physician
5 Assistants examination, and has active certification of the
6 National Commission on Certification of Physician Assistants;

7 (7) "Recognition", the formal process of becoming a
8 certifying entity as required by the provisions of sections
9 334.735 to 334.749;

10 (8) "Supervision", control exercised over a physician
11 assistant working within the same office facility of the
12 supervising physician except a physician assistant may make
13 follow-up patient examinations in hospitals, nursing homes and
14 correctional facilities, each such examination being reviewed,
15 approved and signed by the supervising physician. The board
16 shall promulgate rules pursuant to chapter 536, RSMo, for the
17 proximity of practice between the physician assistant and the
18 supervising physician and documentation of joint review of the
19 physician assistant activity by the supervising physician and the
20 physician assistant.

21 2. The scope of practice of a physician assistant shall
22 consist only of the following services and procedures:

23 (1) Taking patient histories;

24 (2) Performing physical examinations of a patient;

25 (3) Performing or assisting in the performance of routine
26 office laboratory and patient screening procedures;

27 (4) Performing routine therapeutic procedures;

28 (5) Recording diagnostic impressions and evaluating

1 situations calling for attention of a physician to institute
2 treatment procedures;

3 (6) Instructing and counseling patients regarding mental
4 and physical health using procedures reviewed and approved by a
5 licensed physician;

6 (7) Assisting the supervising physician in institutional
7 settings, including reviewing of treatment plans, ordering of
8 tests and diagnostic laboratory and radiological services, and
9 ordering of therapies, using procedures reviewed and approved by
10 a licensed physician;

11 (8) Assisting in surgery;

12 (9) Performing such other tasks not prohibited by law under
13 the supervision of a licensed physician as the physician's
14 assistant has been trained and is proficient to perform;

15 (10) Physician assistants shall not perform abortions.

16 3. Physician assistants shall not prescribe nor dispense
17 any drug, medicine, device or therapy independent of consultation
18 with the supervising physician, nor prescribe lenses, prisms or
19 contact lenses for the aid, relief or correction of vision or the
20 measurement of visual power or visual efficiency of the human
21 eye, nor administer or monitor general or regional block
22 anesthesia during diagnostic tests, surgery or obstetric
23 procedures. Prescribing and dispensing of drugs, medications,
24 devices or therapies by a physician assistant shall be pursuant
25 to a physician assistant supervision agreement which is specific
26 to the clinical conditions treated by the supervising physician
27 and the physician assistant shall be subject to the following:

28 (1) A physician assistant shall not prescribe controlled

1 substances;

2 (2) The types of drugs, medications, devices or therapies
3 prescribed or dispensed by a physician assistant shall be
4 consistent with the scopes of practice of the physician assistant
5 and the supervising physician;

6 (3) All prescriptions shall conform with state and federal
7 laws and regulations and shall include the name, address and
8 telephone number of the physician assistant and the supervising
9 physician;

10 (4) A physician assistant or advanced practice nurse as
11 defined in section 335.016, RSMo, may request, receive and sign
12 for noncontrolled professional samples and may distribute
13 professional samples to patients;

14 (5) A physician assistant shall not prescribe any drugs,
15 medicines, devices or therapies the supervising physician is not
16 qualified or authorized to prescribe; and

17 (6) A physician assistant may only dispense starter doses
18 of medication to cover a period of time for seventy-two hours or
19 less.

20 4. A physician assistant shall clearly identify himself or
21 herself as a physician assistant and shall not use or permit to
22 be used in the physician assistant's behalf the terms "doctor",
23 "Dr." or "doc" nor hold himself or herself out in any way to be a
24 physician or surgeon. No physician assistant shall practice or
25 attempt to practice without physician supervision or in any
26 location where the supervising physician is not immediately
27 available for consultation, assistance and intervention, except
28 in an emergency situation, nor shall any physician assistant bill

1 a patient independently or directly for any services or procedure
2 by the physician assistant.

3 5. For purposes of this section, the licensing of physician
4 assistants shall take place within processes established by the
5 state board of registration for the healing arts through rule and
6 regulation. The board of healing arts is authorized to establish
7 rules pursuant to chapter 536, RSMo, establishing licensing and
8 renewal procedures, supervision, supervision agreements, fees,
9 and addressing such other matters as are necessary to protect the
10 public and discipline the profession. An application for
11 licensing may be denied or the license of a physician assistant
12 may be suspended or revoked by the board in the same manner and
13 for violation of the standards as set forth by section 334.100,
14 or such other standards of conduct set by the board by rule or
15 regulation. Persons licensed pursuant to the provisions of
16 chapter 335, RSMo, shall not be required to be licensed as
17 physician assistants.

18 6. "Physician assistant supervision agreement" means a
19 written agreement, jointly agreed-upon protocols or standing
20 order between a supervising physician and a physician assistant,
21 which provides for the delegation of health care services from a
22 supervising physician to a physician assistant and the review of
23 such services.

24 7. When a physician assistant supervision agreement is
25 utilized to provide health care services for conditions other
26 than acute self-limited or well-defined problems, the supervising
27 physician or other physician designated in the supervision
28 agreement shall see the patient for evaluation and approve or

1 formulate the plan of treatment for new or significantly changed
2 conditions as soon as practical, but in no case more than two
3 weeks after the patient has been seen by the physician assistant.

4 8. At all times the physician is responsible for the
5 oversight of the activities of, and accepts responsibility for,
6 health care services rendered by the physician assistant.

7 334.749. 1. There is hereby established an "Advisory
8 Commission for Physician Assistants" which shall guide, advise
9 and make recommendations to the board. The commission shall also
10 be responsible for the ongoing examination of the scope of
11 practice and promoting the continuing role of physician
12 assistants in the delivery of health care services. The
13 commission shall assist the board in carrying out the provisions
14 of sections 334.735 to 334.749.

15 2. The commission shall be appointed no later than October
16 1, 1996, and shall consist of five members, one member of the
17 board, two licensed physician assistants, one physician and one
18 lay member. The two licensed physician assistant members, the
19 physician member and the lay member shall be appointed by the
20 governor with the advice and consent of the senate. Each
21 licensed physician assistant member shall be a citizen of the
22 United States and a resident of this state, and shall be licensed
23 as a physician assistant by this state. The physician member
24 shall be a United States citizen, a resident of this state, have
25 an active Missouri license to practice medicine in this state and
26 shall be a supervising physician, at the time of appointment, to
27 a licensed physician assistant. The lay member shall be a United
28 States citizen and a resident of this state. The licensed

1 physician assistant members shall be appointed to serve
2 three-year terms, except that the first commission appointed
3 shall consist of one member whose term shall be for one year and
4 one member whose term shall be for two years. The physician
5 member and lay member shall each be appointed to serve a
6 three-year term. No physician assistant member nor the physician
7 member shall be appointed for more than two consecutive
8 three-year terms. The president of the Missouri Academy of
9 Physicians Assistants in office at the time shall, at least
10 ninety days prior to the expiration of a term of a physician
11 assistant member of a commission member or as soon as feasible
12 after such a vacancy on the commission otherwise occurs, submit
13 to the director of the division of professional registration a
14 list of five physician assistants qualified and willing to fill
15 the vacancy in question, with the request and recommendation that
16 the governor appoint one of the five persons so listed, and with
17 the list so submitted, the president of the Missouri Academy of
18 Physicians Assistants shall include in his or her letter of
19 transmittal a description of the method by which the names were
20 chosen by that association.

21 3. Notwithstanding any other provision of law to the
22 contrary, any appointed member of the commission shall receive as
23 compensation an amount established [by the director of the
24 division of professional registration not to exceed seventy
25 dollars] under section 324.015, RSMo, per day for commission
26 business plus actual and necessary expenses. The director of the
27 division of professional registration shall establish by rule
28 guidelines for payment. All staff for the commission shall be

1 provided by the state board of registration for the healing arts.

2 4. The commission shall hold an open annual meeting at
3 which time it shall elect from its membership a chairman and
4 secretary. The commission may hold such additional meetings as
5 may be required in the performance of its duties, provided that
6 notice of every meeting shall be given to each member at least
7 ten days prior to the date of the meeting. A quorum of the
8 commission shall consist of a majority of its members.

9 5. On August 28, 1998, all members of the advisory
10 commission for registered physician assistants shall become
11 members of the advisory commission for physician assistants and
12 their successor shall be appointed in the same manner and at the
13 time their terms would have expired as members of the advisory
14 commission for registered physician assistants.

15 334.800. 1. Sections 334.800 to 334.930 shall be known and
16 may be cited as the "Respiratory Care Practice Act".

17 2. For the purposes of sections 334.800 to 334.930, the
18 following terms mean:

19 (1) "Board", the Missouri board for respiratory care,
20 established in section 334.830;

21 (2) "Certified respiratory therapist" or "CRT", a person
22 meeting entry-level qualifying educational requirements, having
23 passed the certification examination and having been certified by
24 the certifying entity;

25 (3) "Certifying entity", the cognitive competency testing
26 organization as authorized by the board;

27 (4) "Continuing education", the offering of instruction or
28 information to license holders for the purpose of maintaining or

1 increasing skills necessary for the safe and competent practice
2 of respiratory care;

3 (5) "CRT" and "RRT", abbreviations for certified
4 respiratory therapist and registered respiratory therapist and
5 are registered trademarks of a certifying entity of the National
6 Board for Respiratory Care but does not include certified
7 clinical perfusionists;

8 (6) "Direct clinical supervision", availability of a
9 licensed respiratory care practitioner for purposes of immediate
10 communication and consultation with, and the assistance of, the
11 permit holder;

12 (7) "Division", the division of professional registration
13 [of the department of economic development];

14 (8) "Practice of respiratory care", as provided in section
15 334.810;

16 (9) "Protocol", a written agreement of medical care plan
17 delegating professional responsibilities to a person who is
18 qualified by training, competency, experience or licensure to
19 perform such responsibilities. A protocol is a defined response
20 to a specific clinical situation and shall be written, signed and
21 dated by a physician prior to its implementation;

22 (10) "Registered respiratory therapist" or "RRT", a person
23 meeting advanced-level qualifying professional educational
24 requirements, having passed the registry examination and having
25 been registered by the certifying entity;

26 (11) "Respiratory care", the allied health profession whose
27 practitioners function under the supervision of a physician or in
28 accordance with clinical protocols accepted by the physician in

1 the administration of pharmacologic, diagnostic and therapeutic
2 agents related to respiratory care necessary to implement or
3 modify diagnostic regimes, treatment, disease prevention or
4 pulmonary rehabilitation of patients with deficiencies and
5 abnormalities associated with the cardiopulmonary system;

6 (12) "Respiratory care practitioner", a person:

7 (a) Duly licensed by the board;

8 (b) Employed in the practice of respiratory care who has
9 the knowledge and skill necessary to administer respiratory care
10 as defined in this section;

11 (c) Who is able to function in situations of unsupervised
12 patient contact requiring individual judgment; and

13 (d) Who is capable of serving as a resource to the
14 physician in relation to the technical aspects of respiratory
15 care as to safe and effective methods for administering
16 respiratory care modalities;

17 (13) "Special training":

18 (a) Is a deliberate systematic educational activity in the
19 affective, psychomotor and cognitive domains;

20 (b) Is intended to develop new proficiencies with an
21 application in mind;

22 (c) Is presented with an attention to needs, objectives,
23 activities and a defined means of evaluation.

24 334.840. 1. The board shall elect annually a chairperson,
25 vice chairperson and a secretary from among its members. In
26 even-numbered years, the chairperson shall be elected from the
27 respiratory care members and the vice chairperson from the
28 nonrespiratory care members and in odd- numbered years the

1 chairperson shall be from nonrespiratory care members and the
2 vice chairperson from the respiratory care members.

3 2. The board shall adopt, implement, rescind, amend and
4 administer such rules and regulations as may be necessary to
5 carry out the provisions of sections 334.800 to 334.930,
6 including, but not limited to, rules relating to professional
7 conduct, continuing education requirements for renewal of
8 licenses, approval or sanction of continuing education programs,
9 the amount of continuing education hours required and to the
10 establishment of ethical standards of practice for persons
11 holding a license or permit to practice respiratory care in this
12 state. The board shall meet with the division at least twice a
13 year and advise the division on matters within the scope of
14 sections 334.800 to 334.930. The board may convene at the
15 request of the chairperson or as the board may determine for such
16 other meetings as may be necessary. A presence of a majority of
17 the members of the board constitutes a quorum at any meeting.

18 3. Each member of the board shall receive as compensation,
19 an amount [set by the division not to exceed fifty dollars per
20 day] under section 324.015, RSMo, for each day devoted to the
21 affairs of the board and may be reimbursed for actual and
22 necessary expenses incurred in the performance of the member's
23 official duties.

24 335.026. 1. Before entering upon their duties, members of
25 the board shall make and file with the secretary of state the
26 oath of office required by article VII, section 11 of the
27 Constitution of Missouri, for all civil officers of this state.

28 2. Any member of the board may be removed by the governor

1 for misconduct, incompetency or neglect of duty. Before any
2 member may be so removed, he shall be given a hearing and may
3 appear in his own behalf, may be represented by counsel, and may
4 present witness or other evidence. Any person aggrieved by the
5 action of the governor after the hearing may appeal as provided
6 in chapter 536, RSMo.

7 3. The board shall meet at least once each year as
8 determined by the board. The board may hold such additional
9 meetings during the year as may be deemed necessary to perform
10 its duties. A majority of the board, including at least one
11 officer, shall constitute a quorum for the conducting of
12 business.

13 4. Each member of the board shall receive as compensation
14 an amount set [by the board not to exceed fifty dollars] under
15 section 324.015, RSMo, for each day devoted to the affairs of the
16 board; and shall be entitled to reimbursement of their expenses
17 necessarily incurred in the discharge of their official duties.

18 335.036. 1. The board shall:

19 (1) Elect for a one-year term a president and a secretary,
20 who shall also be treasurer, and the board may appoint, employ
21 and fix the compensation of a legal counsel and such board
22 personnel as defined in subdivision (4) of subsection [16] 10 of
23 section [620.010] 324.001, RSMo, as are necessary to administer
24 the provisions of sections 335.011 to 335.096;

25 (2) Adopt and revise such rules and regulations as may be
26 necessary to enable it to carry into effect the provisions of
27 sections 335.011 to 335.096;

28 (3) Prescribe minimum standards for educational programs

1 preparing persons for licensure pursuant to the provisions of
2 sections 335.011 to 335.096;

3 (4) Provide for surveys of such programs every five years
4 and in addition at such times as it may deem necessary;

5 (5) Designate as "approved" such programs as meet the
6 requirements of sections 335.011 to 335.096 and the rules and
7 regulations enacted pursuant to such sections; and the board
8 shall annually publish a list of such programs;

9 (6) Deny or withdraw approval from educational programs for
10 failure to meet prescribed minimum standards;

11 (7) Examine, license, and cause to be renewed the licenses
12 of duly qualified applicants;

13 (8) Cause the prosecution of all persons violating
14 provisions of sections 335.011 to 335.096, and may incur such
15 necessary expenses therefor;

16 (9) Keep a record of all the proceedings; and make an
17 annual report to the governor and to the director of the
18 department of [economic development] insurance, financial and
19 professional regulation.

20 2. The board shall set the amount of the fees which this
21 chapter authorizes and requires by rules and regulations. The
22 fees shall be set at a level to produce revenue which shall not
23 substantially exceed the cost and expense of administering this
24 chapter.

25 3. All fees received by the board pursuant to the
26 provisions of sections 335.011 to 335.096 shall be deposited in
27 the state treasury and be placed to the credit of the state board
28 of nursing fund. All administrative costs and expenses of the

1 board shall be paid from appropriations made for those purposes.

2 4. The provisions of section 33.080, RSMo, to the contrary
3 notwithstanding, money in this fund shall not be transferred and
4 placed to the credit of general revenue until the amount in the
5 fund at the end of the biennium exceeds two times the amount of
6 the appropriation from the board's funds for the preceding fiscal
7 year or, if the board requires by rule, permit renewal less
8 frequently than yearly, then three times the appropriation from
9 the board's funds for the preceding fiscal year. The amount, if
10 any, in the fund which shall lapse is that amount in the fund
11 which exceeds the appropriate multiple of the appropriations from
12 the board's funds for the preceding fiscal year.

13 5. Any rule or portion of a rule, as that term is defined
14 in section 536.010, RSMo, that is created under the authority
15 delegated in this chapter shall become effective only if it
16 complies with and is subject to all of the provisions of chapter
17 536, RSMo, and, if applicable, section 536.028, RSMo. All
18 rulemaking authority delegated prior to August 28, 1999, is of no
19 force and effect and repealed. Nothing in this section shall be
20 interpreted to repeal or affect the validity of any rule filed or
21 adopted prior to August 28, 1999, if it fully complied with all
22 applicable provisions of law. This section and chapter 536,
23 RSMo, are nonseverable and if any of the powers vested with the
24 general assembly pursuant to chapter 536, RSMo, to review, to
25 delay the effective date or to disapprove and annul a rule are
26 subsequently held unconstitutional, then the grant of rulemaking
27 authority and any rule proposed or adopted after August 28, 1999,
28 shall be invalid and void.

1 336.140. 1. The board shall hold meetings for the
2 examination of applicants for registration and the transaction of
3 other business pertaining to its duties at least once in six
4 months. The board shall give thirty days' public notice of the
5 time and place of this meeting. Each member of the board shall
6 receive as compensation an amount set [by the board not to exceed
7 fifty dollars] under section 324.015, RSMo, for each day devoted
8 to the affairs of the board, and shall be entitled to
9 reimbursement of his expenses necessarily incurred in the
10 discharge of his official duties. All fees payable under this
11 chapter shall be collected by the division of professional
12 registration, which shall transmit the same to the department of
13 revenue for deposit in the state treasury to the credit of a fund
14 to be known as the "Optometry Fund". All costs and expenses
15 incurred in administering the provisions of this chapter shall be
16 appropriated and paid from this fund.

17 2. The provisions of section 33.080, RSMo, to the contrary
18 notwithstanding, money in this fund shall not be transferred and
19 placed to the credit of general revenue until the amount in the
20 fund at the end of the biennium exceeds two times the amount of
21 the appropriation from the board's funds for the preceding fiscal
22 year or, if the board requires by rule permit renewal less
23 frequently than yearly, then three times the appropriation from
24 the board's funds for the preceding fiscal year. The amount, if
25 any, in the fund which shall lapse is that amount in the fund
26 which exceeds the appropriate multiple of the appropriations from
27 the board's funds for the preceding fiscal year.

28 336.160. 1. The state board of optometry may adopt

1 reasonable rules and regulations within the scope and terms of
2 this chapter for the proper administration and enforcement
3 thereof. It may employ such board personnel, as defined in
4 subdivision (4) of subsection [16] 10 of section [620.010]
5 324.001, RSMo, as it deems necessary within appropriations
6 therefor.

7 2. The board shall set the amount of the fees which this
8 chapter authorizes and requires by rules and regulations
9 promulgated pursuant to section 536.021, RSMo. The fees shall be
10 set at a level to produce revenue which shall not substantially
11 exceed the cost and expense of administering this chapter.

12 337.010. As used in sections 337.010 to 337.090 the
13 following terms mean:

14 (1) "Committee", the state committee of psychologists;

15 (2) "Department", the department of [economic development]
16 insurance, financial and professional regulation;

17 (3) "Division", the division of professional registration
18 [within the department of economic development];

19 (4) "Licensed psychologist", any person who offers to
20 render psychological services to individuals, groups,
21 organizations, institutions, corporations, schools, government
22 agencies or the general public for a fee, monetary or otherwise,
23 implying that such person is trained, experienced and licensed to
24 practice psychology and who holds a current and valid, whether
25 temporary, provisional or permanent, license in this state to
26 practice psychology;

27 (5) "Provisional licensed psychologist", any person who is
28 a graduate of a recognized educational institution with a

1 doctoral degree in psychology as defined in section 337.025, and
2 who otherwise meets all requirements to become a licensed
3 psychologist except for passage of the licensing exams, oral
4 examination and completion of the required period of postdegree
5 supervised experience as specified in subsection 2 of section
6 337.025;

7 (6) "Recognized educational institution":

8 (a) A school, college, university or other institution of
9 higher learning in the United States, which, at the time the
10 applicant was enrolled and graduated, had a graduate program in
11 psychology and was accredited by one of the regional accrediting
12 associations approved by the Council on Postsecondary
13 Accreditation; or

14 (b) A school, college, university or other institution of
15 higher learning outside the United States, which, at the time the
16 applicant was enrolled and graduated, had a graduate program in
17 psychology and maintained a standard of training substantially
18 equivalent to the standards of training of those programs
19 accredited by one of the regional accrediting associations
20 approved by the Council of Postsecondary Accreditation;

21 (7) "Temporary license", a license which is issued to a
22 person licensed as a psychologist in another jurisdiction, who
23 has applied for licensure in this state either by reciprocity or
24 endorsement of the score from the Examination for Professional
25 Practice in Psychology, and who is awaiting either a final
26 determination by the committee relative to such person's
27 eligibility for licensure or who is awaiting the results of the
28 jurisprudence examination or oral examination.

1 337.050. 1. There is hereby created and established a
2 "State Committee of Psychologists", which shall consist of seven
3 licensed psychologists and one public member. The state
4 committee of psychologists existing on August 28, 1989, is
5 abolished. Nothing in this section shall be construed to prevent
6 the appointment of any current member of the state committee of
7 psychologists to the new state committee of psychologists created
8 on August 28, 1989.

9 2. Appointments to the committee shall be made by the
10 governor upon the recommendations of the director of the
11 division, upon the advice and consent of the senate. The
12 division, prior to submitting nominations, shall solicit nominees
13 from professional psychological associations and licensed
14 psychologists in the state. The term of office for committee
15 members shall be five years, and committee members shall not
16 serve more than ten years. No person who has previously served
17 on the committee for ten years shall be eligible for appointment.
18 In making initial appointments to the committee, the governor
19 shall stagger the terms of the appointees so that two members
20 serve initial terms of two years, two members serve initial terms
21 of three years, and two members serve initial terms of four
22 years.

23 3. Each committee member shall be a resident of the state
24 of Missouri for one year, shall be a United States citizen, and
25 shall, other than the public member, have been licensed as a
26 psychologist in this state for at least three years. Committee
27 members shall reflect a diversity of practice specialties. To
28 ensure adequate representation of the diverse fields of

1 psychology, the committee shall consist of at least two
2 psychologists who are engaged full time in the doctoral teaching
3 and training of psychologists, and at least two psychologists who
4 are engaged full time in the professional practice of psychology.
5 In addition, the first appointment to the committee shall include
6 at least one psychologist who shall be licensed on the basis of a
7 master's degree who shall serve a full term of five years.

8 Nothing in sections 337.010 to 337.090 shall be construed to
9 prohibit full membership rights on the committee for
10 psychologists licensed on the basis of a master's degree. If a
11 member of the committee shall, during the member's term as a
12 committee member, remove the member's domicile from the state of
13 Missouri, then the committee shall immediately notify the
14 director of the division, and the seat of that committee member
15 shall be declared vacant. All such vacancies shall be filled by
16 appointment of the governor with the advice and consent of the
17 senate, and the member so appointed shall serve for the unexpired
18 term of the member whose seat has been declared vacant.

19 4. The public member shall be at the time of the public
20 member's appointment a citizen of the United States; a resident
21 of this state for a period of one year and a registered voter; a
22 person who is not and never was a member of any profession
23 licensed or regulated pursuant to sections 337.010 to 337.093 or
24 the spouse of such person; and a person who does not have and
25 never has had a material, financial interest in either the
26 providing of the professional services regulated by sections
27 337.010 to 337.093, or an activity or organization directly
28 related to any profession licensed or regulated pursuant to

1 sections 337.010 to 337.093. The duties of the public member
2 shall not include the determination of the technical requirements
3 to be met for licensure or whether any person meets such
4 technical requirements or of the technical competence or
5 technical judgment of a licensee or a candidate for licensure.

6 5. The committee shall hold a regular annual meeting at
7 which it shall select from among its members a chairperson and a
8 secretary. A quorum of the committee shall consist of a majority
9 of its members. In the absence of the chairperson, the secretary
10 shall conduct the office of the chairperson.

11 6. Each member of the committee shall receive, as
12 compensation, an amount set [by the division not to exceed fifty
13 dollars] under section 324.015, RSMo, for each day devoted to the
14 affairs of the committee and shall be entitled to reimbursement
15 for necessary and actual expenses incurred in the performance of
16 the member's official duties.

17 7. Staff for the committee shall be provided by the
18 director of the division of professional registration.

19 8. The governor may remove any member of the committee for
20 misconduct, inefficiency, incompetency, or neglect of office.

21 9. In addition to the powers set forth elsewhere in
22 sections 337.010 to 337.090, the division may adopt rules and
23 regulations, not otherwise inconsistent with sections 337.010 to
24 337.090, to carry out the provisions of sections 337.010 to
25 337.090. The committee may promulgate, by rule, "Ethical Rules
26 of Conduct" governing the practices of psychology which rules
27 shall be based upon the ethical principles promulgated and
28 published by the American Psychological Association.

1 10. Any rule or portion of a rule, as that term is defined
2 in section 536.010, RSMo, that is promulgated to administer and
3 enforce sections 337.010 to 337.090, shall become effective only
4 if the agency has fully complied with all of the requirements of
5 chapter 536, RSMo, including but not limited to, section 536.028,
6 RSMo, if applicable, after August 28, 1998. All rulemaking
7 authority delegated prior to August 28, 1998, is of no force and
8 effect and repealed as of August 28, 1998, however nothing in
9 this act shall be interpreted to repeal or affect the validity of
10 any rule adopted and promulgated prior to August 28, 1998. If
11 the provisions of section 536.028, RSMo, apply, the provisions of
12 this section are nonseverable and if any of the powers vested
13 with the general assembly pursuant to section 536.028, RSMo, to
14 review, to delay the effective date, or to disapprove and annul a
15 rule or portion of a rule are held unconstitutional or invalid,
16 the purported grant of rulemaking authority and any rule so
17 proposed and contained in the order of rulemaking shall be
18 invalid and void, except that nothing in this act shall affect
19 the validity of any rule adopted and promulgated prior to August
20 28, 1998.

21 11. The committee may sue and be sued in its official name,
22 and shall have a seal which shall be affixed to all certified
23 copies or records and papers on file, and to such other
24 instruments as the committee may direct. All courts shall take
25 judicial notice of such seal. Copies of records and proceedings
26 of the committee, and of all papers on file with the division on
27 behalf of the committee certified under the seal shall be
28 received as evidence in all courts of record.

1 12. When applying for a renewal of a license pursuant to
2 section 337.030, each licensed psychologist shall submit proof of
3 the completion of at least forty hours of continuing education
4 credit within the two-year period immediately preceding the date
5 of the application for renewal of the license. The type of
6 continuing education to be considered shall include, but not be
7 limited to:

8 (1) Attending recognized educational seminars, the content
9 of which are primarily psychological, as defined by rule;

10 (2) Attending a graduate level course at a recognized
11 educational institution where the contents of which are primarily
12 psychological, as defined by rule;

13 (3) Presenting a recognized educational seminar, the
14 contents of which are primarily psychological, as defined by
15 rule;

16 (4) Presenting a graduate level course at a recognized
17 educational institution where the contents of which are primarily
18 psychological, as defined by rule; and

19 (5) Independent course of studies, the contents of which
20 are primarily psychological, which have been approved by the
21 committee and defined by rule.

22
23 The committee shall determine by administrative rule the amount
24 of training, instruction, self-instruction or teaching that shall
25 be counted as an hour of continuing education credit.

26 337.085. 1. There is hereby established in the state
27 treasury a fund to be known as the "State Committee of
28 Psychologists Fund". All fees of any kind and character

1 authorized under sections 337.010 to 337.090 to be charged by the
2 committee or division shall be collected by the director of the
3 division of professional registration and shall be transmitted to
4 the department of revenue for deposit in the state treasury for
5 credit to this fund. Such funds, upon appropriation, shall be
6 disbursed only in payment of expenses of maintaining the
7 committee and for the enforcement of the provisions of law
8 concerning professions regulated by the committee. No other
9 money shall be paid out of the state treasury for carrying out
10 these provisions. Warrants shall be issued on the state
11 treasurer for payment out of the fund.

12 2. The provisions of section 33.080, RSMo, to the contrary
13 notwithstanding, money in this fund shall not be transferred and
14 placed to the credit of general revenue until the amount in the
15 fund at the end of the biennium exceeds two times the amount of
16 the appropriation from the committee's fund for the preceding
17 fiscal year or, if the committee requires by rule renewal less
18 frequently than yearly then three times the appropriation from
19 the committee's fund for the preceding fiscal year. The amount,
20 if any, in the fund which shall lapse is that amount in the fund
21 which exceeds the appropriate multiple of the appropriations from
22 the committee's fund for the preceding fiscal year.

23 [3. All funds pertaining to the Missouri state committee of
24 psychologists deposited in the state treasury to the credit of
25 the committee of registration for the healing arts fund shall be
26 transferred from that fund to the state committee of
27 psychologists fund by the division director.]

28 337.090. The committee and division in issuing licenses and

1 in publishing the directory as provided in section [620.145]
2 324.032, RSMo, shall not include or list the degree upon which
3 the license or certificate was issued. Any person licensed on
4 the basis of a master's degree who has then earned a doctoral
5 degree may use the title "doctor" or hold himself out in his
6 practice as a psychologist as having a doctoral degree so long as
7 it is from an accredited institution of higher education and so
8 long as the degree is relevant to the practice of psychology.

9 337.500. As used in sections 337.500 to 337.540, unless the
10 context clearly requires otherwise, the following words and
11 phrases mean:

12 (1) "Committee or board", the committee for professional
13 counselors;

14 (2) "Department", the Missouri department of [economic
15 development] insurance, financial and professional regulation;

16 (3) "Director", the director of the division of
17 professional registration [in the department of economic
18 development];

19 (4) "Division", the division of professional registration;

20 (5) "Licensed professional counselor", any person who
21 offers to render professional counseling services to individuals,
22 groups, organizations, institutions, corporations, government
23 agencies or the general public for a fee, monetary or otherwise,
24 implying that the person is trained, experienced, and licensed in
25 counseling, and who holds a current, valid license to practice
26 counseling;

27 (6) "Practice of professional counseling", rendering,
28 offering to render, or supervising those who render to

1 individuals, couples, groups, organizations, institutions,
2 corporations, schools, government agencies, or the general public
3 any counseling service involving the application of counseling
4 procedures, and the principles and methods thereof, to assist in
5 achieving more effective intrapersonal or interpersonal, marital,
6 decisional, social, educational, vocational, developmental, or
7 rehabilitative adjustments;

8 (7) "Professional counseling", includes, but is not limited
9 to:

10 (a) The use of verbal or nonverbal counseling or both
11 techniques, methods, or procedures based on principles for
12 assessing, understanding, or influencing behavior (such as
13 principles of learning, conditioning, perception, motivation,
14 thinking, emotions, or social systems);

15 (b) Appraisal or assessment, which means selecting,
16 administering, scoring, or interpreting instruments designed to
17 assess a person's or group's aptitudes, intelligence, attitudes,
18 abilities, achievement, interests, and personal characteristics;

19 (c) The use of referral or placement techniques or both
20 which serve to further the goals of counseling;

21 (d) Therapeutic vocational or personal or both
22 rehabilitation in relation to coping with or adapting to physical
23 disability, emotional disability, or intellectual disability or
24 any combination of the three;

25 (e) Designing, conducting, and interpreting research;

26 (f) The use of group methods or techniques to promote the
27 goals of counseling;

28 (g) The use of informational and community resources for

1 career, personal, or social development;

2 (h) Consultation on any item in paragraphs (a) through (g)
3 above; and

4 (i) No provision of sections 337.500 to 337.540, or of
5 chapter 354 or 375, RSMo, shall be construed to mandate benefits
6 or third-party reimbursement for services of professional
7 counselors in the policies or contracts of any insurance company,
8 health services corporation or other third-party payer;

9 (8) "Provisional licensed professional counselor", any
10 person who is a graduate of an acceptable educational
11 institution, as defined by division rules, with at least a
12 master's degree with a major in counseling, or its equivalent,
13 and meets all requirements of a licensed professional counselor,
14 other than the supervised counseling experience prescribed by
15 subdivision (1) of section 337.510, and who is supervised by a
16 person who is qualified for the practice of professional
17 counseling.

18 337.535. 1. There is hereby established the "Committee for
19 Professional Counselors" which shall guide, advise, and make
20 recommendations to the division and fulfill other
21 responsibilities designated by this chapter. The committee shall
22 approve the examination required by section 337.510 and shall
23 assist the division in carrying out the provisions of sections
24 337.500 to 337.540.

25 2. The committee shall consist of six members, including
26 one public member, appointed by the governor with the advice and
27 consent of the senate. Each member of the committee shall be a
28 citizen of the United States and a resident of this state and,

1 except as provided hereinafter, shall be licensed as a
2 professional counselor by this state. Beginning with the
3 appointments made after August 28, 1992, two members shall be
4 appointed for four years, two members shall be appointed for
5 three years and two members shall be appointed for two years.
6 Thereafter, all members shall be appointed to serve four-year
7 terms. No person shall be eligible for reappointment who has
8 served as a member of the committee for a total of eight years.
9 The membership of the committee shall reflect the differences in
10 levels of education and work experience with consideration being
11 given to race, gender and ethnic origins. Not more than two
12 counselor educators shall be members of the committee at the same
13 time. The president of the American Counseling Association of
14 Missouri in office at the time shall, at least ninety days prior
15 to the expiration of the term of the committee member, other than
16 the public member, or as soon as feasible after the vacancy on
17 the committee otherwise occurs, submit to the director of the
18 division of professional registration a list of five professional
19 counselors qualified and willing to fill the vacancy in question,
20 with the request and recommendation that the governor appoint one
21 of the five persons so listed, and with the list so submitted,
22 the president of the American Counseling Association of Missouri
23 shall include in his or her letter of transmittal a description
24 of the method by which the names were chosen by that association.

25 3. A vacancy in the office of a member shall be filled by
26 appointment by the governor for the remainder of the unexpired
27 term.

28 4. Each member of the committee shall receive as

1 compensation, an amount set [by the committee not to exceed fifty
2 dollars] under section 324.015, RSMo, for each day devoted to the
3 affairs of the committee, and shall be reimbursed for necessary
4 and actual expenses incurred in the performance of his or her
5 official duties. All staff for the committee shall be provided
6 by the division.

7 5. The committee shall hold an annual meeting at which it
8 shall elect from its membership a chairperson and secretary. The
9 committee may hold such additional meetings as may be required in
10 the performance of its duties, provided that notice of every
11 meeting must be given to each member at least three days prior to
12 the date of the meeting. A quorum of the committee shall consist
13 of a majority of its members.

14 6. The governor may remove a committee member for
15 misconduct, incompetency or neglect of his or her official duties
16 after giving the committee member written notice of the charges
17 against the committee member and an opportunity to be heard
18 thereon.

19 7. The public member shall be at the time of his or her
20 appointment a citizen of the United States; a resident of this
21 state for a period of one year and a registered voter; a person
22 who is not and never was a member of any profession licensed or
23 regulated pursuant to sections 337.500 to 337.540 or the spouse
24 of such person; and a person who does not have and never has had
25 a material, financial interest in either the providing of the
26 professional services regulated by sections 337.500 to 337.540,
27 or an activity or organization directly related to any profession
28 licensed or regulated pursuant to sections 337.500 to 337.540.

1 The duties of the public member shall not include the
2 determination of the technical requirements to be met for
3 licensure or whether any person meets such technical requirements
4 or of the technical competence or technical judgment of a
5 licensee or a candidate for licensure.

6 337.600. As used in sections 337.600 to 337.689, the
7 following terms mean:

8 (1) "Clinical social work", the application of methods,
9 principles, and techniques of case work, group work,
10 client-centered advocacy, community organization, administration,
11 planning, evaluation, consultation, research, psychotherapy and
12 counseling methods and techniques to persons, families and groups
13 in assessment, diagnosis, treatment, prevention and amelioration
14 of mental and emotional conditions;

15 (2) "Department", the Missouri department of [economic
16 development] insurance, financial and professional regulation;

17 (3) "Director", the director of the division of
18 professional registration [in the department of economic
19 development];

20 (4) "Division", the division of professional registration;

21 (5) "Independent practice", any practice of social workers
22 outside of an organized setting such as a social, medical, or
23 governmental agency in which a social worker assumes
24 responsibility and accountability for services required;

25 (6) "Licensed clinical social worker", any person who
26 offers to render services to individuals, groups, organizations,
27 institutions, corporations, government agencies or the general
28 public for a fee, monetary or otherwise, implying that the person

1 is trained, experienced, and licensed as a clinical social
2 worker, and who holds a current, valid license to practice as a
3 clinical social worker;

4 (7) "Practice of clinical social work", rendering, offering
5 to render, or supervising those who render to individuals,
6 couples, groups, organizations, institutions, corporations, or
7 the general public any service involving the application of
8 methods, principles, and techniques of clinical social work;

9 (8) "Provisional licensed clinical social worker", any
10 person who is a graduate of an accredited school of social work
11 and meets all requirements of a licensed clinical social worker,
12 other than the supervised clinical social work experience
13 prescribed by subdivision (2) of subsection 1 of section 337.615,
14 and who is supervised by a person who is qualified to practice
15 clinical social work, as defined by rule;

16 (9) "Social worker", any individual that has:

17 (a) Received a baccalaureate or master's degree in social
18 work from an accredited social work program approved by the
19 council on social work education;

20 (b) Received a doctorate or Ph.D. in social work; or

21 (c) A current baccalaureate or clinical social worker
22 license as set forth in sections 337.600 to 337.689.

23 337.622. 1. There is hereby established the "State
24 Committee for Social Workers", which shall guide, advise, and
25 make recommendations to the division and fulfill other
26 responsibilities designated by sections 337.600 to 337.649 and
27 sections 337.650 to 337.689. The committee shall approve any
28 examination required by sections 337.600 to 337.649 and sections

1 337.650 to 337.689 and shall assist the division in carrying out
2 the provisions of sections 337.600 to 337.649 and sections
3 337.650 to 337.689.

4 2. The committee shall consist of nine members, including a
5 public member appointed by the governor with the advice and
6 consent of the senate. Each member of the committee shall be a
7 citizen of the United States and a resident of this state. The
8 committee shall consist of six licensed clinical social workers,
9 two licensed baccalaureate social workers and one voting public
10 member. At least two committee members shall be involved in the
11 private practice of clinical social work. Any person who is a
12 member of any clinical social worker advisory committee appointed
13 by the director of the division of professional registration
14 shall be eligible for appointment to the state committee for
15 social work on August 28, 1997. The governor shall endeavor to
16 appoint members from different geographic regions of the state
17 and with regard to the pattern of distribution of social workers
18 in the state. The term of office for committee members shall be
19 four years and no committee member shall serve more than ten
20 years. Of the members first appointed, the governor shall
21 appoint three members, one of whom shall be the public member,
22 whose terms shall be four years; three members whose terms shall
23 be three years; two members whose terms shall be two years; and
24 one member whose term shall be one year. The president of the
25 National Association of Social Workers Missouri Chapter in office
26 at the time shall, at least ninety days prior to the expiration
27 of a term of a member of a clinical social worker or
28 baccalaureate social worker committee member or as soon as

1 feasible after a vacancy on the committee otherwise occurs,
2 submit to the director of the division of professional
3 registration a list of five clinical social workers qualified or
4 five baccalaureate social workers and willing to fill the vacancy
5 in question, with the request and recommendation that the
6 governor appoint one of the five persons in each category so
7 listed, and with the list so submitted, the president of the
8 National Association of Social Workers Missouri Chapter shall
9 include in his or her letter of transmittal a description of the
10 method by which the names were chosen by that association.

11 3. A vacancy in the office of a member shall be filled by
12 appointment by the governor for the remainder of the unexpired
13 term.

14 4. Notwithstanding any other provision of law to the
15 contrary, any appointed member of the committee shall receive as
16 compensation an amount established [by the director of the
17 division of professional registration not to exceed seventy
18 dollars] under section 324.015, RSMo, per day for committee
19 business plus each member of the committee shall be reimbursed
20 for necessary and actual expenses incurred in the performance of
21 the member's official duties. The director of the division of
22 professional registration shall establish by rule guidelines for
23 payment. All staff for the committee shall be provided by the
24 division.

25 5. The committee shall hold an annual meeting at which it
26 shall elect from its membership a chairperson and a secretary.
27 The committee may hold such additional meetings as may be
28 required in the performance of its duties, provided that notice

1 of every meeting must be given to each member at least three days
2 prior to the date of the meeting. A quorum of the board shall
3 consist of a majority of its members.

4 6. The governor may remove a committee member for
5 misconduct, incompetency or neglect of the member's official
6 duties after giving the committee member written notice of the
7 charges against such member and an opportunity to be heard
8 thereon.

9 7. The public member shall be at the time of such member's
10 appointment a citizen of the United States; a resident of this
11 state for a period of one year and a registered voter; a person
12 who is not and never was a member of any profession licensed or
13 regulated pursuant to sections 337.600 to 337.649 or sections
14 337.650 to 337.689, or the spouse of such person; and a person
15 who does not have and never has had a material, financial
16 interest in either the providing of the professional services
17 regulated by sections 337.600 to 337.649 or sections 337.650 to
18 337.689, or an activity or organization directly related to any
19 profession licensed or regulated pursuant to sections 337.600 to
20 337.649. The duties of the public member shall not include the
21 determination of the technical requirements to be met for
22 licensure or whether any person meets such technical requirements
23 or of the technical competence or technical judgment of a
24 licensee or a candidate for licensure.

25 337.650. As used in sections 337.650 to 337.689, the
26 following terms mean:

27 (1) "Committee", the state committee for social work
28 established in section 337.622;

1 (2) "Department", the Missouri department of [economic
2 development] insurance, financial and professional regulation;

3 (3) "Director", the director of the division of
4 professional registration [in the department of economic
5 development];

6 (4) "Division", the division of professional registration;

7 (5) "Licensed baccalaureate social worker", any person who
8 offers to render services to individuals, groups, organizations,
9 institutions, corporations, government agencies or the general
10 public for a fee, monetary or otherwise, implying that the person
11 is trained, experienced and licensed as a baccalaureate social
12 worker, and who holds a current valid license to practice as a
13 baccalaureate social worker;

14 (6) "Practice of baccalaureate social work", rendering,
15 offering to render or supervising those who render to
16 individuals, families, groups, organizations, institutions,
17 corporations or the general public any service involving the
18 application of methods, principles, and techniques of
19 baccalaureate social work;

20 (7) "Provisional licensed baccalaureate social worker", any
21 person who is a graduate of an accredited school of social work
22 and meets all requirements of a licensed baccalaureate social
23 worker, other than the supervised baccalaureate social work
24 experience prescribed by subdivision (3) of subsection 1 of
25 section 337.665, and who is supervised by a licensed clinical
26 social worker or a licensed baccalaureate social worker, as
27 defined by rule.

28 337.700. As used in sections 337.700 to 337.739, the

1 following terms mean:

2 (1) "Committee", the state committee for family and marital
3 therapists;

4 (2) "Department", the Missouri department of [economic
5 development] insurance, financial and professional regulation;

6 (3) "Director", the director of the division of
7 professional registration [in the department of economic
8 development];

9 (4) "Division", the division of professional registration;

10 (5) "Fund", the marital and family therapists' fund created
11 in section 337.712;

12 (6) "Licensed marital and family therapist", a person to
13 whom a license has been issued pursuant to the provisions of
14 sections 337.700 to 337.739, whose license is in force and not
15 suspended or revoked;

16 (7) "Marital and family therapy", the use of scientific and
17 applied marriage and family theories, methods and procedures for
18 the purpose of describing, evaluating and modifying marital,
19 family and individual behavior within the context of marital and
20 family systems, including the context of marital formation and
21 dissolution. Marriage and family therapy is based on systems
22 theories, marriage and family development, normal and
23 dysfunctional behavior, human sexuality and psychotherapeutic,
24 marital and family therapy theories and techniques and includes
25 the use of marriage and family therapy theories and techniques in
26 the evaluation, assessment and treatment of intrapersonal or
27 interpersonal dysfunctions within the context of marriage and
28 family systems. Marriage and family therapy may also include

1 clinical research into more effective methods for the treatment
2 and prevention of the above-named conditions;

3 (8) "Practice of marital and family therapy", the rendering
4 of professional marital and family therapy services to
5 individuals, family groups and marital pairs, singly or in
6 groups, whether such services are offered directly to the general
7 public or through organizations, either public or private, for a
8 fee, monetary or otherwise.

9 337.712. 1. Applications for licensure as a marital and
10 family therapist shall be in writing, submitted to the division
11 on forms prescribed by the division and furnished to the
12 applicant. The application shall contain the applicant's
13 statements showing the applicant's education, experience and such
14 other information as the division may require. Each application
15 shall contain a statement that it is made under oath or
16 affirmation and that the information contained therein is true
17 and correct to the best knowledge and belief of the applicant,
18 subject to the penalties provided for the making of a false
19 affidavit or declaration. Each application shall be accompanied
20 by the fees required by the division.

21 2. The division shall mail a renewal notice to the last
22 known address of each licensee prior to the licensure renewal
23 date. Failure to provide the division with the information
24 required for license, or to pay the licensure fee after such
25 notice shall effect a revocation of the license after a period of
26 sixty days from the licensure renewal date. The license shall be
27 restored if, within two years of the licensure date, the
28 applicant provides written application and the payment of the

1 licensure fee and a delinquency fee.

2 3. A new certificate to replace any certificate lost,
3 destroyed or mutilated may be issued subject to the rules of the
4 division upon payment of a fee.

5 4. The division shall set the amount of the fees
6 authorized. The fees shall be set at a level to produce revenue
7 which shall not substantially exceed the cost and expense of
8 administering the provisions of sections 337.700 to 337.739. All
9 fees provided for in sections 337.700 to 337.739 shall be
10 collected by the director who shall deposit the same with the
11 state treasurer to a fund to be known as the "Marital and Family
12 Therapists' Fund".

13 5. The provisions of section 33.080, RSMo, to the contrary
14 notwithstanding, money in this fund shall not be transferred and
15 placed to the credit of general revenue [until the amount in the
16 fund at the end of the biennium exceeds two times the amount of
17 the appropriations from the marital and family therapists' fund
18 for the preceding fiscal year or, if the division requires by
19 rule renewal less frequently than yearly then three times the
20 appropriation from the fund for the preceding fiscal year. The
21 amount, if any, in the fund which shall lapse is that amount in
22 the fund which exceeds the appropriate multiple of the
23 appropriations from the marital and family therapists' fund for
24 the preceding fiscal year]. At the end of each biennium, the
25 state treasurer shall transfer the balance in the fund created in
26 this section in excess of two hundred percent of the previous
27 fiscal year's expenditures into the state general revenue fund.

28 337.739. 1. There is created and established the "State

1 Committee of Marital and Family Therapists" which shall consist
2 of four family and marital therapists and two voting public
3 members. The committee shall be appointed by the governor with
4 the advice and consent of the senate. Committee members shall
5 serve for a term of five years, except for the members first
6 appointed, one public member and one other member shall be
7 appointed for five years, two members shall be appointed for four
8 years, the other public member and one other member appointed for
9 three years. No person shall be eligible for appointment to the
10 committee who has served as a member of the committee for a total
11 of ten years. Members shall be appointed to represent a
12 diversity in gender, race and ethnicity. No more than three
13 members shall be from the same political party.

14 2. Each nonpublic committee member shall be a resident of
15 the state of Missouri for one year, shall be a United States
16 citizen, and shall meet all the requirements for licensing
17 enumerated in sections 337.700 to 337.739, shall be licensed
18 pursuant to sections 337.700 to 337.739, except the members of
19 the first committee, who shall be licensed within six months of
20 their appointment, and are actively engaged in the practice of
21 marital and family therapy. If a member of the committee shall,
22 during the member's term as a committee member, remove the
23 member's domicile from the state of Missouri, then the committee
24 shall immediately notify the governor, and the seat of that
25 committee member shall be declared vacant. All such vacancies
26 shall be filled by appointment as in the same manner as the first
27 appointment, and the member so appointed shall serve for the
28 unexpired term of the member whose seat has been declared vacant.

1 The public members shall be at the time of each member's
2 appointment a citizen of the United States; a resident of this
3 state for a period of one year and a registered voter; a person
4 who is not and never was a member of any profession licensed or
5 regulated pursuant to this chapter or the spouse of such person;
6 a person who does not have and never has had a material,
7 financial interest in either the provision of the professional
8 services regulated by this chapter, or an activity or
9 organization directly related to any profession licensed or
10 regulated pursuant to this chapter.

11 3. The committee shall hold a regular annual meeting at
12 which it shall select from among its members a chairman and a
13 secretary. A quorum of the committee shall consist of a majority
14 of its members. In the absence of the chairman, the secretary
15 shall conduct the office of the chairman.

16 4. [No member of the committee shall receive any
17 compensation for the performance of the member's official duties
18 but] Each member of the committee shall receive compensation as
19 set under section 324.015 for each day devoted to the affairs of
20 the committee and shall be entitled to reimbursement for
21 necessary and actual expenses incurred in the performance of the
22 member's duties. The committee shall share resources and
23 facilities with the office for the committee for professional
24 counselors provided for in sections 337.500 to 337.540. All
25 staff for the committee shall be provided by the director of the
26 division of professional registration.

27 5. The governor may remove any member of the committee for
28 misconduct, inefficiency, incompetency or neglect of office.

1 338.130. 1. Each member of the board shall receive as
2 compensation an amount set [by the board not to exceed fifty
3 dollars] under section 324.015, RSMo, for each day devoted to the
4 affairs of the board, and shall be entitled to reimbursement of
5 the member's expenses necessarily incurred in the discharge of
6 the member's official duties.

7 2. The board may employ such board personnel, as defined in
8 subdivision (4) of subsection [15] 10 of section [620.010]
9 324.001, RSMo, as it deems necessary to carry out the provisions
10 of this chapter. The compensation and expenses of such personnel
11 and all expenses incurred by the board in carrying into execution
12 the provisions of this chapter, shall be paid out of the board of
13 pharmacy fund upon a warrant on the state treasurer.

14 339.120. 1. There is hereby created the "Missouri Real
15 Estate Commission", to consist of seven persons, citizens of the
16 United States and residents of this state for at least one year
17 prior to their appointment, for the purpose of carrying out and
18 enforcing the provisions of sections 339.010 to 339.180 and
19 sections 339.710 to 339.860. The commission shall be appointed
20 by the governor with the advice and consent of the senate. All
21 members, except one voting public member, of the commission must
22 have had at least ten years' experience as a real estate broker
23 prior to their appointment. The terms of the members of the
24 commission shall be for five years, and until their successors
25 are appointed and qualified. Members to fill vacancies shall be
26 appointed by the governor for the unexpired term. The president
27 of the Missouri Association of Realtors in office at the time
28 shall, at least ninety days prior to the expiration of the term

1 of the board member, other than the public member, or as soon as
2 feasible after the vacancy on the board otherwise occurs, submit
3 to the director of the division of professional registration a
4 list of five realtors qualified and willing to fill the vacancy
5 in question, with the request and recommendation that the
6 governor appoint one of the five persons so listed, and with the
7 list so submitted, the president of the Missouri Association of
8 Realtors shall include in his or her letter of transmittal a
9 description of the method by which the names were chosen by that
10 association. The commission shall organize annually by selecting
11 from its members a chairman. The commission may do all things
12 necessary and convenient for carrying into effect the provisions
13 of sections 339.010 to 339.180 and sections 339.710 to 339.860,
14 and may promulgate necessary rules compatible with the provisions
15 of sections 339.010 to 339.180 and sections 339.710 to 339.860.
16 Each member of the commission shall receive as compensation an
17 amount set [by the commission not to exceed seventy-five dollars]
18 under section 324.015, RSMo, for each day devoted to the affairs
19 of the commission, and shall be entitled to reimbursement of his
20 or her expenses necessarily incurred in the discharge of his or
21 her official duties. The governor may remove any commissioner
22 for cause.

23 2. The public member shall be at the time of his or her
24 appointment a citizen of the United States; a resident of this
25 state for a period of one year and a registered voter; a person
26 who is not and never was a member of any profession licensed or
27 regulated pursuant to sections 339.010 to 339.180 and sections
28 339.710 to 339.860 or the spouse of such person; and a person who

1 does not have and never has had a material, financial interest in
2 either the providing of the professional services regulated by
3 sections 339.010 to 339.180 and sections 339.710 to 339.860, or
4 an activity or organization directly related to any profession
5 licensed or regulated pursuant to sections 339.010 to 339.180 and
6 sections 339.710 to 339.860. All members, including public
7 members, shall be chosen from lists submitted by the director of
8 the division of professional registration. The duties of the
9 public member shall not include the determination of the
10 technical requirements to be met for licensure or whether any
11 person meets such technical requirements or of the technical
12 competence or technical judgment of a licensee or a candidate for
13 licensure.

14 3. The commission shall employ such board personnel, as
15 defined in subdivision (4) of subsection [15] 10 of section
16 [~~620.010~~] 324.001, RSMo, as it shall deem necessary to discharge
17 the duties imposed by the provisions of sections 339.010 to
18 339.180 and sections 339.710 to 339.860.

19 4. Any rule or portion of a rule, as that term is defined
20 in section 536.010, RSMo, that is created under the authority
21 delegated in sections 339.010 to 339.180 and sections 339.710 to
22 339.860 shall become effective only if it complies with and is
23 subject to all of the provisions of chapter 536, RSMo, and, if
24 applicable, section 536.028, RSMo. All rulemaking authority
25 delegated prior to August 28, 1999, is of no force and effect and
26 repealed. Nothing in this section shall be interpreted to repeal
27 or affect the validity of any rule filed or adopted prior to
28 August 28, 1999, if it fully complied with all applicable

1 provisions of law. This section and chapter 536, RSMo, are
2 nonseverable and if any of the powers vested with the general
3 assembly pursuant to chapter 536, RSMo, to review, to delay the
4 effective date or to disapprove and annul a rule are subsequently
5 held unconstitutional, then the grant of rulemaking authority and
6 any rule proposed or adopted after August 28, 1999, shall be
7 invalid and void.

8 339.507. 1. There is hereby created within the division of
9 professional registration [of the department of economic
10 development] the "Missouri Real Estate Appraisers Commission",
11 which shall consist of seven members appointed by the governor
12 with the advice and consent of the senate, six of whom shall be
13 appraiser members, and one shall be a public member. Each member
14 shall be a resident of this state and a registered voter for a
15 period of one year prior to the person's appointment. The
16 president of the Missouri Appraiser Advisory Council in office at
17 the time shall, at least ninety days prior to the expiration of
18 the term of the commission member, other than the public member,
19 or as soon as feasible after the vacancy on the commission
20 otherwise occurs, submit to the director of the division of
21 professional registration a list of five appraisers qualified and
22 willing to fill the vacancy in question, with the request and
23 recommendation that the governor appoint one of the five persons
24 so listed, and with the list so submitted, the president of the
25 Missouri Appraiser Advisory Council shall include in his or her
26 letter of transmittal a description of the method by which the
27 names were chosen by that association. The public member shall
28 have never been engaged in the businesses of real estate

1 appraisal, real estate sales or making loans secured by real
2 estate. The governor shall designate one of the appraiser
3 appointees to be chairperson.

4 2. The real estate appraiser members appointed by the
5 governor shall be Missouri residents who have real estate
6 appraisal experience in the state of Missouri for not less than
7 five years immediately preceding their appointment. The real
8 estate appraiser members appointed to the commission shall be
9 designated members in good standing of nationally recognized real
10 estate appraisal organizations that required, as of June 1, 1988,
11 in order to become a designated member, appraisal experience,
12 education and testing, and recertification that is at least equal
13 to that required for certification or licensure pursuant to
14 sections 339.500 to 339.549, provided that not more than one
15 member of the commission shall be a designated member of the same
16 nationally recognized real estate appraisal organization.

17 Successor appraiser members of the commission shall be appointed
18 from the registry of state-certified real estate appraisers and
19 state-licensed real estate appraisers and not more than one
20 successor appraiser member of the commission shall be a
21 designated member in good standing of the same nationally
22 recognized real estate appraisal organization as provided in this
23 subsection. The governor shall not exclude a state-certified
24 real estate appraiser or a state-licensed real estate appraiser
25 from appointment as a successor appraiser member of the
26 commission by virtue of membership or lack of membership of the
27 state-certified real estate appraiser or state-licensed real
28 estate appraiser in any particular real estate appraisal

1 organization.

2 3. Of the initial members appointed, two members shall be
3 appointed for one-year terms, two members for two-year terms, and
4 three members for three-year terms, provided that the initial
5 public member shall be appointed for a three-year term. All
6 successor members shall be appointed for three-year terms. All
7 members shall serve until their successors have been appointed
8 and qualified. Vacancies occurring in the membership of the
9 commission for any reason shall be filled by appointment by the
10 governor for the unexpired term. Upon expiration of their terms,
11 members of the commission shall continue to hold office until the
12 appointment and qualification of their successors. No more than
13 four members of the commission shall be members of the same
14 political party. No person shall be appointed for more than two
15 consecutive terms. The governor may remove a member for cause.
16 The executive director of the commission shall be employed by the
17 division of professional registration, subject to approval and
18 confirmation by the commission.

19 4. The commission shall meet at least once each calendar
20 quarter to conduct its business. The location in Missouri of
21 future meetings shall be decided by a vote of the members present
22 at the current meeting. The executive director shall give
23 written notice by certified mail to each member of the time and
24 place of each meeting of the commission at least ten days before
25 the scheduled date of the meeting, and notice of any special
26 meeting shall state the specific matters to be considered in the
27 special meeting which is not a regular quarterly meeting. A
28 quorum of the commission shall consist of four members.

1 5. Each member of the commission shall be entitled to [a
2 per diem allowance of fifty dollars] compensation under section
3 324.015, RSMo, for each meeting of the commission at which the
4 member is present and shall be entitled to reimbursement of the
5 member's expenses necessarily incurred in the discharge of the
6 member's official duties. Each member of the commission shall be
7 entitled to reimbursement of travel expenses necessarily incurred
8 in attending meetings of the commission.

9 340.208. Each member of the board shall receive as
10 compensation an amount set [by the board not to exceed fifty
11 dollars] under section 324.015, RSMo, for each day devoted to the
12 affairs of the board and shall be entitled to reimbursement of
13 expenses necessarily incurred in the discharge of official
14 duties.

15 340.212. 1. The board shall cause the executive director
16 to prepare and maintain a written record of all board proceedings
17 whether or not such proceedings are formal, informal, open or
18 closed to the public. All records so prepared and maintained and
19 other documents or reports incorporated therein shall be open to
20 the public except where specifically required or allowed to be
21 closed to the public pursuant to chapter 610, RSMo.

22 2. Other provisions of section [620.010] 324.001, RSMo, to
23 the contrary notwithstanding, the board shall publish a list of
24 the names and addresses of all persons who hold licenses under
25 the provisions of sections 340.200 to 340.330, and shall publish
26 a list of all persons whose licenses have been suspended,
27 revoked, surrendered, restricted, denied, withheld, or otherwise
28 disciplined, whether voluntarily or not. The board shall mail a

1 copy of such list to any person, agency or professional
2 association upon request and payment of a fee necessary for
3 photocopying and postage as established by board rule. The board
4 may forward such lists at no charge and upon its own motion for
5 the purpose of voluntary interstate exchange of information or to
6 other administrative or law enforcement agencies acting within
7 the scope of their statutory authority, whether the same be
8 interstate or intrastate.

9 3. Other provisions of section ~~620.010~~ 324.001, RSMo, to
10 the contrary notwithstanding, the board shall prepare and make
11 available to the public a report upon the final disciplinary
12 actions taken by the board or denial of licensure. Such report
13 shall set forth findings of fact, grounds for such denial or
14 discipline, names of board members who were present, and any
15 resulting order or directive of the board; the same to apply
16 whether or not discipline or denial is voluntarily agreed to by
17 the licensee or applicant. Whenever a person possessing a
18 license voluntarily enters chemical or alcohol treatment and
19 monitoring programs for purposes of rehabilitation by informal
20 agreement with the board, the action shall not be reported with
21 any other actions taken or agreed to between the board and the
22 licensee or applicant.

23 4. Where the board does not recommend disciplinary action,
24 a report stating that no action is recommended shall be prepared
25 and forwarded to the complaining party and the licensee or
26 applicant.

27 5. Members of the board or employees of the board shall be
28 immune from any suit predicated on the publication of

1 information, reports or lists required by this section.

2 345.035. 1. The board may, within the limits of
3 appropriations, employ such board personnel as defined in
4 subdivision (4) of subsection [15] 10 of section [620.010]
5 324.001, RSMo, as may be necessary to carry out its duties.

6 2. All expenses of the board shall be paid only from
7 appropriations made for that purpose from the board of
8 registration for the healing arts fund.

9 345.080. 1. There is hereby established an "Advisory
10 Commission for Speech-Language Pathologists and Audiologists"
11 which shall guide, advise and make recommendations to the board.
12 The commission shall approve the examination required by section
13 345.050, and shall assist the board in carrying out the
14 provisions of sections 345.010 to 345.075.

15 2. After August 28, 1997, the commission shall consist of
16 seven members, one of whom shall be a voting public member,
17 appointed by the board of registration for the healing arts.
18 Each member shall be a citizen of the United States and a
19 resident of this state. Three members of the commission shall be
20 licensed speech-language pathologists and three members of the
21 commission shall be licensed audiologists. The public member
22 shall be at the time of appointment a citizen of the United
23 States; a resident of this state for a period of one year and a
24 registered voter; a person who is not and never was a member of
25 any profession licensed or regulated pursuant to sections 345.010
26 to 345.080 or the spouse of such person; and a person who does
27 not have and never has had a material, financial interest in
28 either the providing of the professional services regulated by

1 sections 345.010 to 345.080, or an activity or organization
2 directly related to any profession licensed or regulated pursuant
3 to sections 345.010 to 345.080. Members shall be appointed to
4 serve three-year terms, except as provided in this subsection.
5 Each member of the advisory commission for speech pathologists
6 and clinical audiologists on August 28, 1995, shall become a
7 member of the advisory commission for speech-language
8 pathologists and clinical audiologists and shall continue to
9 serve until the term for which the member was appointed expires.
10 Each member of the advisory commission for speech-language
11 pathologists and clinical audiologists on August 28, 1997, shall
12 become a member of the advisory commission for speech-language
13 pathologists and audiologists and shall continue to serve until
14 the term for which the member was appointed expires. The first
15 public member appointed pursuant to this subsection shall be
16 appointed for a two-year term and the one additional member
17 appointed pursuant to this subsection shall be appointed for a
18 full three-year term. No person shall be eligible for
19 reappointment who has served as a member of the advisory
20 commission for speech pathologists and audiologists or as a
21 member of the commission as established on August 28, 1995, for a
22 total of six years. The membership of the commission shall
23 reflect the differences in levels of education, work experience
24 and geographic residence. For a licensed speech-language
25 pathologist member, the president of the Missouri
26 Speech-Language-Hearing Association in office at the time, and
27 for a licensed audiologist member, the president of the Missouri
28 Academy of Audiologists in office at the time, in consultation

1 with the president of the Missouri Speech-Language- Hearing
2 Association, shall, at least ninety days prior to the expiration
3 of a term of a commission member, other than the public member,
4 or as soon as feasible after a vacancy on the commission
5 otherwise occurs, submit to the director of the division of
6 professional registration a list of five persons qualified and
7 willing to fill the vacancy in question, with the request and
8 recommendation that the board of registration for the healing
9 arts appoint one of the five persons so listed, and with the list
10 so submitted, the president of the Missouri
11 Speech-Language-Hearing Association or the president of the
12 Missouri Academy of Audiologists in office at the time shall
13 include in his or her letter of transmittal a description of the
14 method by which the names were chosen by that association.

15 3. Notwithstanding any other provision of law to the
16 contrary, any appointed member of the commission shall receive as
17 compensation an amount [established by the director of the
18 division of professional registration not to exceed seventy
19 dollars per day for] set under section 324.015, RSMo, for each
20 day devoted to the affairs of the commission [business] plus
21 actual and necessary expenses incurred in the discharge of
22 official duties. [The director of the division of professional
23 registration shall establish by rule guidelines for payment.]
24 All staff for the commission shall be provided by the board of
25 registration for the healing arts.

26 4. The commission shall hold an annual meeting at which it
27 shall elect from its membership a chairman and secretary. The
28 commission may hold such additional meetings as may be required

1 in the performance of its duties, provided that notice of every
2 meeting shall be given to each member at least ten days prior to
3 the date of the meeting. A quorum of the commission shall
4 consist of a majority of its members.

5 5. The board of registration for the healing arts may
6 remove a commission member for misconduct, incompetency or
7 neglect of the member's official duties after giving the member
8 written notice of the charges against such member and an
9 opportunity to be heard thereon.

10 346.010. As used in sections 346.010 to 346.250, except as
11 the context may require otherwise, the following terms mean:

12 (1) "Audiologist", a clinical audiologist licensed
13 pursuant to chapter 345, RSMo;

14 (2) "Board", the Missouri board of examiners for hearing
15 instrument specialists, which is established in section 346.120;

16 (3) "Department", the department of [economic development]
17 insurance, financial and professional regulation;

18 (4) "Division", the division of professional registration
19 [in the department of economic development];

20 (5) "Hearing instrument" or "hearing aid", any wearable
21 instrument or device designed for or offered for the purpose of
22 aiding or compensating for impaired human hearing and any parts,
23 attachments, or accessories, including earmold, but excluding
24 batteries, cords, receivers and repairs;

25 (6) "Hearing instrument specialist" or "specialist", a
26 person licensed by the state pursuant to sections 346.010 to
27 346.250 who is authorized to engage in the practice of fitting
28 hearing instruments;

1 (7) "Hearing instrument specialist in-training", a person
2 who holds a temporary permit issued by the division to fit
3 hearing instruments under the supervision of a hearing instrument
4 specialist;

5 (8) "License", a license issued by the state under sections
6 346.010 to 346.250 to hearing instrument specialists;

7 (9) "Otolaryngologist", a person licensed to practice
8 medicine and surgery in the state of Missouri pursuant to chapter
9 334, RSMo, and who spends the majority of the person's practice
10 seeing patients with ear, nose, and throat diseases;

11 (10) "Person", an individual, corporation, partnership,
12 joint venture, association, trust or any other legal entity;

13 (11) "Practice of fitting hearing instruments", the
14 selection, adaptation, and sale of hearing instruments, including
15 the testing and evaluation of hearing by means of an audiometer
16 and the making of impressions for earmolds;

17 (12) "Sell or sale", any transfer of title or of the right
18 to use by lease, bailment, or any other contract, excluding
19 wholesale transactions with distributors or dealers;

20 (13) "Registration of supervision", the process of
21 obtaining a certificate of authority issued by the division to a
22 hearing instrument specialist that enables the specialist to
23 supervise one or more hearing instrument specialists in-training,
24 as defined by division rules;

25 (14) "Supervised training", the program of education and
26 experience, as defined by division rule, required to be followed
27 by each hearing instrument specialist in-training;

28 (15) "Supervisor", a hearing instrument specialist who has

1 filed a registration of supervision with the board and has
2 received from the division a certificate of authority;

3 (16) "Temporary permit", a permit issued by the division
4 while the applicant is in training to become a licensed hearing
5 instrument specialist.

6 346.120. 1. There is hereby established the "Missouri
7 Board of Examiners for Hearing Instrument Specialists", which
8 shall guide, advise and make recommendations to the division.
9 The council for hearing aid dealers and fitters is abolished.
10 Nothing herein shall be construed to prevent the appointment of
11 any current member of the council for hearing aid dealers and
12 fitters to the Missouri board of examiners for hearing instrument
13 specialists upon August 28, 1995.

14 2. Members of the board shall be United States citizens and
15 residents of the state for a period of not less than one year.
16 The board shall consist of five hearing instrument specialists,
17 one otolaryngologist, one voting public member and one
18 audiologist holding a certificate of clinical competence and
19 licensed pursuant to chapter 345, RSMo. Each hearing instrument
20 specialist on the board shall have no less than five years of
21 experience in the practice of fitting hearing instruments and
22 shall hold a valid license as a hearing instrument specialist as
23 provided in sections 346.010 to 346.250.

24 3. Each member of the board shall be appointed by the
25 governor with the advice and consent of the senate. The term of
26 office of each member shall be for four years, except that the
27 first board appointed shall consist of two members, one of which
28 shall be the public member, whose terms shall be for four years,

1 two members whose terms shall be for three years, two members
2 whose terms shall be for two years and two members whose terms
3 shall be for one year. Upon the expiration of a member's term,
4 the governor shall appoint a successor. The members of the board
5 shall annually designate one member to serve as chairperson and
6 another to serve as vice chairperson. Upon the absence of the
7 chairperson, the vice chairperson shall assume the duties of the
8 chairperson.

9 4. No member of the board who has served a full term may be
10 reappointed to the board until at least one year after the
11 expiration of the member's term of office.

12 5. Each member of the board shall receive as compensation
13 an amount set [by the division] under section 324.015 for each
14 day devoted to the affairs of the board and shall be reimbursed
15 for the member's actual and necessary expenses incurred in the
16 performance of the member's duties.

17 6. The public member shall be at the time of appointment a
18 citizen of the United States, a resident of this state for a
19 period of one year and a registered voter; a person who is not,
20 and never was, a member of any profession licensed or regulated
21 under this chapter or the spouse of such person; and a person who
22 does not have, and never has had, a material financial interest
23 in either the providing of the professional services regulated by
24 this chapter, or any activity or organization directly related to
25 any profession licensed or regulated under this chapter. The
26 duties of the public member shall not include the determination
27 of the technical requirements to be met for licensure or whether
28 any person meets such technical requirements or of the technical

1 competence or technical judgment of a licensee or a candidate for
2 licensure.

3 7. No member of the board shall use his or her position on
4 the board to advance any financial or material interest the
5 member may have in the provision of professional services
6 regulated by sections 346.010 to 346.250. Members of the board
7 may be removed from office for cause. Upon death, resignation or
8 removal from office of any member of the board, any such vacancy
9 shall be filled by the governor.

10 8. The board may sue and be sued as the Missouri board of
11 examiners for hearing instrument specialists, and its members
12 need not be named as parties. Members of the board shall not be
13 personally liable, either jointly or severally, for any act
14 committed in the performance of their official duties as board
15 members, nor shall any board member be personally liable for any
16 costs which accrue in any action by or against the board.

17 352.505. 1. A qualified organization that issues qualified
18 charitable gift annuities shall notify the department of
19 insurance, financial and professional regulation in writing by
20 the later of ninety days after August 28, 2001, or the date on
21 which it enters into the organization's first qualified
22 charitable gift annuity agreement. The notice must:

23 (1) Be signed by an officer or director of the
24 organization;

25 (2) Identify the organization; and

26 (3) Certify that:

27 (a) The organization is a qualified organization; and

28 (b) The annuities issued by the organization are qualified

1 charitable gift annuities.

2 2. The organization shall be required to submit additional
3 information if necessary to determine appropriate penalties that
4 may be applicable pursuant to section 352.520.

5 352.520. The department of insurance, financial and
6 professional regulation may enforce performance of the
7 requirements of sections 352.505 and 352.510 by sending a letter
8 by certified mail, return receipt requested, demanding that the
9 qualified organization comply with the requirements of sections
10 352.505 and 352.510. The department of insurance, financial and
11 professional regulation may fine the qualified organization in an
12 amount not to exceed one thousand dollars per qualified
13 charitable gift annuity agreement issued until such time as the
14 qualified organization complies with sections 352.505 and
15 352.510. However, the failure of a qualified organization to
16 comply with the notice requirements imposed pursuant to section
17 352.505 or section 352.510 does not prevent a charitable gift
18 annuity that otherwise meets the requirements of sections 352.500
19 to 352.520 from constituting a qualified charitable gift annuity.

20 353.120. Notwithstanding any requirement of law to the
21 contrary, or the absence of direct provision therefor in the
22 instrument under which a fiduciary is acting, every executor,
23 administrator, trustee, guardian or any other person, holding
24 trust funds or acting in a fiduciary capacity, unless the
25 instrument under which such fiduciary is acting expressly
26 forbids, also the state, its subdivisions, cities, all other
27 public bodies, all public officers, corporations, organized under
28 or subject to the provisions of the banking law (including

1 savings banks, savings and loan associations, trust companies,
2 private bankers and private banking corporations), the state
3 director of finance as conservator, liquidator or rehabilitator
4 of any such person, partnership or corporation, person,
5 partnership and corporations organized under or subject to the
6 provisions of the insurance law, the director of the department
7 of insurance, financial and professional regulation as
8 conservator, liquidator, or rehabilitator of any such person,
9 partnership or corporation, any of which owns or holds any real
10 property within any blighted area proposed to be cleared or
11 redeveloped by an urban redevelopment corporation, may grant,
12 sell, lease or otherwise transfer any such real property to an
13 urban redevelopment corporation, and receive and hold any cash,
14 mortgages, or other securities or obligations exchanged therefor
15 by such urban redevelopment corporations, and may execute such
16 instruments and do such acts as may be deemed necessary or
17 desirable by them or it and by the urban redevelopment
18 corporations in connection with the development and any
19 development plan.

20 354.010. As used in sections 354.010 to 354.380, unless the
21 context clearly indicates otherwise, the following terms mean:

22 (1) "Corporation", a domestic health services corporation
23 subject to the provisions of sections 354.010 to 354.380;

24 (2) "Director", the director of the department of
25 insurance, financial and professional regulation of the state of
26 Missouri;

27 (3) "Health services", the health care and services
28 provided by hospitals, or other health care institutions,

1 organizations, associations or groups, and by doctors of
2 medicine, osteopathy, dentistry, chiropractic, optometry and
3 podiatry, nursing services, medical appliances, equipment and
4 supplies, drugs, medicines, ambulance services, and other
5 therapeutic services and supplies;

6 (4) "Health services corporation", any not-for-profit
7 corporation heretofore or hereafter organized or operating for
8 the purposes of establishing and operating a nonprofit plan or
9 plans under which prepaid hospital care, medical-surgical care
10 and other health care and services, or reimbursement therefor,
11 may be furnished to a member or beneficiary;

12 (5) "Member" or "beneficiary", a natural person who is
13 entitled to receive health services, or reimbursement therefor,
14 pursuant to a contract made by a health services corporation with
15 or for the benefit of such person;

16 (6) "Membership contract", any agreement, contract or
17 certificate by which a health services corporation describes the
18 health services or benefits to be provided thereunder to its
19 members or beneficiaries;

20 (7) "Not-for-profit corporation", a nonprofit domestic
21 corporation organized under or accepting the provisions of
22 chapter 355, RSMo, or incorporated under chapter 352, RSMo.

23 354.050. The corporation shall have all the powers, rights
24 and privileges of a corporation organized under chapter 355,
25 RSMo, except insofar as such provisions are inconsistent with the
26 provisions of sections 354.010 to 354.380, but it shall not
27 commence its business or operations until it receives authority
28 to do so from the director [of insurance], as provided in section

1 354.055.

2 354.055. No corporation subject to the provisions of this
3 chapter shall commence operations or transact any business in
4 this state unless it shall first procure from the director [of
5 insurance] a certificate of authority stating that the
6 requirements of the laws of this state have been complied with
7 and authorizing it to do business. The certificate of authority
8 shall expire on the last day of June in each year, but shall be
9 extended automatically pending formal renewal by the director, if
10 the corporation has continued to comply with the provisions of
11 sections 354.010 to 354.380 and of the laws of this state.

12 354.060. 1. The director [of the department of insurance]
13 shall determine that all the requirements of sections 354.010 to
14 354.380 for commencement of business have been complied with, and
15 upon such determination shall issue to the corporation a
16 certificate of authority to do business as a health services
17 corporation under sections 354.010 to 354.380.

18 2. The director shall not issue or renew his certificate of
19 authority to any corporation operating or proposing to operate
20 under the provisions of sections 354.010 to 354.380, unless such
21 corporation shall be in compliance with all the requirements of
22 sections 354.010 to 354.380.

23 354.065. 1. A corporation may amend its articles of
24 incorporation from time to time in the manner provided in chapter
25 355, RSMo, and shall file a duly certified copy of its
26 certificate of amendment with the director [of insurance] within
27 twenty days after the issuance of the certificate of amendment by
28 the secretary of state. Upon the issuance of the certificate of

1 amendment by the secretary of state, the amendment shall become
2 effective and the articles of incorporation shall be deemed to be
3 amended accordingly.

4 2. A health services corporation organized as a
5 not-for-profit corporation pursuant to this chapter may amend its
6 articles in the manner provided in chapter 355, RSMo, to change
7 its status to that of a for-profit business corporation and
8 accept the provisions of chapter 351, RSMo, by:

9 (1) Adopting a resolution amending its articles of
10 incorporation or articles of agreement so as:

11 (a) To eliminate any purpose, power or other provision
12 thereof not authorized to be set forth in the articles of
13 incorporation of corporations organized pursuant to chapter 351,
14 RSMo;

15 (b) To set forth any provision authorized pursuant to
16 chapter 351, RSMo, to be inserted in the articles of
17 incorporation of corporations organized pursuant to chapter 351,
18 RSMo, which the corporation chooses to insert therein and the
19 material and information required to be set forth pursuant to
20 chapter 351, RSMo, in the original articles of incorporation of
21 corporations organized pursuant to chapter 351, RSMo;

22 (2) Adopting a resolution accepting all of the provisions
23 of chapter 351, RSMo, and providing that such corporation shall
24 for all purposes be thenceforth deemed to be a corporation
25 organized pursuant to chapter 351, RSMo;

26 (3) By filing with the secretary of state a certificate of
27 acceptance of chapter 351, RSMo;

28 (4) By complying with the provisions of sections 355.616

1 and 355.621, RSMo, to the extent those sections would apply if
2 such health services corporation were merging with a domestic
3 business corporation with the proposed amended articles of
4 incorporation serving as the proposed plan of merger.

5 3. The provisions of subsection 2 of this section shall
6 expire and have no force and effect on and after August 31, 2001.

7 354.085. No corporation subject to the provisions of
8 sections 354.010 to 354.380 shall deliver or issue for delivery
9 in this state a form of membership contract, or any endorsement
10 or rider thereto, until a copy of the form shall have been
11 approved by the director. The director shall not approve any
12 policy forms which are not in compliance with the provisions of
13 sections 354.010 to 354.380 of this state, or which contain any
14 provision which is deceptive, ambiguous or misleading, or which
15 do not contain such words, phraseology, conditions and provisions
16 which are specific, certain and reasonably adequate to meet
17 needed requirements for the protection of those insured. If a
18 policy form is disapproved, the reasons therefor shall be stated
19 in writing; a hearing shall be granted upon such disapproval, if
20 so requested; provided, however, that such hearing shall be held
21 no sooner than fifteen days following the request. The failure
22 of the director [of insurance] to take action approving or
23 disapproving a submitted policy form within forty-five days from
24 the date of filing shall be deemed an approval thereof. The
25 director shall not disapprove any deemed policy form for a period
26 of twelve months thereafter. If at any time during that twelve-
27 month period the director determines that any provision of the
28 deemed policy form is contrary to state law, the director shall

1 notify the health services corporation of the specific provision
2 that is contrary to state law, and any specific statute to which
3 the provision is contrary to, and request that the health
4 services corporation file, within thirty days of receipt of the
5 request, an amendment form that modifies the provision to conform
6 to state law. Upon approval of the amendment form by the
7 director, the health services corporation shall issue a copy of
8 the amendment to each individual and entity to which the deemed
9 policy form was previously issued and shall attach a copy of the
10 amendment to the deemed policy form when it is subsequently
11 issued. Such amendment shall have the force and effect as if the
12 amendment was in the original filing or policy. The director [of
13 insurance] shall have authority to make such reasonable rules and
14 regulations concerning the filing and submission of such policy
15 forms as are necessary, proper or advisable.

16 354.152. Premiums, dues or fees made by each corporation
17 shall be subject to the following provisions:

18 (1) Premiums, dues or fees shall not be excessive or
19 inadequate, as herein defined, nor shall they be unfairly
20 discriminatory;

21 (2) No premiums, dues or fees shall be held to be excessive
22 unless such premiums, dues or fees are unreasonably high relative
23 to the corporation's loss experience under policies, plans or
24 contracts with respect to the territory or classification to
25 which such premiums, dues or fees are applicable;

26 (3) No premiums, dues or fees shall be held to be
27 inadequate unless such premiums, dues or fees are unreasonably
28 low for the coverage provided and the continued use of such

1 premiums, dues or fees endangers the solvency of the corporation
2 using the same;

3 (4) If the director [of the department of insurance] has
4 reason to believe that any premiums, dues or fees do not meet the
5 standards of this section, he shall hold a public hearing in
6 connection therewith, provided that within a reasonable period of
7 time, which shall be not less than ten days before the date of
8 such hearing, he shall mail written notice specifying the matters
9 to be considered at such hearing to any corporation believed by
10 him not to be in compliance with the provisions of this section;

11 (5) If the director, after such hearings, for good cause
12 finds that such premiums, dues or fees do not meet the provisions
13 of this section, he shall issue an order specifying in what
14 respects any such premiums, dues or fees fails to meet the
15 provisions of this section and stating when, within a reasonable
16 period of time thereafter, the further use of such premiums, dues
17 or fees by the corporation which is the subject of the
18 examination shall be prohibited and a copy of such order shall be
19 sent to such corporation.

20 354.165. The provisions of sections 354.010 to 354.380 or
21 of any law relating to insurance shall not apply to any labor
22 organization's health plan providing services established and
23 maintained solely for its members and their immediate families,
24 or to any health plan or services established and maintained by a
25 trust in which a labor organization is interested as that term is
26 defined in, and which trust is subject to the provisions and
27 regulations of, the Federal Labor-Management Reporting and
28 Disclosure Act, 29 U.S.C. 401-531. The administrator of any

1 other plan or program to provide health service or benefits, or
2 to pay or indemnify for the payment of their cost, which is
3 maintained by any employer or jointly by any employer and
4 employees and/or labor organizations exclusively for employees
5 and their families, hereinafter referred to as "plan or program",
6 shall make and file annually with the director on or before the
7 first day of March of each year a report under oath, upon a form
8 to be prescribed by the director, setting out the income and
9 expenses of the plan or program for the preceding year and its
10 financial condition as of the end of that year. In lieu of
11 filing such prescribed form the administrator of any such plan or
12 program may file with the director a duplicate set of documents,
13 records, reports, booklets and other instruments as may have been
14 filed by it within the preceding twelve months pursuant to the
15 Federal Welfare and Pension Plans Disclosure Act, 29 U.S.C.
16 301-309, the Federal Labor-Management Reporting and Disclosure
17 Act, 29 U.S.C. 151-168, 401-531 or the Labor Management Relations
18 Act, 29 U.S.C. 186. Any labor organization member or any
19 employee claiming to be aggrieved under the terms of any such
20 plan or program may file a complaint with respect thereto with
21 the director. The authority of the director under the insurance
22 laws of this state and sections 354.010 to 354.380 to prohibit or
23 regulate such a plan or program shall be limited to the
24 following:

- 25 (1) Compelling the filing of the annual reports referred to
26 above;
- 27 (2) Investigating the complaints of members or employees;
- 28 (3) Examining the financial conditions, affairs and

1 management of the plan or program;

2 (4) Instituting judicial proceedings to enjoin the
3 continuation of any act or practices which he believes to be
4 unfair and deceptive with respect to such members.

5 This section shall not be construed as exempting from regulation
6 by the department [of insurance] any insurance contract or health
7 services contract which provides for the payment of benefits or
8 the supplying of health services under the labor organization,
9 union-employer-employee or employer-employee plans referred to in
10 this section which are purchased from insurance companies or
11 health-services corporations subject to regulation by the
12 department [of insurance].

13 354.205. 1. The expenses of any proceedings concerning, or
14 examinations of, a corporation subject to the provisions of
15 sections 354.010 to 354.380, conducted by the department [of
16 insurance], shall be assessed by the director upon the
17 corporation proceeded against or examined, or whose policies have
18 been valued, and shall be in the first instance paid by such
19 corporation, on the order of the director, directly to the person
20 or persons rendering the service.

21 2. If the corporation subject to the provisions of sections
22 354.010 to 354.380 has been or shall be adjudged insolvent, or
23 shall neglect, fail or refuse to pay the director may approve the
24 payment of the expenses, in whole or in part, which shall be paid
25 in like manner as other expenses of the [insurance] department;
26 and the amount so paid, together with cost, charges and fees for
27 collecting the same, shall be a first lien upon all the assets
28 and property of such corporation, and may be recovered by the

1 director of revenue in any court of competent jurisdiction; or if
2 such corporation be in liquidation, or process of being wound up,
3 the cost and expenses of settling its affairs shall be allowed
4 and taxed as costs against said corporation, and shall be a first
5 lien upon and payable out of its assets. The director of revenue
6 shall deposit such sums in the state treasury to reimburse the
7 insurance fund.

8 3. Before any costs of any examination or valuation shall
9 be paid, vouchers for the same shall be submitted to and approved
10 by the commissioner of administration.

11 4. When any examination or valuation is made by the
12 director in person or by any salaried employee of the department
13 [of insurance], the cost of making the same shall be certified to
14 the director of revenue for collection.

15 354.240. 1. A person not a legal resident of this state
16 may be licensed to act in this state as an enrollment
17 representative upon compliance with the provisions of this
18 chapter provided that the state in which the person resides will
19 accord the same privilege to a resident of this state. The
20 director is authorized to enter into reciprocal agreements with
21 the appropriate official of any other state waiving the written
22 examination of any applicant residing in the other state;
23 provided, the director deems the applicant fully qualified and
24 competent; and

25 (1) That a written examination is required of applicants
26 for similar licenses in the other state; and

27 (2) That the appropriate official in that state certifies
28 that the applicant holds a currently valid license of similar

1 type in that state and either passed a written examination or was
2 the holder of such license prior to the time a written
3 examination was required.

4 2. In the event that the applicant is a resident of a state
5 which does not require a written examination, then the director
6 shall subject him to a written examination under terms and
7 conditions to be prescribed by the director [of insurance].

8 3. In the event that the applicant is a resident of another
9 state in which the appropriate insurance official, as a general
10 policy, has refused to permit legal residents of Missouri to
11 become licensed as enrollment representatives and to transact the
12 business of a health services corporation in such state, then the
13 director shall not license any applicant from that state.

14 354.275. Any person willfully violating any of the
15 provisions of sections 354.225 to 354.270 is guilty of a class A
16 misdemeanor and on conviction thereof, if the offender holds a
17 license under these sections, the court imposing sentence shall
18 order the director [of the department of insurance] to revoke the
19 license.

20 354.285. 1. All agreements or contracts under which any
21 person, organization or corporation enjoys in fact the exclusive
22 or dominant right to manage or control any corporation subject to
23 the provisions of sections 354.010 to 354.380 to the substantial
24 exclusion of the board of directors, officers, attorney in fact
25 or other lawful management shall be filed with the director on
26 his request.

27 2. The director, for the purpose of ascertaining the
28 assets, conditions and affairs of any corporation subject to the

1 provisions of sections 354.010 to 354.380, may examine the books,
2 records, documents and assets of any person having a contract or
3 agreement as provided in subsection 1 to the extent necessary to
4 determine the financial condition of such corporation. The
5 failure or refusal of any such person to submit his books,
6 papers, accounts, records or affairs to the reasonable inspection
7 or examination of the director shall be grounds for the
8 suspension or revocation of the certificate of authority of the
9 corporation to do business in this state.

10 3. No agreement or contract as provided in subsection 1
11 shall operate to the financial detriment of the corporation in
12 such manner as to endanger its financial stability or otherwise
13 be hazardous to the members and creditors of the corporation.

14 4. On examination of any agreement or contract, if the
15 director finds it violates the provisions of this section, he
16 shall proceed in accordance with the provisions of section
17 354.180.

18 5. Any person, organization or corporation having a
19 management contract as provided in subsection 1 hereof shall
20 within five days of execution of such contract provide notice of
21 such contract to the director [of insurance].

22 354.305. 1. Whenever any corporation subject to the
23 provisions of sections 354.010 to 354.380 doing business in this
24 state advertises its assets, either in any newspaper or
25 periodical, or by any sign, circular, card, policy of insurance
26 or certificate of renewal thereof, it shall, in the same
27 connection, equally conspicuously advertise its liabilities, the
28 same to be determined in the manner required in making statement

1 to the [insurance division] department, and all advertisements
2 purporting to show the amount of capital of the company shall
3 show only the amount of capital actually paid up in cash.

4 2. Any corporation subject to the provisions of sections
5 354.010 to 354.380 or enrollment representative violating the
6 provisions of this section shall, upon conviction thereof, be
7 guilty of a class B misdemeanor, punishable as provided by law.

8 354.325. 1. The director [of insurance] shall, as often as
9 he may deem proper, make careful inquiry and investigation as to
10 the manner in which the money, funds or securities of
11 corporations subject to the provisions of sections 354.010 to
12 354.380, doing business in this state, are invested or employed,
13 and record the result of such inquiry or investigation in records
14 kept in his office for the inspection of members and public
15 officials.

16 2. In the event of a violation of this section or of
17 section 354.320, the prosecuting attorney of the proper county,
18 or in the city of St. Louis, the circuit attorney, shall proceed
19 at once by information or indictment against the offenders.

20 354.340. Whenever any judgment shall be obtained in any of
21 the courts of this state against any corporation subject to the
22 provisions of sections 354.010 to 354.380 doing business in this
23 state, and said judgment shall remain unsatisfied for fifteen
24 days after execution shall have been lawfully issued thereon, the
25 certificate of authority or license to do business issued or
26 granted to such corporation shall immediately be suspended or
27 revoked by the director [of the insurance department], upon said
28 director being notified thereof, and such insurance company

1 shall, after such suspension or revocation, be prohibited from
2 transacting any business in this state until such judgment shall
3 be satisfied.

4 354.345. Any person, who has heretofore obtained or may
5 hereafter obtain, in any of the courts of this state, a decree
6 against any corporation subject to the provisions of sections
7 354.010 to 354.380 doing business in this state, commanding or
8 directing said corporation to specifically perform a membership
9 contract, may, if the corporation against which said decree is
10 obtained, fails, for a period of fifteen days after the rendition
11 of said decree, to comply with the same, obtain a copy of said
12 decree, certified to under the hand and seal of the clerk of the
13 court in which said decree was rendered, and transmit the same,
14 together with the certificate of said clerk, reciting therein the
15 failure of such corporation to comply with said decree, and
16 transmit the same to the director [of the insurance department of
17 the state of Missouri], and immediately upon receipt thereof, the
18 said director [of insurance] shall cause such corporation to be
19 notified of the fact of the filing of such certified copy of said
20 decree and certificate, and if such corporation fails for a
21 period of thirty days thereafter to comply with said decree, the
22 certificate of authority or license to do business issued or
23 granted to such corporation shall immediately be suspended or
24 revoked by the director [of the insurance department], until such
25 decree shall be satisfied; provided, however, the foregoing shall
26 not be applicable while an appeal is pending if a supersedeas
27 bond shall have been given.

28 354.355. Whenever it shall appear to the director [of the

1 insurance department], from any examination made by himself, or
2 from the report of a person or persons appointed by him, or from
3 the statements of the corporation subject to the provisions of
4 sections 354.010 to 354.380, or from any knowledge or information
5 in his possession

6 (1) That the corporation has refused to submit its books,
7 papers, accounts or affairs to the reasonable inspection of the
8 director or his deputy or his examiner; or

9 (2) That the corporation has, by contract of reinsurance or
10 otherwise, transferred or attempted to transfer substantially its
11 entire property or business, or entered into any transaction, the
12 effect of which is to merge substantially its entire property or
13 business in the property or business of any other corporation,
14 association, society, order, partnership or individual without
15 first having obtained the written approval of the director [of
16 insurance] as provided by law; or

17 (3) That the corporation is found, after an examination, to
18 be in such condition that its further transaction of business
19 will be hazardous to its policyholders or to its creditors or to
20 the public; or

21 (4) That the corporation has an officer who has refused to
22 be examined under oath touching its affairs; or

23 (5) That the corporation has ceased to transact the
24 business of insurance for a period of one year;

25
26 the director may institute a suit or proceedings in the circuit
27 court in the county or city in which the corporation was
28 organized or in which it has or last had its principal or chief

1 office or place of business or in the county of Cole, to enjoin
2 the corporation from further prosecution of its business, either
3 temporarily or perpetually, or for a judgment dissolving the
4 corporation or for both; and after the entry of the decree or
5 judgment, the court upon the motion of the director [of the
6 insurance department] may order the liquidation, settlement and
7 winding up of the affairs of such corporation or the
8 rehabilitation of the corporation as provided in section 354.140
9 together with such other decrees and orders in connection
10 therewith as the court shall deem advisable.

11 354.400. As used in sections 354.400 to 354.535, the
12 following terms shall mean:

13 (1) "Basic health care services", health care services
14 which an enrolled population might reasonably require in order to
15 be maintained in good health, including, as a minimum, emergency
16 care, inpatient hospital and physician care, and outpatient
17 medical services;

18 (2) "Community-based health maintenance organization", a
19 health maintenance organization which:

20 (a) Is wholly owned and operated by hospitals, hospital
21 systems, physicians, or other health care providers or a
22 combination thereof who provide health care treatment services in
23 the service area described in the application for a certificate
24 of authority from the department of insurance, financial and
25 professional regulation;

26 (b) Is operated to provide a means for such health care
27 providers to market their services directly to consumers in the
28 service area of the health maintenance organization;

1 (c) Is governed by a board of directors that exercises
2 fiduciary responsibility over the operations of the health
3 maintenance organization and of which a majority of the directors
4 consist of equal numbers of the following:

5 a. Physicians licensed pursuant to chapter 334, RSMo;

6 b. Purchasers of health care services who live in the
7 health maintenance organization's service area;

8 c. Enrollees of the health maintenance organization elected
9 by the enrollees of such organization; and

10 d. Hospital executives, if a hospital is involved in the
11 corporate ownership of the health maintenance organization;

12 (d) Provides for utilization review, as defined in section
13 374.500, RSMo, under the auspices of a physician medical director
14 who practices medicine in the service area of the health
15 maintenance organization, using review standards developed in
16 consultation with physicians who treat the health maintenance
17 organization's enrollees;

18 (e) Is actively involved in attempting to improve
19 performance on indicators of health status in the community or
20 communities in which the health maintenance organization is
21 operating, including the health status of those not enrolled in
22 the health maintenance organization;

23 (f) Is accountable to the public for the cost, quality and
24 access of health care treatment services and for the effect such
25 services have on the health of the community or communities in
26 which the health maintenance organization is operating on a
27 whole;

28 (g) Establishes an advisory group or groups comprised of

1 enrollees and representatives of community interests in the
2 service area to make recommendations to the health maintenance
3 organization regarding the policies and procedures of the health
4 maintenance organization;

5 (h) Enrolls fewer than fifty thousand covered lives;

6 (3) "Covered benefit" or "benefit", a health care service
7 to which an enrollee is entitled under the terms of a health
8 benefit plan;

9 (4) "Department", the department of insurance, financial
10 and professional regulation;

11 (5) "Director", the director of the department of
12 insurance, financial and professional regulation;

13 [(5)] (6) "Emergency medical condition", the sudden and, at
14 the time, unexpected onset of a health condition that manifests
15 itself by symptoms of sufficient severity that would lead a
16 prudent lay person, possessing an average knowledge of health and
17 medicine, to believe that immediate medical care is required,
18 which may include, but shall not be limited to:

19 (a) Placing the person's health in significant jeopardy;

20 (b) Serious impairment to a bodily function;

21 (c) Serious dysfunction of any bodily organ or part;

22 (d) Inadequately controlled pain; or

23 (e) With respect to a pregnant woman who is having
24 contractions:

25 a. That there is inadequate time to effect a safe transfer
26 to another hospital before delivery; or

27 b. That transfer to another hospital may pose a threat to
28 the health or safety of the woman or unborn child;

1 [(6)] (7) "Emergency services", health care items and
2 services furnished or required to screen and stabilize an
3 emergency medical condition, which may include, but shall not be
4 limited to, health care services that are provided in a licensed
5 hospital's emergency facility by an appropriate provider;

6 [(7)] (8) "Enrollee", a policyholder, subscriber, covered
7 person or other individual participating in a health benefit
8 plan;

9 [(8)] (9) "Evidence of coverage", any certificate,
10 agreement, or contract issued to an enrollee setting out the
11 coverage to which the enrollee is entitled;

12 [(9)] (10) "Health care services", any services included in
13 the furnishing to any individual of medical or dental care or
14 hospitalization, or incident to the furnishing of such care or
15 hospitalization, as well as the furnishing to any person of any
16 and all other services for the purpose of preventing,
17 alleviating, curing, or healing human illness, injury, or
18 physical disability;

19 [(10)] (11) "Health maintenance organization", any person
20 which undertakes to provide or arrange for basic and supplemental
21 health care services to enrollees on a prepaid basis, or which
22 meets the requirements of section 1301 of the United States
23 Public Health Service Act;

24 [(11)] (12) "Health maintenance organization plan", any
25 arrangement whereby any person undertakes to provide, arrange
26 for, pay for, or reimburse any part of the cost of any health
27 care services and at least part of such arrangement consists of
28 providing and assuring the availability of basic health care

1 services to enrollees, as distinguished from mere indemnification
2 against the cost of such services, on a prepaid basis through
3 insurance or otherwise, and as distinguished from the mere
4 provision of service benefits under health service corporation
5 programs;

6 [(12)] (13) "Individual practice association", a
7 partnership, corporation, association, or other legal entity
8 which delivers or arranges for the delivery of health care
9 services and which has entered into a services arrangement with
10 persons who are licensed to practice medicine, osteopathy,
11 dentistry, chiropractic, pharmacy, podiatry, optometry, or any
12 other health profession and a majority of whom are licensed to
13 practice medicine or osteopathy. Such an arrangement shall
14 provide:

15 (a) That such persons shall provide their professional
16 services in accordance with a compensation arrangement
17 established by the entity; and

18 (b) To the extent feasible for the sharing by such persons
19 of medical and other records, equipment, and professional,
20 technical, and administrative staff;

21 [(13)] (14) "Medical group/staff model", a partnership,
22 association, or other group:

23 (a) Which is composed of health professionals licensed to
24 practice medicine or osteopathy and of such other licensed health
25 professionals (including dentists, chiropractors, pharmacists,
26 optometrists, and podiatrists) as are necessary for the
27 provisions of health services for which the group is responsible;

28 (b) A majority of the members of which are licensed to

1 practice medicine or osteopathy; and

2 (c) The members of which (i) as their principal
3 professional activity over fifty percent individually and as a
4 group responsibility engaged in the coordinated practice of their
5 profession for a health maintenance organization; (ii) pool their
6 income from practice as members of the group and distribute it
7 among themselves according to a prearranged salary or drawing
8 account or other plan, or are salaried employees of the health
9 maintenance organization; (iii) share medical and other records
10 and substantial portions of major equipment and of professional,
11 technical, and administrative staff; (iv) establish an
12 arrangement whereby an enrollee's enrollment status is not known
13 to the member of the group who provides health services to the
14 enrollee;

15 [(14)] (15) "Person", any partnership, association, or
16 corporation;

17 [(15)] (16) "Provider", any physician, hospital, or other
18 person which is licensed or otherwise authorized in this state to
19 furnish health care services;

20 [(16)] (17) "Uncovered expenditures", the costs of health
21 care services that are covered by a health maintenance
22 organization, but that are not guaranteed, insured, or assumed by
23 a person or organization other than the health maintenance
24 organization, or those costs which a provider has not agreed to
25 forgive enrollees if the provider is not paid by the health
26 maintenance organization.

27 354.405. 1. Notwithstanding any law of this state to the
28 contrary, any person may apply to the director for a certificate

1 of authority to establish and operate a health maintenance
2 organization in compliance with this act. No person shall
3 establish or operate a health maintenance organization in this
4 state without obtaining a certificate of authority pursuant to
5 sections 354.400 to 354.636. A foreign corporation may qualify
6 pursuant to sections 354.400 to 354.636, subject to its
7 registration to do business in this state as a foreign
8 corporation pursuant to chapter 351, RSMo, and compliance with
9 the provisions of sections 354.400 to 354.636.

10 2. Every health maintenance organization doing business in
11 this state on September 28, 1983, shall submit an application for
12 a certificate of authority pursuant to subsection 3 of this
13 section within one hundred twenty days of September 28, 1983.
14 Each such applicant may continue to operate until the director
15 acts upon the application. In the event that an application is
16 not submitted or is denied pursuant to section 354.410, the
17 applicant shall henceforth be treated as a health maintenance
18 organization whose certificate of authority has been revoked.
19 Any health maintenance organization licensed by the department of
20 insurance, financial and professional regulation prior to
21 September 28, 1983, and complying with the paid-in capital or
22 guarantee fund requirements of section 354.410 shall be issued a
23 certificate of authority upon filing an amended certificate of
24 authority and an amended articles of incorporation that conform
25 with sections 354.400 to 354.636. When the annual statement of a
26 health maintenance organization subject to the provisions of
27 sections 354.400 to 354.636 is filed and all fees due from the
28 health maintenance organization are tendered, the health

1 maintenance organization's certificate of authority to do
2 business in this state shall automatically be extended pending
3 formal renewal by the director, or until such time as the
4 director should refuse to renew the certificate.

5 3. Each application for a certificate of authority shall be
6 verified by an officer or authorized representative of the
7 applicant, shall be in a form prescribed by the director, and
8 shall set forth or be accompanied by the following:

9 (1) A copy of the organizational documents of the applicant
10 such as the articles of incorporation, articles of association,
11 partnership agreement, trust agreement, or other applicable
12 documents, and all amendments thereto;

13 (2) A copy of the bylaws, rules and regulations, or similar
14 document, if any, regulating the conduct of the internal affairs
15 of the applicant;

16 (3) A list of the names, addresses, and official positions
17 of the persons who are to be responsible for the conduct of the
18 affairs of the applicant, including all members of the board of
19 directors, board of trustees, executive committee, or other
20 governing board or committee, the principal officers if the
21 applicant is a corporation, and the partners or members if the
22 applicant is a partnership or association;

23 (4) A copy of any contract made or to be made between any
24 providers and persons listed in subdivision (3) of this
25 subsection and the applicant;

26 (5) A copy of the form of evidence of coverage to be issued
27 to the enrollees;

28 (6) A copy of the form of the group contract, if any, which

1 is to be issued to employers, unions, trustees, or other
2 organizations;

3 (7) Financial statements showing the applicant's assets,
4 liabilities, and sources of financial support. If the
5 applicant's financial affairs are audited by independent
6 certified public accountants, a copy of the applicant's most
7 recent certified financial statement shall be deemed to satisfy
8 this requirement unless the director directs that additional or
9 more recent financial information is required for the proper
10 administration of sections 354.400 to 354.636;

11 (8) A description of the proposed method of marketing the
12 plan, a financial plan which includes a three-year projection of
13 operating results anticipated, and a statement as to the sources
14 of working capital as well as any other sources of funding;

15 (9) If the applicant is not domiciled in this state, a
16 power of attorney duly executed by such applicant appointing the
17 director, the director's successors in office, and duly
18 authorized deputies, as the true and lawful attorney of such
19 applicant in and for this state upon whom all lawful process in
20 any legal action or proceeding against the health maintenance
21 organization on a cause of action arising in this state may be
22 served;

23 (10) A statement reasonably describing the geographic area
24 or areas to be served;

25 (11) A description of the complaints procedures to be
26 utilized as required by section 354.445;

27 (12) A description of the mechanism by which enrollees will
28 be afforded an opportunity to participate in matters of policy

1 and operation;

2 (13) Evidence demonstrating that the health maintenance
3 organization has provided its enrollees with adequate access to
4 health care providers; and

5 (14) Such other information as the director may require to
6 make the determinations required in section 354.410.

7 4. Every health maintenance organization shall file with
8 the director notice of its intention to modify any of the
9 procedures or information described in and required to be filed
10 by this section. Such changes shall be filed with the director
11 prior to the actual modification. If the director does not
12 disapprove the modification within forty-five days of filing,
13 citing specific reasons for noncompliance, such modification
14 shall be deemed approved. If a filing that is deemed approved is
15 a document described in subdivision (4), (5) or (6) of subsection
16 3 of this section, the director shall not disapprove the deemed
17 filing for a period of twelve months thereafter. If at any time
18 during that twelve-month period the director determines that any
19 provision of the deemed filing is contrary to state law, the
20 director shall notify the health maintenance organization of the
21 specific provision that is contrary to state law, and any
22 specific statute to which the provision is contrary to, and
23 request that the health maintenance organization file, within
24 thirty days of receipt of the request, an amendment form that
25 modifies the provision to conform to the state law. Upon
26 approval of the amendment form by the director, the health
27 maintenance organization shall issue a copy of the amendment to
28 each individual and entity to which the deemed filing was

1 previously issued and shall attach a copy of the amendment to the
2 deemed filing when it is subsequently issued. Such amendment
3 shall have the force and effect as if the amendment was in the
4 original filing or policy.

5 5. A health maintenance organization shall file all
6 contracts of reinsurance. Any agreement between the organization
7 and an insurer shall be subject to the laws of this state
8 regarding reinsurance. All reinsurance agreements and any
9 modifications thereto shall be filed and approved.

10 6. When the director deems it appropriate, the director may
11 exempt any item from the filing requirements of this section.

12 354.430. 1. Every enrollee residing in this state is
13 entitled to evidence of coverage. If the enrollee obtains
14 coverage through an insurance policy or a contract issued by a
15 health services corporation, whether by option or otherwise, the
16 insurer or the health services corporation shall issue the
17 evidence of coverage. Otherwise the health maintenance
18 organization shall issue the evidence of coverage.

19 2. No evidence of coverage, or amendment thereto, shall be
20 issued or delivered to any person in this state until a copy of
21 the form of the evidence of coverage, or amendment thereto, has
22 been filed with the director.

23 3. An evidence of coverage shall contain:

24 (1) No provisions or statements which are unjust, unfair,
25 inequitable, misleading, or deceptive, or which encourage
26 misrepresentation, or which are untrue, misleading, or deceptive
27 as defined in subsection 1 of section 354.460; and

28 (2) A clear and complete statement, if a contract, or a

1 reasonably complete summary, if a certificate, of:

2 (a) The health care services and the insurance or other
3 benefits, if any, to which the enrollee is entitled;

4 (b) Any limitations on the services, kind of services,
5 benefits or kinds of benefits to be provided, including any
6 deductible or co-payment feature;

7 (c) Where and in what manner information is available as to
8 how services may be obtained;

9 (d) The total amount of payment for health care services
10 and the indemnity or service benefits, if any, which the enrollee
11 is obligated to pay with respect to individual contracts; and

12 (e) A clear and understandable description of the health
13 maintenance organization's method for resolving enrollee
14 complaints, including the health maintenance organization's
15 toll-free customer service number and the [department of
16 insurance's] department's consumer complaint hot line number.

17 4. Any subsequent change in an evidence of coverage may be
18 made in a separate document issued to the enrollee.

19 5. A copy of the form of the evidence of coverage to be
20 used in this state, and any amendment thereto, shall be subject
21 to the filing of subsection 2 of this section unless it is
22 subject to the jurisdiction of the director under the laws
23 governing health insurance or health services corporations, in
24 which event the filing provisions of those laws shall apply.

25 354.442. 1. Each enrollee, and upon request each
26 prospective enrollee prior to enrollment, shall be supplied with
27 written disclosure information. In the event of any
28 inconsistency between any separate written disclosure statement

1 and the enrollee contract or evidence of coverage, the terms of
2 the enrollee contract or evidence of coverage shall be
3 controlling. The information to be disclosed in writing shall
4 include at a minimum the following:

5 (1) A description of coverage provisions, health care
6 benefits, benefit maximums, including benefit limitations;

7 (2) A description of any exclusions of coverage, including
8 the definition of medical necessity used in determining whether
9 benefits will be covered;

10 (3) A description of all prior authorization or other
11 requirements for treatments and services;

12 (4) A description of utilization review policies and
13 procedures used by the health maintenance organization,
14 including:

15 (a) The circumstances under which utilization review shall
16 be undertaken;

17 (b) The toll-free telephone number of the utilization
18 review agent;

19 (c) The time frames under which utilization review
20 decisions shall be made for prospective, retrospective and
21 concurrent decisions;

22 (d) The right to reconsideration;

23 (e) The right to an appeal, including the expedited and
24 standard appeals processes and the time frames for such appeals;

25 (f) The right to designate a representative;

26 (g) A notice that all denials of claims shall be made by
27 qualified clinical personnel and that all notices of denial shall
28 include information about the basis of the decision; and

1 (h) Further appeal rights, if any;

2 (5) An explanation of an enrollee's financial
3 responsibility for payment of premiums, coinsurance, co-payments,
4 deductibles and any other charge, annual limits on an enrollee's
5 financial responsibility, caps on payments for covered services
6 and financial responsibility for noncovered health care
7 procedures, treatments or services provided within the health
8 maintenance organization;

9 (6) An explanation of an enrollee's financial
10 responsibility for payment when services are provided by a health
11 care provider who is not part of the health maintenance
12 organization's network or by any provider without required
13 authorization, or when a procedure, treatment or service is not a
14 covered health care benefit;

15 (7) A description of the grievance procedures to be used to
16 resolve disputes between a health maintenance organization and an
17 enrollee, including:

18 (a) The right to file a grievance regarding any dispute
19 between an enrollee and a health maintenance organization;

20 (b) The right to file a grievance when the dispute is about
21 referrals or covered benefits;

22 (c) The toll-free telephone number which enrollees may use
23 to file a grievance;

24 (d) The [department of insurance's] department's toll-free
25 consumer complaint hot line number;

26 (e) The time frames and circumstances for expedited and
27 standard grievances;

28 (f) The right to appeal a grievance determination and the

1 procedures for filing such an appeal;

2 (g) The time frames and circumstances for expedited and
3 standard appeals;

4 (h) The right to designate a representative;

5 (i) A notice that all disputes involving clinical decisions
6 shall be made by qualified clinical personnel; and

7 (j) All notices of determination shall include information
8 about the basis of the decision and further appeal rights, if
9 any;

10 (8) A description of a procedure for providing care and
11 coverage twenty-four hours a day, seven days a week, for
12 emergency services. Such description shall include the
13 definition of emergency services and emergency medical condition,
14 notice that emergency services are not subject to prior approval,
15 and shall describe the enrollee's financial and other
16 responsibilities regarding obtaining such services, including
17 when such services are received outside the health maintenance
18 organization's service area;

19 (9) A description of procedures for enrollees to select and
20 access the health maintenance organization's primary and
21 specialty care providers, including notice of how to determine
22 whether a participating provider is accepting new patients;

23 (10) A description of the procedures for changing primary
24 and specialty care providers within the health maintenance
25 organization;

26 (11) Notice that an enrollee may obtain a referral for
27 covered services to a health care provider outside of the health
28 maintenance organization's network or panel when the health

1 maintenance organization does not have a health care provider
2 with appropriate training and experience in the network or panel
3 to meet the particular health care needs of the enrollee and the
4 procedure by which the enrollee may obtain such referral;

5 (12) A description of the mechanisms by which enrollees may
6 participate in the development of the policies of the health
7 maintenance organization;

8 (13) Notice of all appropriate mailing addresses and
9 telephone numbers to be utilized by enrollees seeking information
10 or authorization;

11 (14) A listing by specialty, which may be in a separate
12 document that is updated annually, of the names, addresses and
13 telephone numbers of all participating providers, including
14 facilities, and in addition in the case of physicians, board
15 certification; and

16 (15) The director [of the department of insurance] shall
17 develop a standard credentialing form which shall be used by all
18 health carriers when credentialing health care professionals in a
19 managed care plan. If the health carrier demonstrates a need for
20 additional information, the director [of the department of
21 insurance] may approve a supplement to the standard credentialing
22 form. All forms and supplements shall meet all requirements as
23 defined by the National Committee of Quality Assurance.

24 2. Each health maintenance organization shall, upon request
25 of an enrollee or prospective enrollee, provide the following:

26 (1) A list of the names, business addresses and official
27 positions of the membership of the board of directors, officers,
28 controlling persons, owners or partners of the health maintenance

1 organization;

2 (2) A copy of the most recent annual certified financial
3 statement of the health maintenance organization, including a
4 balance sheet and summary of receipts and disbursements prepared
5 by a certified public accountant;

6 (3) A copy of the most recent individual, direct pay
7 enrollee contracts;

8 (4) Information relating to consumer complaints compiled
9 annually by the department [of insurance];

10 (5) The procedures for protecting the confidentiality of
11 medical records and other enrollee information;

12 (6) An opportunity to inspect drug formularies used by such
13 health maintenance organization and any financial interest in a
14 pharmacy provider utilized by such organization. The health
15 maintenance organization shall also disclose the process by which
16 an enrollee or his representative may seek to have an excluded
17 drug covered as a benefit;

18 (7) A written description of the organizational
19 arrangements and ongoing procedures of the health maintenance
20 organization's quality assurance program;

21 (8) A description of the procedures followed by the health
22 maintenance organization in making decisions about the
23 experimental or investigational nature of individual drugs,
24 medical devices or treatments in clinical trials;

25 (9) Individual health practitioner affiliations with
26 participating hospitals, if any;

27 (10) Upon written request, written clinical review criteria
28 relating to conditions or diseases and, where appropriate, other

1 clinical information which the organization may consider in its
2 utilization review. The health maintenance organization may
3 include with the information a description of how such
4 information will be used in the utilization review process;

5 (11) The written application procedures and minimum
6 qualification requirements for health care providers to be
7 considered by the health maintenance organization;

8 (12) A description of the procedures followed by the health
9 maintenance organization in making decisions about which drugs to
10 include in the health maintenance organization's drug formulary.

11 3. Nothing in this section shall prevent a health
12 maintenance organization from changing or updating the materials
13 that are made available to enrollees.

14 354.443. 1. A health maintenance organization shall
15 disclose to the department [of insurance] all financial
16 arrangements, financial interest in, or contractual provisions
17 with utilization review companies or any other health care
18 provider that would encourage or limit the type, amount, duration
19 and scope of services offered, restrict or limit referral or
20 treatment to patients, including but not limited to financial
21 incentives to limit, restrict or deny access to or delivery of
22 medical or other services prior to the delivery of such services.
23 Capitation arrangements between health maintenance organizations
24 and health care providers shall not be considered an inducement
25 to limit, restrict or deny access to medical services. The
26 director shall review all financial arrangements filed with the
27 department [of insurance] to determine if such arrangements offer
28 an inducement to a provider to provide less than medically

1 necessary services to an enrollee.

2 2. The capitation rate to be paid from the health
3 maintenance organization to the health care provider is not
4 required to be included with the financial arrangements to be
5 filed with the department [of insurance] pursuant to subsection 1
6 of this section.

7 354.444. 1. Notwithstanding any other provisions of
8 chapter 354, the director may, after a hearing, order a
9 forfeiture to the state of Missouri a sum not to exceed one
10 hundred dollars for each violation by any person knowingly
11 violating any provision of sections 354.400 to 354.636 for which
12 no specific punishment is provided, or order a specific
13 punishment in accordance with such sections. Such forfeiture may
14 be recovered by a civil action brought by and in the name of the
15 department [of insurance]. The civil action may be brought in
16 the county which has venue for an action against the person or
17 corporation.

18 2. Nothing contained in this section shall be construed to
19 prohibit the director and the corporation or its enrollment
20 representative from agreeing to a voluntary forfeiture of the sum
21 mentioned herein without civil proceedings being instituted. Any
22 payment under this section shall be paid into the school fund as
23 provided by article IX, section 7 of the Missouri Constitution
24 for fines and penalties.

25 354.551. 1. Missouri licensed health maintenance
26 organizations shall be permitted to offer point of service riders
27 (POS) to their approved health plan products, without being
28 required to obtain a separate license as a health insurer

1 pursuant to chapter 376, RSMo, so long as medical and hospital
2 expenses incurred under the POS rider do not exceed ten percent
3 of total medical and hospital expenses incurred for all health
4 plan products sold.

5 2. Health maintenance organizations which have been
6 licensed for at least one calendar year, who choose to insure the
7 POS rider, shall maintain a net worth of the greater of:

8 (1) One million two hundred thousand dollars; or

9 (2) Two percent of total premium revenue for the
10 immediately preceding twelve months plus fifty percent of
11 uncovered liabilities as reported in the immediately preceding
12 calendar quarter.

13 3. Health maintenance organizations which have been
14 licensed for less than one calendar year, who choose to insure
15 the POS rider, shall maintain a net worth of the greater of:

16 (1) One million two hundred thousand dollars; or

17 (2) Ten percent of the yearly average of the three-year
18 annual premium plus fifty percent of its average annual uncovered
19 liabilities as projected in its application for a certificate of
20 authority.

21 4. The department [of insurance] may modify the net worth
22 requirements for a health maintenance organization which has been
23 licensed for less than one calendar year if its actual results
24 deviate materially from its projections. In addition to any
25 other deposit required of a licensed health maintenance
26 organization pursuant to section 354.410, any health maintenance
27 organization which chooses to issue a POS rider shall deposit an
28 additional six hundred thousand dollars with the director of the

1 department [of insurance]. Any health maintenance organization
2 which issues a POS rider whose medical and hospital expenses
3 incurred under the POS rider exceed ten percent of total medical
4 and hospital expenses incurred for all health plan products sold
5 shall either cease insuring new POS riders until it comes into
6 compliance with the ten percent limitation of this section or
7 meet the minimum net worth requirements and all other statutory
8 and regulatory requirements of a Missouri domestic life insurance
9 company.

10 354.558. A community-based health maintenance organization
11 shall provide each prospective purchaser of its services with the
12 following marketing materials prior to enrollment:

13 (1) A list of the health care providers who have a
14 contractual agreement to provide services under the plan of
15 coverage. It shall be a violation of the unfair trade practices
16 act for a community-based health maintenance organization to
17 falsely list that a provider has a contractual agreement to
18 provide services under its plan of coverage;

19 (2) Information to describe how the community-based health
20 maintenance organization will use utilization management to
21 promote efficiency in the delivery of services in accordance with
22 the terms of the contract for coverage. This information shall
23 explain how the community-based health maintenance organization
24 will encourage the use of treatment options that produce the most
25 cost-effective results. The format and content of the
26 descriptive information disclosed under this subdivision shall be
27 approved by the department [of insurance] and shall include
28 information regarding covered benefits available under the plan;

1 (3) Disclosure of grievance procedures established in
2 accordance with regulations promulgated by the department [of
3 insurance] for community-based health maintenance organizations.
4 Included in this information shall be notification of how and
5 when to contact the health plan and the department [of insurance]
6 regarding a grievance; and

7 (4) Notice of the availability of coverage as described in
8 section 354.554.

9 354.560. 1. The director [of the department of insurance]
10 shall adopt rules governing the use of payment arrangements by
11 community-based health maintenance organizations which use
12 payment withholding arrangements that place a physician at
13 substantial financial risk. The standards for determining
14 substantial financial risk and determining which payment
15 arrangements are subject to rules shall be the same as provided
16 for health maintenance organizations and competitive medical
17 plans contracting with the Medicare program, as provided in 42
18 CFR 417.479, or its successor regulation.

19 2. The [department of insurance] director may require that
20 community-based health maintenance organizations disclose to the
21 department financial arrangements or contractual provisions that
22 place a physician at substantial financial risk. Such financial
23 arrangements and contractual provisions which constitute
24 substantial financial risk for the physician shall be reviewed by
25 the department and shall be deemed approved if not disapproved by
26 the director of the department within thirty days from the date
27 that they are filed with the department.

28 3. The [department of insurance] director shall promulgate

1 rules governing the confidentiality of proprietary information
2 disclosed to the department pursuant to this section.
3 Proprietary information disclosed pursuant to this section shall
4 not be construed to be a public record as defined in chapter 610,
5 RSMo.

6 354.562. The director [of the department of insurance]
7 shall promulgate rules governing grievance procedures for
8 enrollees of a community-based health maintenance organization.
9 Such regulations shall be consistent with and not less or more
10 stringent than federal regulations governing grievance procedures
11 promulgated by the Health Care Financing Administration of the
12 United States Department of Health and Human Services for
13 Medicare enrollees in managed care plans.

14 354.563. If the Health Care Financing Administration of the
15 United States Department of Health and Human Services promulgates
16 regulations governing the practice of utilization review in
17 health maintenance organizations serving enrollees in the
18 Medicare program, the director [of the department of insurance]
19 may issue rules to apply those standards to community-based
20 health maintenance organizations as defined in subdivision (3) of
21 section 354.400.

22 354.565. The director [of the department of insurance]
23 shall designate those health maintenance organizations which meet
24 the criteria established in subdivision (3) of section 354.400 as
25 community-based health maintenance organizations. After a
26 community-based health maintenance organization has been so
27 designated for two years, the director may revoke such
28 designation at any time thereafter upon finding that the health

1 maintenance organization has ceased to meet the established
2 criteria for community- based health maintenance organizations.

3 354.600. For purposes of sections 354.600 to 354.636 the
4 following terms shall mean:

5 (1) "Covered benefit" or "benefit", a health care service
6 to which an enrollee is entitled under the terms of a health
7 benefit plan;

8 (2) "Director", the director of the department of
9 insurance, financial and professional regulation;

10 (3) "Emergency medical condition", the sudden and, at the
11 time, unexpected onset of a health condition that manifests
12 itself by symptoms of sufficient severity that would lead a
13 prudent lay person, possessing an average knowledge of medicine
14 and health, to believe that immediate medical care is required,
15 which may include, but shall not be limited to:

16 (a) Placing the person's health in significant jeopardy;

17 (b) Serious impairment to a bodily function;

18 (c) Serious dysfunction of any bodily organ or part;

19 (d) Inadequately controlled pain; or

20 (e) With respect to a pregnant woman who is having
21 contractions:

22 a. That there is inadequate time to effect a safe transfer
23 to another hospital before delivery; or

24 b. That transfer to another hospital may pose a threat to
25 the health or safety of the woman or unborn child;

26 (4) "Emergency service", a health care item or service
27 furnished or required to screen and stabilize an emergency
28 medical condition, which may include, but shall not be limited

1 to, health care services that are provided in a licensed
2 hospital's emergency facility by an appropriate provider;

3 (5) "Enrollee", a policyholder, subscriber, covered person
4 or other individual participating in a health benefit plan;

5 (6) "Facility", an institution providing health care
6 services or a health care setting, including but not limited to,
7 hospitals and other licensed inpatient centers, ambulatory
8 surgical or treatment centers, skilled nursing facilities,
9 residential treatment centers, diagnostic, laboratory and imaging
10 centers, and rehabilitation and other therapeutic health
11 settings;

12 (7) "Health benefit plan", a policy, contract, certificate
13 or agreement entered into, offered or issued by a health carrier
14 to provide, deliver, arrange for, pay for or reimburse any of the
15 costs of health care services;

16 (8) "Health care professional", a physician or other health
17 care practitioner licensed, accredited or certified by the state
18 of Missouri to perform specified health services;

19 (9) "Health care provider" or "provider", a health care
20 professional or a facility;

21 (10) "Health care service", a service for the diagnosis,
22 prevention, treatment, cure or relief of a health condition,
23 illness, injury or disease;

24 (11) "Health carrier", a health maintenance organization
25 established pursuant to sections 354.400 to 354.636;

26 (12) "Health indemnity plan", a health benefit plan that is
27 not a managed care plan;

28 (13) "Intermediary", a person authorized to negotiate and

1 execute provider contracts with health carriers on behalf of
2 health care providers or on behalf of a network;

3 (14) "Managed care plan", a health benefit plan that either
4 requires an enrollee to use, or creates incentives, including
5 financial incentives, for an enrollee to use health care
6 providers managed, owned, under contract with or employed by the
7 health carrier;

8 (15) "Network", the group of participating providers
9 providing services to a managed care plan;

10 (16) "Participating provider", a provider who, under a
11 contract with the health carrier or with its contractor or
12 subcontractor, has agreed to provide health care services to
13 enrollees with an expectation of receiving payment, other than
14 coinsurance, co-payments or deductibles, directly or indirectly
15 from the health carrier;

16 (17) "Person", an individual, a corporation, a partnership,
17 an association, a joint venture, a joint stock company, a trust,
18 an unincorporated organization, any similar entity or any
19 combination of the foregoing; and

20 (18) "Primary care professional" or "primary care
21 provider", a participating health care professional designated by
22 the health carrier to supervise, coordinate or provide initial
23 care or continuing care to an enrollee, and who may be required
24 by the health carrier to initiate a referral for specialty care
25 and maintain supervision of health care services rendered to the
26 enrollee.

27 354.603. 1. A health carrier shall maintain a network that
28 is sufficient in number and types of providers to assure that all

1 services to enrollees shall be accessible without unreasonable
2 delay. In the case of emergency services, enrollees shall have
3 access twenty-four hours per day, seven days per week. The
4 health carrier's medical director shall be responsible for the
5 sufficiency and supervision of the health carrier's network.
6 Sufficiency shall be determined by the director in accordance
7 with the requirements of this section and by reference to any
8 reasonable criteria, including but not limited to
9 provider-enrollee ratios by specialty, primary care
10 provider-enrollee ratios, geographic accessibility, reasonable
11 distance accessibility criteria for pharmacy and other services,
12 waiting times for appointments with participating providers,
13 hours of operation, and the volume of technological and specialty
14 services available to serve the needs of enrollees requiring
15 technologically advanced or specialty care.

16 (1) In any case where the health carrier has an
17 insufficient number or type of participating providers to provide
18 a covered benefit, the health carrier shall ensure that the
19 enrollee obtains the covered benefit at no greater cost than if
20 the benefit was obtained from a participating provider, or shall
21 make other arrangements acceptable to the director.

22 (2) The health carrier shall establish and maintain
23 adequate arrangements to ensure reasonable proximity of
24 participating providers, including local pharmacists, to the
25 business or personal residence of enrollees. In determining
26 whether a health carrier has complied with this provision, the
27 director shall give due consideration to the relative
28 availability of health care providers in the service area under,

1 especially rural areas, consideration.

2 (3) A health carrier shall monitor, on an ongoing basis,
3 the ability, clinical capacity, and legal authority of its
4 providers to furnish all contracted benefits to enrollees. The
5 provisions of this subdivision shall not be construed to require
6 any health care provider to submit copies of such health care
7 provider's income tax returns to a health carrier. A health
8 carrier may require a health care provider to obtain audited
9 financial statements if such health care provider received ten
10 percent or more of the total medical expenditures made by the
11 health carrier.

12 (4) A health carrier shall make its entire network
13 available to all enrollees unless a contract holder has agreed in
14 writing to a different or reduced network.

15 2. A health carrier shall file with the director, in a
16 manner and form defined by rule of the [department of insurance]
17 director, an access plan meeting the requirements of sections
18 354.600 to 354.636 for each of the managed care plans that the
19 health carrier offers in this state. The health carrier may
20 request the director to deem sections of the access plan as
21 proprietary or competitive information that shall not be made
22 public. For the purposes of this section, information is
23 proprietary or competitive if revealing the information will
24 cause the health carrier's competitors to obtain valuable
25 business information. The health carrier shall provide such
26 plans, absent any information deemed by the director to be
27 proprietary, to any interested party upon request. The health
28 carrier shall prepare an access plan prior to offering a new

1 managed care plan, and shall update an existing access plan
2 whenever it makes any change as defined by the director to an
3 existing managed care plan. The director shall approve or
4 disapprove the access plan, or any subsequent alterations to the
5 access plan, within sixty days of filing. The access plan shall
6 describe or contain at a minimum the following:

7 (1) The health carrier's network;

8 (2) The health carrier's procedures for making referrals
9 within and outside its network;

10 (3) The health carrier's process for monitoring and
11 assuring on an ongoing basis the sufficiency of the network to
12 meet the health care needs of enrollees of the managed care plan;

13 (4) The health carrier's methods for assessing the health
14 care needs of enrollees and their satisfaction with services;

15 (5) The health carrier's method of informing enrollees of
16 the plan's services and features, including but not limited to
17 the plan's grievance procedures, its process for choosing and
18 changing providers, and its procedures for providing and
19 approving emergency and specialty care;

20 (6) The health carrier's system for ensuring the
21 coordination and continuity of care for enrollees referred to
22 specialty physicians, for enrollees using ancillary services,
23 including social services and other community resources, and for
24 ensuring appropriate discharge planning;

25 (7) The health carrier's process for enabling enrollees to
26 change primary care professionals;

27 (8) The health carrier's proposed plan for providing
28 continuity of care in the event of contract termination between

1 the health carrier and any of its participating providers, in the
2 event of a reduction in service area or in the event of the
3 health carrier's insolvency or other inability to continue
4 operations. The description shall explain how enrollees shall be
5 notified of the contract termination, reduction in service area
6 or the health carrier's insolvency or other modification or
7 cessation of operations, and transferred to other health care
8 professionals in a timely manner; and

9 (9) Any other information required by the director to
10 determine compliance with the provisions of sections 354.600 to
11 354.636.

12 3. In reviewing an access plan filed pursuant to subsection
13 2 of this section, the director shall deem a managed care plan's
14 network to be adequate if it meets one or more of the following
15 criteria:

16 (1) The managed care plan is a Medicare + Choice
17 coordinated care plan offered by the health carrier pursuant to a
18 contract with the federal Centers for Medicare and Medicaid
19 Services;

20 (2) The managed care plan is being offered by a health
21 carrier that has been accredited by the National Committee for
22 Quality Assurance at a level of "accredited" or better, and such
23 accreditation is in effect at the time the access plan is filed;

24 (3) The managed care plan's network has been accredited by
25 the Joint Commission on the Accreditation of Health Organizations
26 for Network Adequacy, and such accreditation is in effect at the
27 time the access plan is filed. If the accreditation applies to
28 only a portion of the managed care plan's network, only the

1 accredited portion will be deemed adequate; or

2 (4) The managed care plan is being offered by a health
3 carrier that has been accredited by the Utilization Review
4 Accreditation Commission at a level of "accredited" or better,
5 and such accreditation is in effect at the time the access plan
6 is filed.

7 354.627. 1. The executing of a contract by a health
8 carrier shall not relieve the health carrier of its liability to
9 any person with whom it has contracted for the provision of
10 services, or of its responsibility for compliance with the law or
11 applicable regulations.

12 2. All contracts shall be in writing and may be subject to
13 review by the [department of insurance] director.

14 3. All contracts shall comply with applicable requirements
15 of the law and applicable regulations.

16 354.700. As used in sections 354.700 to 354.723, the
17 following terms mean:

18 (1) "Dental care services", services included in the
19 practice of dentistry as defined in section 332.071, RSMo;

20 (2) "Director", the director of the department of
21 insurance, financial and professional regulation;

22 (3) "Enrollee", an individual who is enrolled in a prepaid
23 dental plan as a principal subscriber together with such
24 individual's dependents who are entitled to dental care benefits
25 under the plan solely because of their status as dependents of
26 the principal subscriber;

27 (4) "Prepaid dental plan", any contractual arrangement to
28 provide, either directly or through arrangement with others,

1 specified dental benefits to enrollees on a fixed prepayment
2 basis or as a benefit of such enrollees' participation or
3 membership in any other contract, agreement, or group or any
4 corporation, partnership or other entity which undertakes to
5 provide or arrange specified dental benefits on a prepayment or
6 other basis or to indemnify for specified dental benefits;

7 (5) "Prepaid dental plan corporation", a corporation
8 operating a prepaid dental plan;

9 (6) "Provider", any person licensed as a dentist pursuant
10 to chapter 332, RSMo.

11 354.703. 1. The director [of the department of insurance]
12 may issue an order directing any person or entity to cease and
13 desist from engaging in any act or practice in violation of
14 sections 354.700 to 354.723. Within twenty days after service of
15 the order to cease and desist, the respondent may request a
16 hearing on the question of whether acts or practices in violation
17 of sections 354.700 to 354.723, have occurred. Such hearing
18 shall be conducted, and judicial review shall be available, as
19 provided in chapter 536, RSMo.

20 2. In the case of noncompliance with a cease and desist
21 order issued pursuant to subsection 1 of this section, the
22 director may institute a proceeding to obtain injunctive or other
23 appropriate relief in the circuit court.

24 361.010. 1. There is hereby created a "State Division of
25 Finance", which shall be under the management and control of a
26 chief officer who shall be called the "Director of Finance".

27 2. The director of finance shall maintain his office at the
28 City of Jefferson, reside in the state of Missouri, and shall

1 devote all of his time to the duties of his office. The division
2 of design and construction is hereby required to provide the
3 director of finance and the state division of finance with
4 suitable rooms.

5 3. The division of finance with all of its powers, duties
6 and functions is assigned by type III transfer under the
7 authority of the Omnibus State Reorganization Act of 1974 and
8 Executive Order 6-04, to the department of insurance, financial
9 and professional regulation. All of the general provisions,
10 definitions and powers enumerated in section 1 of the Omnibus
11 State Reorganization Act of 1974 and Executive Order 6-04 shall
12 apply to this department and its divisions, agencies and
13 personnel.

14 4. Wherever the laws, rules or regulations of this state
15 make reference to the "division of finance of the department of
16 economic development" or to the "division of finance", such
17 references shall be deemed to refer to the division of finance of
18 the department of insurance, financial and professional
19 regulation.

20 361.092. There is hereby created [in the department of
21 economic development], a "State Banking Board" which shall have
22 such powers and duties as are conferred upon it by law. The
23 State Banking Board with all of its powers, duties and functions
24 is assigned by type III transfer under the authority of the
25 Omnibus State Reorganization Act of 1974 and Executive Order 6-
26 04, to the department of insurance, financial and professional
27 regulation.

28 361.140. 1. The director of finance shall prepare the

1 following information to be included in the report of the
2 director of the department of [economic development] insurance,
3 financial and professional regulation:

4 (1) A summary of the state and condition of every
5 corporation required to report to him or her and from which
6 reports have been received or obtained pursuant to subsection 3
7 of section 361.130 during the preceding two years, at the several
8 dates to which such reports refer, with an abstract of the whole
9 amount of capital reported by them, the whole amount of their
10 debts and liabilities and the total amount of their resources,
11 specifying in the case of banks and trust companies the amount of
12 lawful money held by them at the time of their several reports,
13 and such other information in relation to such corporations as,
14 in his or her judgment, may be useful;

15 (2) A statement of all corporations authorized by him or
16 her to do business during the previous biennium with their names
17 and locations and the dates on which their respective
18 certificates of incorporation were issued, particularly
19 designating such as have commenced business during the biennium;

20 (3) A statement of the corporations whose business has been
21 closed either voluntarily or involuntarily, during the biennium,
22 with the amount of their resources and of their deposits and
23 other liabilities as last reported by them and the amount of
24 unclaimed and unpaid deposits, dividends and interest held by him
25 or her on account of each;

26 (4) A statement of the amount of interest earned upon all
27 unclaimed deposits, dividends and interest held by him or her
28 pursuant to the requirements of this chapter;

1 (5) Any amendments to this chapter, which, in his or her
2 judgment, may be desirable;

3 (6) The names and compensation of the deputies, clerks,
4 examiners, special agents and other employees employed by him or
5 her, and the whole amount of the receipts and expenditures of the
6 division during each of the last two preceding fiscal years.

7 2. All such reports shall be printed at the expense of the
8 state and paid for as other public printing.

9 361.160. 1. The director of finance at least once each
10 year, either personally or by a deputy or examiner appointed by
11 the director, shall visit and examine every bank and trust
12 company organized and doing business under the laws of this
13 state, and every other corporation which is by law required to
14 report to the director; except, for banks or trust companies
15 receiving a Camel 1 or Camel 2 rating from the division of
16 finance, the director of finance at least once each eighteen
17 calendar months either personally or by a deputy or examiner
18 appointed by the director, shall visit and examine such bank or
19 trust company, and the director of finance, at the director's
20 discretion, may conduct the director's examination, or any part
21 thereof, on the basis of information contained in examination
22 reports of other states, the Federal Deposit Insurance
23 Corporation or the Federal Reserve Board or in audits performed
24 by certified public accountants. The director shall be afforded
25 prompt and free access to any workpapers upon which a certified
26 public accountant bases an audit. A certified public accountant
27 shall retain workpapers for a minimum of three years after the
28 date of issuance of the certified public accountant's report to

1 the bank or trust company. The director or the director's agent
2 may concentrate the examinations on institutions which the
3 director believes have safety or soundness concerns.

4 2. The director, or the deputy or examiners designated by
5 the director for that purpose, shall have power to examine any
6 such corporation whenever, in the director's judgment, it may be
7 deemed necessary or expedient, and shall have power to examine
8 every agency located in this state of any foreign banking
9 corporation and every branch in this state of any out-of-state
10 bank, for the purpose of ascertaining whether it has violated any
11 law of this state, and for such other purposes and as to such
12 other matters as the director may prescribe.

13 3. The director and the director's deputy and examiners
14 shall have power to administer oaths to any person whose
15 testimony may be required in such examination or investigation of
16 any such corporation or agency, and to compel the appearance and
17 attendance of any person for the purpose of any such examination
18 or investigation.

19 4. On every such examination inquiry shall be made as to
20 the condition and resources of such corporation, the mode of
21 conducting and managing its affairs, the actions of its directors
22 or trustees, the investment of its funds, the safety and prudence
23 of its management, the security afforded to its creditors, and
24 whether the requirements of its charter and of law have been
25 complied with in the administration of its affairs, and as to
26 such other matters as the director may prescribe.

27 5. The director may also make such special investigations
28 as the director deems necessary to determine whether any

1 individual or corporation has violated any of the provisions of
2 this law.

3 6. Such examination may be made and such inquiry instituted
4 or continued in the discretion of the director after the director
5 has taken possession of the property and business of any such
6 corporation, until it shall resume business or its affairs shall
7 be finally liquidated in accordance with the provisions of this
8 chapter.

9 7. The result of each examination shall be certified by the
10 director or the examiner upon the records of the corporation
11 examined and the result of all examinations during the biennial
12 period shall be embodied in the report to be made by the director
13 of the department of [economic development] insurance, financial
14 and professional regulation to the legislature.

15 8. The director may contract with regulators in other
16 states to provide for the examination of Missouri branches of
17 out-of-state banks and branches of banks whose home state is
18 Missouri. The agreements may provide for the payment by the home
19 state of the cost of examinations conducted by the host state at
20 the request of the home state regulators.

21 362.109. Notwithstanding any law to the contrary, any order
22 or ordinance by any political subdivision shall be consistent
23 with and not more restrictive than state law and regulations
24 governing lending or deposit taking entities regulated by the
25 division of finance or the division of credit unions [within the
26 department of economic development].

27 362.332. 1. As used in this section, the following words
28 and phrases shall mean:

1 (1) "Bank", any bank subject to the provisions of chapter
2 362, which is duly authorized to exercise trust powers, and any
3 national bank which is authorized to exercise trust powers under
4 the laws of the United States and which has its principal place
5 of business in Missouri, including a national bank whose
6 operations include providing trust and other fiduciary services
7 and related activities;

8 (2) "Beneficiary", any person or entity which benefits
9 from, or has a present or future interest in, any money or
10 property administered by a person with a fiduciary obligation;

11 (3) "Director", the director of the division of finance [of
12 the department of economic development];

13 (4) "Fiduciary obligation", any obligation of any bank or
14 trust company to a person or entity resulting from an
15 appointment, designation or undertaking to act alone or jointly
16 with others primarily for the benefit of others in matters
17 connected with such appointment, designation or undertaking, and
18 including, but is not limited to, acting as a trustee of a trust,
19 including a testamentary or nontestamentary trust, or a trustee
20 of a common trust fund; executor; administrator; personal
21 representative; guardian; conservator; custodian; assignee;
22 depository; receiver; attorney-in-fact; registrar or transfer
23 agent with respect to stocks, bonds or other evidences of
24 indebtedness of any corporation, association, state,
25 municipality, or public authority; agent, including escrow agent
26 or agent for the investment of money; or in any other similar
27 capacity. The term "fiduciary obligation" includes any
28 obligation occurring as a result of an appointment or designation

1 to any foregoing capacity upon the death of a person serving in
2 such capacity or upon the happening of any other future event;

3 (5) "Transferee", a bank or trust company assuming
4 fiduciary obligations pursuant to this section from a transferor;

5 (6) "Transferor", a bank or trust company transferring
6 fiduciary obligations pursuant to this section to a transferee;

7 (7) "Trust company", any trust company or bank organized
8 under the laws of this state which is duly authorized to exercise
9 trust powers.

10 2. Notwithstanding any other provision of law to the
11 contrary, a bank or trust company may transfer by assignment to
12 another bank or trust company any or all of the fiduciary
13 obligations of such bank or trust company, without any order of
14 or other action by any court or any consent or other approval of
15 any interested person, except as provided in subsection 5 of this
16 section, upon the prior approval of the director and provided
17 that the transferor and transferee comply with the provisions of
18 this section. The assignment may encompass all fiduciary
19 obligations, a general class or classes of fiduciary obligations,
20 or specified individual accounts or other particularly identified
21 fiduciary obligations.

22 3. The transferor, transferee or any beneficiary on behalf
23 of all beneficiaries jointly, shall file an application for
24 approval of the transfer of a fiduciary obligation with the
25 director, and shall provide all relevant information as the
26 director may deem necessary. The transferee shall also file
27 proof with the director that the transferee has given written
28 notice by certified mail of the proposed transfer, including a

1 summary of the provisions of subsection 5 of this section
2 relating to objections to the transfer of the fiduciary
3 obligation, at least thirty days and not more than sixty days
4 prior to the filing of the application, to the transferor, all
5 persons, firms, organizations or corporations who are known to
6 the applicant to be living or existing grantors under each
7 affected trust or other fiduciary obligation, or if there is no
8 such known living or existing grantor, to each living or existing
9 beneficiary thereof known to the transferee. If any living or
10 existing grantor or any such beneficiary delivers to the
11 applicant any communication regarding the proposed transfer, the
12 applicant shall furnish the director with a copy of such
13 communication together with any accompanying documents. If the
14 director determines that the transferee has the authority and is
15 qualified to complete the fiduciary obligation, and that the
16 transfer of the fiduciary obligation will not materially
17 adversely affect the fiduciary obligation, he shall issue an
18 order approving the transfer of the fiduciary obligation. If the
19 director fails to approve or deny the transfer of the fiduciary
20 obligation within thirty days of the date of the filing of the
21 application with the director, the application shall be deemed
22 approved by the director.

23 4. If the director approves the transfer of a fiduciary
24 obligation, within twenty days of the approval, the transferee
25 shall publish a notice of the transfer of the fiduciary
26 obligation pursuant to this section in a newspaper of general
27 circulation in the county or city where the transferor's main
28 banking house or principal place of business, respectively, is

1 located. The transfer of the fiduciary obligation shall be
2 effective upon the thirtieth day after the date of such
3 publication except with respect to any fiduciary obligation which
4 upon that date is the subject of notice of objection made
5 pursuant to subsection 5 of this section.

6 5. Within thirty days after the publication of notice of
7 approval by the director of the transfer of a fiduciary
8 obligation pursuant to subsection 4 of this section, any grantor
9 or beneficiary who was entitled to receive a written notice
10 pursuant to subsection 3 of this section may give written notice
11 to the transferee objecting to the transfer of the fiduciary
12 obligation in which such person has an interest. In order to
13 complete the transfer, the transferee may petition the probate
14 division of the circuit court of the county or city not within a
15 county in which the notice was published to determine whether the
16 transfer of the fiduciary capacity will materially adversely
17 affect the administration of the fiduciary account. After notice
18 to all interested parties and a hearing on the issues, the
19 circuit court may deny the relief sought by the petitioning
20 transferee and not transfer the fiduciary obligation to the
21 petitioning transferee, may appoint a new fiduciary to succeed
22 the transferor if the court finds that the appointment of a new
23 fiduciary is in the best interests of the beneficiaries of the
24 fiduciary obligation but that the transfer of the fiduciary
25 obligation to the petitioning transferee will materially
26 adversely affect the administration of the fiduciary account, or
27 shall order the transferor to transfer by assignment the
28 fiduciary obligation to the petitioning transferee.

1 6. On the effective date of the transfer of a fiduciary
2 obligation pursuant to this section, the transferor shall be
3 released from all transferred fiduciary obligations and all
4 liability relating to such transferred fiduciary obligations, and
5 shall cease to act regarding all such transferred fiduciary
6 obligations, except that such transferor shall not be relieved of
7 any liabilities arising out of a breach of a fiduciary obligation
8 occurring prior to such effective date. The transferor shall
9 file an itemized accounting of all assets and liabilities in each
10 transferred fiduciary account with the transferee upon the
11 effective date of the transfer. Notwithstanding the provision of
12 any law or the provision of any agreement to the contrary, the
13 transferor shall not impose fees relating to the transfer of the
14 fiduciary obligation in excess of the actual cost to the
15 transferor of the transfer of the fiduciary obligation. The
16 failure by a bank or trust company to give any notice required by
17 subsection 3 of this section with respect to any fiduciary
18 account shall not affect the validity of the transfer of a
19 fiduciary obligation pursuant to this section with respect to any
20 other fiduciary obligation or account.

21 7. Any appointment or other designation of a bank or trust
22 company to a fiduciary obligation in a trust, will or other
23 instrument shall be deemed to be made based only on facts and
24 circumstances in existence on the date and at the time that the
25 appointment or designation is made, and the director or a court,
26 when considering the transfer of a fiduciary obligation, shall
27 consider whether the transferee has the authority to complete the
28 fiduciary obligation and is qualified to do so, the effect of the

1 transfer of the fiduciary obligation including whether the
2 transfer of the fiduciary obligation will materially adversely
3 affect the fiduciary obligation, and whether the transfer of the
4 fiduciary obligation is in the best interests of the
5 beneficiaries of the fiduciary obligation.

6 362.910. As used in sections 362.910 to 362.940, unless the
7 context clearly indicates otherwise, the following terms mean:

8 (1) "Bank", any bank, trust company or national banking
9 association which accepts demand deposits and makes loans, and
10 which has its principal banking house in Missouri and a branch of
11 any bank, trust company or national banking association which
12 accepts demand deposits and which has a physical presence in
13 Missouri, other than a branch located outside of Missouri;

14 (2) "Bank holding company", any company which has control
15 over any bank or over any company that is a bank holding company;

16 (3) "Company", any corporation, partnership, business
17 trust, association, or similar organization, or any other trust
18 unless by its terms it must terminate within twenty-five years or
19 not later than twenty-one years and ten months after the death of
20 individuals living on the effective date of the trust, but shall
21 not include any corporation the majority of the shares of which
22 are owned by the United States or by any state;

23 (4) "Control", a company has control over a bank, trust
24 company, or company if:

25 (a) The company directly or indirectly or acting through
26 one or more other persons owns, controls, or has power to vote
27 twenty-five percent or more of any class of voting securities of
28 the bank or company;

1 (b) The company controls in any manner the election of a
2 majority of the directors or trustees of the bank or company; or

3 (c) The company directly or indirectly exercises a
4 controlling influence over the management or policies of the bank
5 or company;

6 (d) Provided, however, no company shall be deemed to have
7 control over a bank or a company by virtue of its ownership or
8 control of shares acquired by it in connection with its
9 underwriting of securities and which are held only for such
10 period of time as will permit the sale thereof upon a reasonable
11 basis, or which is formed for the sole purpose of participating
12 in a proxy solicitation, or which acquires ownership or control
13 of shares in securing or collecting a debt previously contracted
14 in good faith, until two years after the date of acquisition, or
15 which acquires ownership or control of shares in a fiduciary
16 capacity. For the purpose of sections 362.910 to 362.940, bank
17 shares shall not be deemed to have been acquired in a fiduciary
18 capacity if the acquiring bank or company in its capacity as
19 trustee of a trust has sole discretionary authority to exercise
20 voting rights with reference thereto; except that this limitation
21 is applicable in the case of a bank or company which acquired
22 such shares prior to December 31, 1970, only if the bank or
23 company had the right consistent with its obligations under the
24 instrument, agreement, or other arrangement establishing the
25 trust relationship to divest itself of such voting rights and
26 failed to exercise that right to divest prior to December 31,
27 1971;

28 (5) "Director" or "director of finance", the director of

1 the division of finance [of the department of economic
2 development];

3 (6) "Trust holding company", any company which has control
4 over any trust company or over any company that is a trust
5 holding company.

6 365.080. 1. The amount, if any, included in any retail
7 installment transaction for insurance, if a separate identified
8 charge is made for the insurance, which insurance may be
9 purchased by the holder of the contract, shall not exceed the
10 applicable premiums chargeable in accordance with the rates
11 approved by the department of insurance, financial and
12 professional regulation of this state where the rates are
13 required by law to be approved by the department. All insurance
14 shall be written by an insurance company authorized to do
15 business in this state and all policies written in this state
16 shall be countersigned by a duly licensed resident agent
17 authorized to engage in the insurance business in this state,
18 unless otherwise provided by law. A buyer may be required to
19 provide insurance on the motor vehicle at his own cost for the
20 protection of the seller or holder, as well as the buyer, but the
21 insurance shall be limited to insurance against substantial risk
22 of loss, damage or destruction of the motor vehicle. Any other
23 insurance, including insurance providing involuntary unemployment
24 coverage, may be included in a retail installment transaction at
25 the buyer's expense only if contracted for voluntarily by the
26 buyer. If the insurance for which the identified charge is made
27 insures the safety or health of the buyer or his interest in the
28 motor vehicle and is purchased by the holder, it shall be subject

1 to the limitations provided for in the regulations promulgated
2 and issued by the director pursuant to the provision of
3 subsection 1 of section 365.060. The holder shall within thirty
4 days after the execution of the retail installment contract send
5 or cause to be sent to the buyer a policy or certificate of
6 insurance, clearly setting forth the amount of the cost of the
7 policy or certificate of insurance, the kinds of insurance, and,
8 if a policy, all the terms, exceptions, limitations, restrictions
9 and conditions of the contract of insurance, or, if a
10 certificate, a summary of the certificate. The seller shall not
11 decline existing insurance written by an insurance company
12 authorized to do business in this state and the buyer shall have
13 the privilege of purchasing insurance from an agent or broker of
14 his own selection and of selecting his insurance company; except,
15 that the insurance company shall be acceptable to the holder, and
16 further, that the inclusion of the cost of the insurance in the
17 retail installment contract when the buyer selects his agent,
18 broker or company, shall be optional with the seller.

19 2. If any insurance is canceled, or the premium adjusted,
20 any refund of the insurance premium received by the holder shall
21 be credited to the final maturing installments of the contract
22 except to the extent applied toward payment for similar insurance
23 protecting the interests of the buyer and the holder or either of
24 them.

25 3. The amount of any life insurance shall not exceed the
26 amount of the total unpaid balance from time to time; except,
27 that where the buyer's obligation is repayable in payments which
28 are not substantially equal in amount, the insurance may be level

1 term insurance in an amount which shall not exceed by more than
2 five dollars the time balance as determined under subsection 6 of
3 section 365.070.

4 4. Nothing in this chapter shall be construed to prohibit
5 the sale of a deficiency waiver addendum, guaranteed asset
6 protection, extended service contract, or other similar products
7 purchased at the time of sale, as part of a retail sale
8 transaction involving any motor vehicle, or including the cost
9 therefor within a retail installment transaction, provided the
10 requirements of section 365.070 are met.

11 367.500. As used in sections 367.500 to 367.533, unless the
12 context otherwise requires, the following terms mean:

13 (1) "Borrower", a person who borrows money pursuant to a
14 title loan agreement;

15 (2) "Capital", the assets of a person less the liabilities
16 of that person. Assets and liabilities shall be measured
17 according to generally accepted accounting principles;

18 (3) "Certificate of title", a state-issued certificate of
19 title or certificate of ownership for personal property;

20 (4) "Director", the director of the division of finance [of
21 the department of economic development] or its successor agency;

22 (5) "Person", any resident of the state of Missouri or any
23 business entity formed under Missouri law or duly qualified to do
24 business in Missouri;

25 (6) "Pledged property", personal property, ownership of
26 which is evidenced and delineated by a title;

27 (7) "Title lending office" or "title loan office", a
28 location at which, or premises in which, a title lender regularly

1 conducts business;

2 (8) "Title lender", a person qualified to make title loans
3 pursuant to sections 367.500 to 367.533 who maintains at least
4 one title lending office within the state of Missouri, which
5 office is open for the conduct of business not less than thirty
6 hours per week, excluding legal holidays;

7 (9) "Title loan agreement", a written agreement between a
8 borrower and a title lender in a form which complies with the
9 requirements of sections 367.500 to 367.533. The title lender
10 shall perfect its lien pursuant to sections 301.600 to 301.660,
11 RSMo, but need not retain physical possession of the titled
12 personal property at any time; and

13 (10) "Titled personal property", any personal property
14 excluding property qualified to be a personal dwelling the
15 ownership of which is evidenced by a certificate of title.

16 370.005. As used in this chapter, the [term "director"
17 means] following terms mean:

18 (1) "Director", the director of the division of credit
19 unions [of the department of economic development];

20 (2) "Division", the division of credit unions.

21

22 370.006. 1. There is hereby created a "Division of Credit
23 Unions", to be headed by a director appointed by the governor
24 with the advice and consent of the senate.

25 2. The division of credit unions with all of its powers,
26 duties and functions is assigned by type III transfer under the
27 authority of the Omnibus State Reorganization Act of 1974 and
28 Executive Order 6-04, to the department of insurance, financial

1 and professional regulation. All of the general provisions,
2 definitions and powers enumerated in section 1 of the Omnibus
3 State Reorganization Act of 1974 and Executive Order 6-04 shall
4 apply to this department and its divisions, agencies and
5 personnel.

6 3. The salary of the director of the division of credit
7 unions shall be set by the director of the department within the
8 limits of the appropriations therefor.

9 4. Wherever the laws, rules or regulations of this state
10 make reference to the "division of credit unions of the
11 department of economic development" or to the "division of credit
12 unions", such references shall be deemed to refer to the division
13 of credit unions of the department of insurance, financial and
14 professional regulation.

15 370.366. 1. Upon compliance with any applicable laws of
16 the United States and upon obtaining the approval of the
17 directors of the division of finance and the division of credit
18 unions [within the department of economic development], any
19 central credit union organized pursuant to section 370.365 may be
20 converted under the laws of this state into a bank or trust
21 company located in this state, or may be consolidated or merged
22 with one or more banks or trust companies or central credit
23 unions incorporated under the laws of the United States or any
24 state under the charter of a bank or trust company incorporated
25 under the laws of this state; provided, however, that the central
26 credit union and its members must comply with the procedure,
27 notice and voting requirements of sections 370.351 to 370.357,
28 and that the approval of the director of finance shall not be

1 required for transactions not involving a bank or trust company.
2 The name of the resulting or surviving bank or trust company in
3 the case of conversion, consolidation or merger may be the name
4 of a party to the conversion, consolidation or merger, provided
5 that in no case shall the name contain the word "national" or
6 "federal" or be the same as or deceptively similar to the name of
7 any bank or trust company incorporated under the laws of this
8 state which is engaged in business at the time of the particular
9 conversion, consolidation or merger and is not a party thereto.

10 2. (1) In the case of conversion the majority of the board
11 of directors of the central credit union shall proceed as is
12 provided by law for other individuals incorporating a bank or
13 trust company under the laws of this state except that the
14 articles of agreement:

15 (a) May provide that instead of the capital stock having
16 actually been paid up in money it is to be paid up in assets of
17 the converting central credit union, the net value of which is
18 equal to at least the full amount of the capital stock of the
19 proposed resulting bank or trust company which capital stock
20 shall be no less than that required by law for a bank or trust
21 company, as the case may be, to be located in the state of
22 Missouri;

23 (b) Shall provide that the proposed resulting bank or trust
24 company is and shall be considered the same business and
25 corporate entity as, and a continuation of the corporate entity
26 and identity of, the converting central credit union although as
27 to rights, powers and duties the proposed resulting institution
28 is a bank or trust company incorporated under the laws of the

1 state of Missouri;

2 (c) Shall set out the names and addresses of all persons
3 who are to be officers of the proposed bank or trust company; and

4 (d) Shall set out the manner as provided in subdivision (1)
5 of section 370.356 in which the ownership interest of the members
6 shall be converted into stock of the resulting bank or trust
7 company which stock ownership by the member or shareholder shall
8 be lawful for this sole purpose; provided, however, that the
9 director of finance may reject any such application upon a
10 determination that the statutory treatment accorded the members
11 of the converting central credit union is not fair and
12 reasonable.

13 (2) If the director of finance, as the result of an
14 examination and investigation made by the division of finance, is
15 satisfied that such assets are of such value and that the
16 character, responsibility and general fitness of the persons
17 named in the articles of agreement are such as to command
18 confidence and warrant belief that the business of the proposed
19 corporation will be honestly and efficiently conducted in
20 accordance with the purpose and intent of the laws of this state
21 relative to banks or trust companies, the director of finance
22 shall grant the charter. If the director of finance is not
23 satisfied, the director of finance shall forthwith give notice
24 thereof to the majority of the board of directors of the
25 converting central credit union who shall have the same right of
26 appeal as is provided by the laws of this state in the case of
27 the proposed incorporators of a new bank or trust company.

28 (3) Upon the approval of the particular conversion being

1 granted, the director of finance shall execute and deliver to the
2 majority of the board of directors of the converting central
3 credit union a certificate declaring that the bank or trust
4 company therein named has been duly organized and is the
5 institution resulting from the conversion of the central credit
6 union into the resulting bank or trust company, and that the
7 resulting bank or trust company is and shall be considered the
8 same business and corporate entity as, and a continuation of the
9 corporate entity and identity of, the converting central credit
10 union. The certificate shall be recorded in the office of the
11 recorder of deeds of the county or city in which the resulting
12 bank or trust company is located and the certificate so recorded,
13 or certified copies thereof, shall be taken in all the courts of
14 this state as evidence of the conversion of the central credit
15 union into the resulting bank or trust company and that the
16 resulting bank or trust company is the same business and
17 corporate entity as, and a continuation of the corporate entity
18 and identity of, the converting central credit union.

19 (4) When the director of finance has given a certificate as
20 aforesaid:

21 (a) The resulting bank or trust company and all its
22 stockholders, directors, officers, and employees shall have the
23 same powers and privileges and be subject to the same duties and
24 liabilities in all respects as if such an institution had
25 originally been organized as a bank or trust company under the
26 laws of this state;

27 (b) All the rights, franchises, and interests of the
28 converting central credit union in and to every type of property,

1 real, personal and mixed, and choses in action thereto belonging
2 shall be deemed to be transferred to and vest in the resulting
3 bank or trust company without any deed or other transfer; and

4 (c) The resulting bank or trust company by virtue of the
5 conversion and without any order of any court or otherwise shall
6 hold and enjoy the same and all rights of property and interests
7 including, but not limited to, appointments, designations and
8 nominations and all other rights and interests, as trustee,
9 personal representative, conservator, receiver, registrar,
10 assignee and every other fiduciary capacity in the same manner
11 and to the same extent as these rights and interests were held or
12 enjoyed by the converting central credit union at the time of its
13 conversion into the resulting bank or trust company; provided,
14 however, that its corporate powers shall be limited to those
15 granted to a bank or trust company under the laws of this state.

16 3. In the case of consolidation or merger, the same shall
17 be consummated by each federally chartered central credit union
18 complying with the laws of the United States relating to the
19 consent of its members, by each state chartered central credit
20 union complying with sections 370.351 to 370.357 relating to the
21 consent of its members, and also by each bank or trust company
22 complying with the provisions of the laws of this state relating
23 to consolidation or merger of banks or trust companies, except
24 that where the resulting institution is a bank rather than a
25 trust company the number and qualifications of directors and any
26 requirement that directors shall or may be divided into classes
27 shall be determined as provided by law for banks. The rights of
28 dissenting shareholders of the bank or trust company shall be

1 determined as provided by the laws of this state in the case of
2 consolidation or merger of banks or trust companies. The rights
3 of dissenting shareholders of the central credit union shall be
4 determined as provided by section 370.356. In the case of
5 consolidation or merger the resulting bank or trust company shall
6 be considered the same business and corporate entity as, and a
7 continuation of the corporate entity and identity of, each
8 central credit union and each bank or trust company which is a
9 party to the consolidation or merger.

10 374.005. 1. The department of insurance created by Section
11 36(b) of Article IV of the Missouri Constitution shall operate
12 under the name "Department of Insurance, Financial and
13 Professional Regulation". Under the authority of the Omnibus
14 State Reorganization Act of 1974 and Executive Order 6-04, the
15 department shall administer and enforce the laws assigned to the
16 department.

17 2. Unless otherwise clearly indicated by the context, the
18 following words, as used in this chapter, mean:

19 (1) "Department", the department of insurance, financial
20 and professional regulation; and

21 (2) "Director", the director of the department of
22 insurance, financial and professional regulation.

23 3. Wherever the laws, rules or regulations of this state
24 make reference to the "department of insurance" or the
25 "department of insurance, financial and professional regulation",
26 such references shall be deemed to refer to the department
27 created by Section 36(b) of Article IV of the Missouri
28 Constitution and this chapter.

1 374.010. The [insurance] department of insurance, financial
2 and professional regulation shall be charged with the execution
3 of all laws now in force, or which may be hereafter enacted, in
4 relation to insurance and insurance companies doing business in
5 this state, and such other duties as are provided for by law.

6 374.020. 1. The chief officer of said department shall be
7 designated as the director of the department of insurance,
8 financial and professional regulation. He shall be a citizen of
9 this state, and experienced in matters of insurance, and be
10 appointed by the governor, by and with the advice and consent of
11 the senate, and shall hold his office concurrently with that of
12 the governor and until his successor is appointed and qualified,
13 and shall be subject to removal from office by the governor at
14 his pleasure.

15 2. If a vacancy shall at any time occur, the same shall be
16 filled by the governor, by appointment, subject to the
17 confirmation of the senate, if in session; if not, then at its
18 next session.

19 3. It shall not be lawful for the director or his deputy to
20 hold any position as officer, agent or employee of any insurance
21 or assurance company, nor shall he otherwise be directly or
22 indirectly interested in any insurance company, except as a
23 policyholder.

24 374.040. 1. It shall be the duty of the director [of the
25 insurance department] to file in his office and safely keep all
26 books and papers required by law to be filed therein, to issue
27 certificates of authority to transact insurance business in this
28 state to any companies who have fully complied with the laws of

1 this state, and to issue such other certificates as are required
2 by the laws of this state in the organization of insurance
3 companies and the transaction of the business of insurance, and
4 generally to do and perform with justice and impartiality all
5 such duties as are or may be imposed upon him by the laws
6 regulating the business of insurance in this state and to perform
7 those duties imposed upon him in such a manner as to be in the
8 best interests of and protect the general public, policyholders,
9 insurance companies, and the officers, directors and stockholders
10 thereof; and every director shall, upon retiring from office,
11 deliver to his qualified successor the possession of his office,
12 and all furniture, papers and property belonging to the same.

13 2. Notwithstanding the provisions of sections 621.015 to
14 621.198, RSMo, whenever the director [of insurance] undertakes to
15 issue, refuse, revoke or suspend the license or certificate of
16 authority of an insurance company, fraternal benefit society, or
17 reciprocal or interinsurance exchange, he shall proceed in
18 accordance with the insurance laws of this state.

19 374.045. 1. The director shall have the full power and
20 authority to make all reasonable rules and regulations to
21 accomplish the following purposes:

22 (1) To regulate the internal affairs of the department of
23 insurance, financial and professional regulation;

24 (2) To prescribe forms and procedures to be followed in
25 proceedings before the department of insurance, financial and
26 professional regulation; and

27 (3) To effectuate or aid in the interpretation of any law
28 of this state [pertaining to the business of insurance] in this

1 chapter, chapter 354, RSMo, chapters 375 to 385, RSMo, or as
2 otherwise authorized by law.

3 2. The director may from time to time withdraw or amend any
4 rule or regulation in this chapter, chapter 354, RSMo, chapters
5 375 to 385, RSMo, or as otherwise authorized by law.

6 3. [No rule or regulation shall conflict with any law of
7 this state. No rule or portion of a rule promulgated under the
8 authority of this chapter shall become effective unless it has
9 been promulgated pursuant to the provisions of section 536.024,
10 RSMo] Any rule or portion of a rule, as that term is defined in
11 section 536.010, RSMo, that is created under the authority
12 delegated in this section shall become effective only if it
13 complies with and is subject to all of the provisions of chapter
14 536, RSMo, and, if applicable, section 536.028, RSMo. This
15 section and chapter 536, RSMo, are nonseverable and if any of the
16 powers vested with the general assembly pursuant to chapter 536,
17 RSMo, to review, to delay the effective date, or to disapprove
18 and annul a rule are subsequently held unconstitutional, then the
19 grant of rulemaking authority and any rule proposed or adopted
20 after August 28, 2007, shall be invalid and void.

21 4. At least fifteen days prior to the adoption of any rule
22 or regulation, or any amendment thereof, to be issued under the
23 provisions of subdivision (3) of subsection 1, the director shall
24 give notice of a hearing on the proposed action. The notice
25 shall be mailed to all persons who have made timely requests of
26 the [department of insurance] director for advance notice of its
27 rulemaking proceedings. The notice shall contain a statement of
28 the terms or the substance of the proposed rule or regulation.

1 In addition, the notice shall give the time and place where a
2 hearing on the proposed rule or regulation will be held and the
3 manner in which interested parties may present their views
4 thereon. On the date of the hearing, all interested parties
5 shall be given reasonable opportunity to present their views or
6 arguments in writing or orally. The failure of any person to
7 receive any notice of a hearing on any proposed rule or
8 regulation shall not invalidate any rule or regulation
9 subsequently adopted.

10 5. The willful violation of any rule or regulation shall
11 subject the person violating it to such penalty as may be
12 applicable and which the director has within his power to impose
13 under the laws of this state relating to the business of
14 insurance for violation of the law to which the rule or
15 regulation relates.

16 6. Upon request and payment of the reasonable cost thereof,
17 if required and fixed by the director, the director shall furnish
18 a copy of any rule, regulation, or order to any person so
19 requesting.

20 374.070. 1. The office shall be a public office and the
21 records shall be public records and shall at all times be open to
22 the inspection of the public subject to such rules as the
23 director shall make for their safekeeping; provided, however,
24 that the work product of the director, the director's employees
25 and agents, including but not limited to work papers of
26 examinations of insurance companies, work papers of
27 investigations of insurance companies, [agents, brokers and
28 insurance agencies] and producers and other persons licensed or

1 with a certificate of authority under this chapter, chapter 354,
2 RSMo, and chapters 375 to 385, RSMo, or of other entities as
3 provided by law and confidential communications to the
4 [department of insurance] director, shall not be considered
5 public records except as [the director may decide otherwise]
6 provided by law.

7 2. When requested, the director shall furnish certified
8 copies of any paper, report, or documents on file in the
9 director's office to any person requesting them, upon payment of
10 the fees allowed by law.

11 3. Five years after the conclusion of the transactions to
12 which they relate, the director is authorized to destroy or
13 otherwise dispose of all correspondence, complaints, claim files,
14 working papers of examinations of companies, examination reports
15 of companies made by the insurance supervisory officials of
16 states other than Missouri, rating files, void or obsolete or
17 superseded rate filings and schedules, individual company rating
18 experience data, applications, requisitions, and requests for
19 licenses, all license cards and records, all expired bonds, all
20 records of hearings, and all similar records, papers, documents,
21 and memoranda now or hereafter in the possession of the director.

22 4. Ten years after the conclusion of the transactions to
23 which they relate, the director is authorized to destroy or
24 otherwise dispose of all foreign companies' and alien companies'
25 annual statements, valuation reports, tax reports, and all
26 similar records, papers, documents and memoranda now or hereafter
27 in the possession of the director.

28 5. Disposal and destruction of records shall be in

1 accordance with sections 109.200 to 109.310, RSMo.

2 374.075. [1.] The director [of the department of
3 insurance] may establish [two] three or more divisions within the
4 department to administer and enforce the laws of this state
5 relating to insurance. The director shall establish at least one
6 division, to be known as the "Division of Consumer Affairs",
7 which shall perform the functions of the consumer services
8 section in addition to such other functions as may be assigned to
9 it by the director. The director shall establish a division to
10 be known as the "Division of Insurance Company Regulation", which
11 shall perform the functions of insurance company admissions and
12 financial supervision, in addition to such other functions as may
13 be assigned to it by the director, and a division to be known as
14 the "Division of Insurance Market Regulation", which shall
15 perform the functions of rate and form regulation in addition to
16 such other functions as may be assigned to it by the director.

17 [2. Any division established by the director shall be
18 considered as though it were transferred to the insurance
19 department under a type I transfer under section 1 of the
20 Reorganization Act of 1974, except that the advisory commission
21 on insurance regulation, established in section 374.281, shall
22 review the need for the division of consumer affairs to be
23 transferred under a type III transfer and report its findings to
24 the general assembly within one year after June 26, 1991.

25 3. All property, functions, duties and funds of the
26 division of insurance as it existed under the department of
27 economic development shall be transferred to the department of
28 insurance. In addition, the property, functions, duties and

1 funds formerly possessed, performed, assigned or appropriated to
2 the department of economic development on behalf or for the
3 benefit of the division of insurance shall be transferred to the
4 department of insurance.

5 4. Wherever the laws, rules or regulations of this state
6 make reference to the "division of insurance" or to the
7 "insurance division", such references shall be deemed to refer to
8 the department of insurance.]

9 374.085. 1. The division of consumer affairs of the
10 department of insurance, financial and professional regulation
11 shall perform the following functions:

12 (1) The division shall receive complaints and inquiries
13 from the general public concerning insurance companies, health
14 services corporations and health maintenance organizations, their
15 agents and employees, insurance producers, and any other persons
16 licensed by or registered with the department, except those
17 licensed by the division of finance, credit unions or
18 professional registration, or any boards assigned to those
19 divisions;

20 (2) The division shall maintain records of each complaint
21 received and the disposition of that complaint, indexed by type
22 of complaint, company, and such other factors as the section
23 deems appropriate;

24 (3) The division shall operate a statewide toll-free
25 telephone service to receive complaints and inquiries, and shall
26 publicize the existence of this service to the general public;

27 (4) The division shall investigate complaints received of
28 unfair or unlawful acts under the insurance laws of this state

1 and shall close the file on each investigation only when the
2 director of the consumer services division is satisfied that the
3 person or persons complained against have taken a fair and
4 reasonable position or one which is legally correct;

5 (5) The division shall prepare such brochures and other
6 documents as it deems appropriate to help inform the general
7 public on such topics as the state's insurance laws, insurance
8 practices, policy coverages and policy costs; and

9 (6) The division shall recommend changes to state statutes
10 when it considers such statutes to adversely or unfairly affect
11 the interests of the general public.

12 2. In performing the functions of this section, the
13 consumer services division may be assisted by a legal adviser.
14 The legal adviser shall be an attorney licensed to practice law
15 in the state of Missouri and shall possess a knowledge of the
16 state's insurance laws and regulations.

17 374.110. 1. The director [of insurance], through the chief
18 examiner, may examine into the affairs and good faith of any
19 person who is engaged in, or is claiming or advertising that he
20 is engaged in, organizing or receiving subscriptions for or
21 disposing of stock of, or in any manner aiding or taking part in
22 the formation of or business of an insurance corporation,
23 association or organization and the chief examiner shall conduct
24 or assist in conducting the examination of insurance companies,
25 associations and organizations and reciprocal or interinsurance
26 exchanges as required by law, and do such other things pertaining
27 to the department as the director may direct.

28 2. The director may also employ one or more expert

1 actuaries or examiners to assist the chief examiner in making
2 such examinations.

3 3. The fees and expenses in all cases to be reasonable and
4 to be paid by the company, association, organization or
5 reciprocal or interinsurance exchange being examined upon
6 accounts approved by the director.

7 374.115. Insurance examiners appointed or employed by the
8 director of the department of insurance, financial and
9 professional regulation shall be compensated according to the
10 applicable levels established and published by the National
11 Association of Insurance Commissioners.

12 374.120. 1. The director shall appoint and employ such
13 clerks and clerical and other help which are necessary for a
14 proper dispatch of the business of the department [of insurance]
15 at salaries as now or hereafter provided by law, and may employ
16 such actuarial work to be done as may be necessary, all of which
17 expense shall be paid as provided for by section 374.160, out of
18 the amount appropriated by law from the fees collected by the
19 [department of insurance] director.

20 2. The director shall appoint and employ legal counsel
21 regarding the enforcing of the insurance laws of the state;
22 provided, however, that with respect to criminal prosecutions,
23 the attorney general shall be the legal adviser to the director.
24 All counsel employed by the [legal section] department shall be
25 attorneys licensed to practice law in the state of Missouri and
26 the general counsel shall be subject to removal at the pleasure
27 of the director. In addition, the general counsel shall have had
28 at least two years of experience in the areas of insurance law,

1 insurance regulation or insurance litigation, or any combination
2 thereof. The general counsel may receive an annual salary of up
3 to one thousand dollars less than the annual salary paid the
4 director. The director may assign legal counsel to specific
5 divisions established pursuant to section 374.075. Legal counsel
6 may act as hearing officers at any hearing before the [insurance
7 department] director, but may not act as a hearing officer in any
8 contested case brought to the director from a division to which
9 legal counsel was assigned.

10 3. The director may also employ suitable persons to make
11 examinations as to the solvency or market conduct of companies
12 when he deems it necessary.

13 4. The director shall also employ a reinsurance analyst to
14 assist the department in carrying out its responsibilities
15 regarding reinsurers as are provided for by law. The reinsurance
16 analyst shall have knowledge of the state's insurance laws and
17 regulations, shall have a degree in accounting, and shall be able
18 to meet the requirements of an Associate in Reinsurance of the
19 American Institute of Property and Liability Underwriters within
20 two years of appointment, or comparable standards as provided for
21 by regulation, and have at least three years' experience in
22 insurance or reinsurance matters.

23 5. The director shall not employ any person in any capacity
24 who is an officer, agent or employee of any insurance company or
25 association.

26 374.150. 1. All fees due the state under the provisions of
27 the insurance laws of this state shall be paid to the director of
28 revenue and deposited in the state treasury to the credit of the

1 insurance [department] dedicated fund unless otherwise provided
2 for in subsection 2 of this section.

3 2. There is hereby established in the state treasury a
4 special fund to be known as the "[Department of] Insurance
5 Dedicated Fund". The fund shall be subject to appropriation of
6 the general assembly and shall be devoted solely to the payment
7 of expenditures incurred by the department of insurance,
8 financial and professional regulation attributable to duties
9 performed by the department for the administration and
10 enforcement of laws relating to insurance and for the operation
11 of the division of consumer affairs as required by law which are
12 not paid for by another source of funds. Other provisions of law
13 to the contrary notwithstanding, [beginning on January 1, 1991,]
14 all fees charged under any provision of chapter 325, 354, 374,
15 375, 376, 377, 378, 379, 380, 381, 382, 383, 384 or 385, RSMo,
16 due the state shall be paid into this fund. The state treasurer
17 shall invest moneys in this fund in the same manner as other
18 state funds and any interest or earnings on such moneys shall be
19 credited to the [department of] insurance dedicated fund. The
20 provisions of section 33.080, RSMo, notwithstanding, moneys in
21 the fund shall not lapse, be transferred to or placed to the
22 credit of the general revenue fund [unless and then only to the
23 extent to which the unencumbered balance at the close of the
24 biennium year exceeds two times the total amount appropriated,
25 paid, or transferred to the fund during such fiscal year]. At
26 the end of each biennium, the state treasurer shall transfer the
27 balance in the fund created in subsection 6 of this section in
28 excess of two hundred percent of the previous fiscal year's

1 expenditures into the state general revenue fund.

2 [3. Notwithstanding the provisions of this section to the
3 contrary, fifty-five percent of the balance in the department of
4 insurance dedicated fund as of the effective date of this act or
5 six million fifteen thousand eight hundred and fifty-five
6 dollars, whichever is greater, shall be subject to an immediate
7 one-time transfer to the state general revenue fund.]

8 374.155. There is hereby created in the state treasury the
9 "Department of Insurance, Financial and Professional Regulation
10 Administrative Fund". The state treasurer shall be the custodian
11 of the fund and the fund shall be administered by the director of
12 the department of insurance, financial and professional
13 regulation. The fund shall be funded annually by appropriations,
14 deposits, and transfers thereto. The fund shall contain moneys
15 transferred or paid to the department in return for goods and
16 services provided internally by the department, or to any
17 governmental entity or the public. Moneys in the fund shall only
18 be expended by the department of insurance, financial and
19 professional regulation to administer the laws under the
20 jurisdiction of the department and to provide goods and services
21 that relate to the administration of these laws. The
22 commissioner of administration shall approve disbursements from
23 the fund at the request of the director of the department or the
24 director's designee in accordance with appropriations made
25 thereto. Notwithstanding the provisions of section 33.080, RSMo,
26 moneys in the fund shall not lapse to the credit of general
27 revenue at the end of the biennium. All interest earned on the
28 fund shall be deposited in and credited to the fund. At the end

1 of each biennium, the state treasurer shall transfer the balance
2 in the fund created in section in excess of two hundred percent
3 of the previous fiscal year's expenditures into the state general
4 revenue fund.

5 374.160. 1. The expenses of examinations, valuations or
6 proceedings against any company, and for dissolving or settling
7 the affairs of companies are to be paid by the company, or as
8 provided by law. The state shall not be responsible in any
9 manner for the payment of any such expenses, or any charges
10 connected therewith.

11 2. All other expenses of the department of insurance,
12 financial and professional regulation now or hereafter incurred
13 and unpaid, or that may be hereafter incurred, including the
14 salaries of the director and deputy director, shall be paid out
15 of the state treasury in the manner provided by law.

16 3. The director shall assess the expenses of any
17 examination against the company examined and shall order that the
18 examination expenses be paid into the insurance examiners fund
19 created by section 374.162. The director shall also assess an
20 additional amount equal to fifteen percent of the total expenses
21 of examination, to be paid for the supervision and support of the
22 examiners. The insurance examiner's sick leave fund created by
23 sections 374.261 to 374.267 shall be combined with the insurance
24 examiners fund. The director shall pay from the insurance
25 examiners fund the compensation of insurance examiners pursuant
26 to section 374.115, any expenses to be paid from such sick leave
27 fund under sections 374.261 to 374.267, and expenses incurred for
28 supervision and support of the examiners. The general assembly

1 shall annually provide appropriations sufficient to distribute
2 all receipts into the insurance examiners fund. The provisions
3 of section 33.080, RSMo, relating to the transfer of unexpended
4 balances to the general revenue fund shall not apply to the
5 insurance examiners fund.

6 4. At the end of each biennium, the state treasurer shall
7 transfer the balance in the fund created in subsection 3 of this
8 section in excess of two hundred percent of the previous fiscal
9 year's expenditures into the state general revenue fund.

10 [4.] 5. If any company shall refuse to pay the expenses of
11 any examination, valuation or proceeding assessed by the director
12 pursuant to this section, the company shall be liable for double
13 the amount of such expenses and all costs of collection,
14 including attorney's fees. The company shall not be entitled to
15 a credit, pursuant to section 148.400, RSMo, for any fees,
16 expenses or costs ordered pursuant to this subsection other than
17 in the amount of the expenses originally assessed by the
18 director. All amounts collected pursuant to this subsection
19 shall be credited to the insurance examiners fund.

20 374.180. 1. The director of the department of insurance,
21 financial and professional regulation shall prepare the following
22 information to be included in the biennial report [of the
23 director of the department of economic development] to the
24 legislature:

25 (1) A brief review of the department during the period
26 covered by the report, including a verified statement of the
27 various sums received and disbursed by him, and from and to whom,
28 and for what purposes;

1 (2) Name, address, capital stock, in case of companies
2 having a capital stock, resources, insurance in force, and the
3 amount and nature of collateral deposited by each insurance
4 company or association authorized or licensed to do business in
5 this state;

6 (3) A tabular statement, and synopsis of the annual
7 statements, as accepted by the director, of all insurance
8 companies doing business in this state;

9 (4) Such other matters as in his opinion may be for the
10 benefit of the public and such recommendations as he shall deem
11 proper in regard to the insurance laws of this state.

12 2. No more than two thousand copies of such report shall be
13 published by order of the director, at the expense of the
14 department.

15 3. The director shall make such additional reports as shall
16 be required by the governor.

17 374.184. 1. The director [of the department of insurance]
18 shall prescribe by rule, after due consultation with providers of
19 health care or treatment and their respective licensing boards,
20 accident and sickness insurers, health services corporations and
21 health maintenance organizations, and after a public hearing,
22 uniform claim forms for reporting by health care providers. Such
23 prescribed forms shall include but need not be limited to
24 information regarding the medical diagnosis, treatment and
25 prognosis of the patient, together with the details of charges
26 incident to the providing of such care, treatment or services,
27 sufficient for the purpose of meeting the proof requirements of
28 an accident and sickness insurance or hospital, medical or dental

1 services contract. Such prescribed forms shall be based upon the
2 UB-82 form, with respect to hospital claims, and the HCFA 1500
3 form, with respect to physician claims, as such forms are
4 modified or amended from time to time by the National Uniform
5 Billing Committee or the federal Health Care Financing
6 Administration.

7 2. The adoption of any uniform claim forms by the director
8 pursuant to this section shall not preclude an insurer, health
9 services corporation, or health maintenance organization from
10 requesting any necessary additional information in connection
11 with a claims investigation from the claimant, provider of health
12 care or treatment, or certifier of coverage. The provisions of
13 this section shall not be deemed or construed to apply to
14 electronic claims submission. Insurers and providers may by
15 contract provide for modifications to the uniform billing
16 document where both insurers and providers feel that such
17 modifications streamline claims processing procedures relating to
18 the claims of the insurer involved in such contract modification.
19 However, a refusal by the provider to agree to modification of
20 the uniform billing format shall not be used by the insurer as
21 grounds for refusing to enter into a contract with the provider
22 for reimbursement or payment for health services rendered to an
23 insured of the insurer.

24 3. Rules adopted or promulgated pursuant to this [act]
25 section shall be subject to notice and hearing as provided in
26 chapter 536, RSMo. The regulations so adopted shall specify an
27 effective date, which shall not be less than one hundred eighty
28 days after the date of adoption, after which no accident and

1 sickness insurer, health services corporation or health
2 maintenance organization shall require providers of health care
3 or treatment to complete forms differing from those prescribed by
4 the director pursuant to this section, and after which no health
5 care provider shall submit claims except upon such prescribed
6 forms; provided that the provisions of this section shall not
7 preclude the use by any insurer, health services corporation or
8 health maintenance organization of the UB-82 form or the HCFA
9 1500 form.

10 374.194. 1. Notwithstanding any other provision of law to
11 the contrary, and except as provided in this section, any person
12 or other entity which provides coverage in this state for
13 medical, surgical, chiropractic, physical therapy, speech
14 pathology, audiology, professional mental health, dental,
15 hospital, or optometric expenses, whether such coverage is by
16 direct payment, reimbursement, or otherwise, shall be presumed to
17 be subject to the jurisdiction of the department of insurance,
18 financial and professional regulation, unless the person or other
19 entity shows that while providing such services it is subject to
20 the jurisdiction of another agency of this state, any subdivision
21 thereof, or the federal government.

22 2. A person or entity may show that it is subject to the
23 jurisdiction of another agency of this state, any subdivision
24 thereof, or the federal government, by providing to the director
25 [of the department of insurance] the appropriate certificate,
26 license or other document issued by the other governmental agency
27 which permits or qualifies it to provide those services.

28 3. Any person or entity which is unable to show under

1 subsection 2 of this section that it is subject to the
2 jurisdiction of another agency of this state, any subdivision
3 thereof, or the federal government, shall submit to an
4 examination by the director [of the department of insurance] to
5 determine the organization and solvency of the person or the
6 entity, and to determine whether or not such person or entity
7 complies with the applicable provisions of chapters 374 to 385,
8 RSMo.

9 4. Any person or entity unable to show that it is subject
10 to the jurisdiction of another agency of this state, any
11 subdivision thereof, or the federal government, shall be subject
12 to all appropriate provisions of chapters 374 to 385, RSMo,
13 regarding the conduct of its business.

14 5. Any production agency or administrator which advertises,
15 sells, transacts or administers the coverage of this state
16 described in subsection 1 of this section and which is required
17 to submit to an examination by the director [of the department of
18 insurance] under subsection 3 of this section, if such coverage
19 is not fully insured or otherwise fully covered by an admitted
20 life of disability insurer, nonprofit health services plan, or
21 nonprofit health care plan shall advise every purchaser,
22 prospective purchaser, and covered person of such lack of
23 insurance or other coverage. Any administrator which advertises
24 or administers the coverage in this state described in subsection
25 1 of this section and which is required to submit to an
26 examination by the director [of the department of insurance]
27 under subsection 3 of this section shall advise any production
28 agency of the elements of the coverage, including the amount of

1 stop-loss insurance in effect.

2 374.202. 1. The purpose of sections 374.202 to 374.207 is
3 to provide an effective and efficient system for examining the
4 activities, operations, financial or market conduct, condition
5 and affairs of all persons transacting the business of insurance
6 in this state and all persons otherwise subject to the
7 jurisdiction of the director. The provisions of sections 374.202
8 to 374.207 are intended to enable the director to adopt a
9 flexible system of examinations which directs resources as the
10 director may deem appropriate and necessary for the
11 administration of the insurance related laws of this state.

12 2. As used in sections 374.202 to 374.207, the following
13 terms mean:

14 (1) "Company", any person engaging in or proposing or
15 attempting to engage in any transaction or kind of insurance or
16 surety business and any person or group of persons who may
17 otherwise be subject to the administrative, regulatory or taxing
18 authority of the director, not assigned to the functional
19 regulation of the divisions of finance, credit unions, or
20 professional registration, or boards assigned to or within those
21 divisions;

22 (2) "Department", the department of insurance, financial
23 and professional regulation of this state;

24 (3) "Director", the director of the department of
25 insurance, financial and professional regulation of this state;

26 (4) "Examiner", any individual or firm having been
27 authorized by the director to conduct an examination under
28 sections 374.202 to 374.207;

1 (5) "Insurer" has the same meaning as insurer under
2 sections 375.1150 to 375.1246, RSMo;

3 (6) "Person", any individual, aggregation of individuals,
4 trust, association, partnership or corporation, or any affiliate
5 thereof.

6 374.216. 1. A person commits the crime of filing a false
7 insurance statement if he prepares, makes, submits or files a
8 financial report or statement with the department [of insurance]
9 with the purpose to misrepresent the financial condition of the
10 company in whose behalf such report or statement is prepared,
11 made, submitted or filed. The crime shall require no mental
12 state other than that specifically provided herein.

13 2. The crime of filing a false insurance statement is a
14 class C felony.

15 374.217. 1. The director or any other employee of the
16 department of insurance, financial and professional regulation
17 shall not enter into any covenant not to sue or any agreement to
18 defer, refrain or desist from instituting or asserting against
19 any officer or director of any insurer or any other person or
20 entity in the business of insurance and regulated by the
21 department [of insurance], any claim, demand, action or suit,
22 either administrative or judicial, for injuries, damages or
23 penalties to the state or any person or property.

24 2. Any covenant or agreement entered into in derogation of
25 subsection 1 of this section, [either before or after August 28,
26 1991,] shall be deemed to be in violation of the public policy of
27 this state that the general assembly shall by law provide
28 adequate regulation of insurers in order to protect citizens of

1 this state; and that the department [of insurance] shall carry
2 out and enforce such regulation. The courts of this state shall
3 not enforce or give effect to any such covenant or agreement.

4 374.220. 1. The expenses of proceedings against insurance
5 companies, and examinations of the assets or liabilities and
6 valuations of policies of insurance companies doing business in
7 this state, shall be assessed by the director upon the company
8 proceeded against or examined, or whose policies have been
9 valued.

10 2. If the company has been or shall be adjudged insolvent,
11 or shall neglect, fail or refuse to pay the expenses, the
12 director may approve the payment of the expenses, in whole or in
13 part, which shall be paid in like manner as other expenses of the
14 [insurance] department; and the amount so paid, together with
15 cost, charges and fees for collecting the same, shall be a first
16 lien upon all the assets and property of such company, and may be
17 recovered by the director of revenue in any court of competent
18 jurisdiction; or if said company be in liquidation, or process of
19 being wound up, the cost and expenses of settling its affairs
20 shall be allowed and taxed as cost against said company, and
21 shall be a first lien upon and payable out of its assets. The
22 director of revenue shall deposit such sums in the state treasury
23 to reimburse the insurance dedicated fund.

24 3. Before any costs of any examination or valuation shall
25 be paid, vouchers for the same shall be submitted to and approved
26 by the commissioner of administration.

27 4. When any examination or valuation is made by the
28 director in person or by any salaried employee of the department

1 [of insurance], the cost of making the same shall be certified to
2 the director of revenue for collection.

3 374.245. The director of the department of insurance,
4 financial and professional regulation or the director of revenue
5 may, within three years after a return is filed or at any time if
6 no return is filed, make a supplemental assessment or
7 certification whenever it is found that any assessment or
8 certification of premium taxes covered by this section is
9 imperfect or incomplete in any material aspect. The provisions
10 of this section shall apply to taxes assessed under sections
11 148.310 to 148.461, RSMo, and sections 287.690, RSMo, and
12 375.916, RSMo.

13 374.250. 1. The director shall take proper vouchers for
14 all payments made by [him] the department and shall take receipts
15 from the director of revenue for all moneys [he] the department
16 pays to the director of revenue.

17 2. No less often than at the close of [each] every other
18 state fiscal year, the state auditor shall audit, adjust and
19 settle [the accounts for] all receipts and disbursements [by the
20 director] in the insurance dedicated fund and the insurance
21 examiners' fund, and taxes certified or collected under sections
22 148.310 to 148.461, RSMo, or sections 384.011 to 384.071, RSMo.

23 374.270. 1. The department of insurance, financial and
24 professional regulation, may elect, under the provisions of
25 section 287.030, RSMo, to come under the provisions of chapter
26 287, governing workers' compensation, and that law is extended to
27 include all employees of the department [of insurance] under any
28 contract of hire, express or implied, oral or written, or under

1 any appointment or election. The state of Missouri may be a
2 self-insurer and assume all liability imposed by chapter 287, in
3 respect to the department [of insurance] employees, without
4 insurance. The attorney general shall appear on behalf of and
5 defend the state in all actions, when the state is a
6 self-insurer, brought by employees of the department [of
7 insurance] referred to herein under the provisions of the
8 workers' compensation law.

9 2. The workers' compensation coverage may be provided by
10 the purchase of insurance or by the deposit in the commissioner
11 of administration's office of a fund from which workers'
12 compensation benefits to employees shall be paid. Purchase of
13 the insurance or the deposit of a fund shall be made from general
14 appropriations.

15 3. The department [of insurance] shall adopt rules
16 classifying the employees mentioned herein who may be eligible
17 for compensation under this section, and its classification shall
18 be decisive as to whether or not an employee falls within the
19 definition of an employee eligible for workers' compensation
20 coverage under this section.

21 4. The director of the department [of insurance] is
22 authorized to perform such duties as may be necessary to carry
23 out effectively the purposes of this section.

24 374.284. The department of insurance, financial and
25 professional regulation shall create an advisory committee to be
26 known as the "Health Insurance Advisory Committee". This
27 committee shall be a voluntary committee comprised of
28 representatives of the insurance industry, provider groups and

1 the public. The committee shall consist of at least, but not
2 limited to, one member representing each of the following areas:
3 small group insurance, managed care, doctors of medicine, doctors
4 of osteopathy, pharmacists, dentists and public members
5 representing self-employed workers and the elderly. This
6 committee shall meet to discuss and advise the department on
7 issues relating to health care insurance.

8 374.310. The director [of insurance] shall not grant or
9 renew any life or health insurance license if the license has
10 been or is being used by the applicant or licensee for any
11 purpose prohibited by sections 374.300 to 374.310. Before the
12 director can deny renewal he shall be required to hold a public
13 hearing, with ten days' notice to the applicant, to determine
14 whether the license has been or is being used contrary to the
15 mandates of sections 374.300 to 374.310. Appeal from the
16 decision of the director shall be to the administrative hearing
17 commission which shall conduct a hearing de novo.

18 374.400. Unless otherwise clearly indicated by the context,
19 the following words and terms as used in sections 374.400 to
20 374.410 shall mean:

21 (1) "Director", the director of the department of
22 insurance, financial and professional regulation;

23 (2) "Dwelling-owners' insurance", a policy of insurance on
24 a one- or two-family owner-occupied premises which combines fire
25 and allied lines with any one or more perils of casualty,
26 liability, or other types of insurance within one policy form at
27 a single premium, where the insurer's liability for damage to the
28 premises under said policy is determined with reference to the

1 premises' actual cash value;

2 (3) "Homeowners' insurance", a policy of insurance on a
3 one- or two-family owner-occupied premises which combines fire
4 and allied lines with any one or more perils of casualty,
5 liability, or other types of insurance within one policy form at
6 a single premium, where the insurer's liability for damage to the
7 premises under said policy is determined with reference to the
8 premises' replacement value;

9 (4) "Insurer", any insurance company, reciprocal or
10 inter-insurance exchange, licensed and authorized by the director
11 to write homeowners' insurance, dwelling-owners' insurance,
12 renters' or tenants' insurance, or residential fire insurance
13 upon property located within this state;

14 (5) "Renters' or tenants' insurance", a policy of insurance
15 on a single- or multiple-family premises which combines fire and
16 allied lines with any one or more perils of casualty, liability,
17 or other types of insurance within one policy form at a single
18 premium, where the insurer's liability for damage to the contents
19 of the premises under said policy is determined with reference to
20 the contents' actual cash value;

21 (6) "Residential fire insurance", a policy of insurance
22 which provides fire coverage or fire and allied lines coverage on
23 a residential premises within one policy form, where the
24 insurer's liability for damage to the premises under said policy
25 is determined with reference to the premises' actual cash value.

26 374.410. Whenever any insurer, group, association or other
27 organization of insurers, or rating organization shall change any
28 town grading schedule used in connection with the development of

1 rates under policies of homeowners' insurance, dwelling-owners'
2 insurance, renters' or tenants' insurance, or residential fire
3 insurance written upon property located within this state, such
4 change shall be filed with the director of the department of
5 insurance, financial and professional regulation. The director
6 [of the department of insurance] may set aside any change in town
7 grading schedules that he finds is not supported by substantial
8 evidence and credible data acquired under sections 374.400 to
9 374.410.

10 374.415. 1. As used in sections 374.400 to 374.425,
11 "product liability insurance" or "product liability policy"
12 means:

13 (1) Any policy of insurance insuring only the insured's
14 legal obligation arising from the product liability exposure of
15 the insured;

16 (2) Any other policy of liability insurance in which the
17 premium computation includes a specific premium charge for
18 product liability exposures of the insured; and

19 (3) Any other insurance policy designated by the
20 [commissioner of insurance] director as providing product
21 liability insurance.

22 2. Every insurer authorized to transact business in this
23 state and providing product liability insurance shall, if asked
24 by the department [of insurance], on the first day of January of
25 each year in which said insurer actually provides product
26 liability insurance in Missouri or within sixty days thereafter,
27 file with the director of insurance a report containing the
28 information hereinafter specified; provided, however, insurers

1 are not required to report product liability information pursuant
2 to sections 374.400 to 374.425 for business incidental to the
3 operation of affiliated companies or organizations. Such report
4 may be made upon forms provided by the director [of insurance]
5 and shall request the following information:

6 (1) The name of the insurance company;

7 (2) The name of all other companies associated with the
8 company submitting the report, as either a holding company,
9 parent, wholly owned subsidiary, division, or through
10 interlocking directorates;

11 (3) All the lines of insurance a company offers in all
12 states;

13 (4) The states in which the company has been admitted for
14 product liability insurance;

15 (5) The total premium dollar amount collected for all lines
16 of insurance in Missouri and in all states in each of the five
17 calendar years next preceding the initial report or in the year
18 next preceding the filing of each annual report thereafter;

19 (6) The dollar amount collected each year in product
20 liability premiums in Missouri and in all states beginning with
21 calendar year 1978;

22 (7) The amount in dollars of product liability premiums for
23 primary coverage and for excess coverage in Missouri and in all
24 states;

25 (8) The amounts shown in answer to subdivision (6) which
26 include premises and operations insurance or any other insurance
27 delivered as part of a package which cannot be considered
28 exclusively product liability insurance and the amounts which are

1 nonproduct liability insurance. Such amounts shall be listed
2 separately for amounts relating to experience in all states and
3 amount relating to experience in Missouri only;

4 (9) Whether or not the company sets reserves for product
5 liability claims filed;

6 (10) Whether or not the company sets reserves for product
7 liability claims for losses which have been incurred but not
8 reported;

9 (11) All reserves established in connection with the
10 company's product liability line;

11 (12) How dollars reserved are treated in each of the
12 categories listed in subdivisions (9), (10), and (11) for federal
13 income tax purposes;

14 (13) The value of the securities held in the company's
15 investment portfolio as of December thirty-first of the year next
16 preceding the filing of each annual report.

17 3. In addition, each company may be required to report to
18 the director [of insurance] for the year next preceding the
19 filing of each annual report, beginning with the annual report
20 for 1978, any claim or action for damages for personal injury,
21 death or property damage claimed to have been by reason of a
22 defect in such insured's product, if the claim resulted in:

23 (1) A final judgment in any amount;

24 (2) A settlement in any amount; or

25 (3) A final disposition not resulting in payment on behalf
26 of the insured.

27
28 Every insurer authorized to transact business in this state shall

1 be subject to the provisions of this section in regard to claims
2 against policies issued to Missouri insureds, regardless of the
3 jurisdiction under which these claims were adjudicated, settled
4 or otherwise disposed of. Every insurer authorized to transact
5 business in this state shall be subject to the provisions of this
6 section in regard to claims adjudicated, settled or disposition
7 made pursuant to the laws of this state regardless of the
8 domicile of the insured.

9 4. The reports required by subsection 3 of this section may
10 contain:

11 (1) The city and state of the insured;

12 (2) Type of product;

13 (3) Rating classification code of product liability
14 coverage;

15 (4) Date of occurrence which created the claim, including
16 the state or other jurisdiction under whose jurisdiction the
17 claim was adjudicated, settled, or disposition made;

18 (5) Date of suit if filed;

19 (6) Date and amount of judgment or settlement, if any, and
20 the parties involved in the distributions of such judgment or
21 settlement and the amount received by any such party;

22 (7) Date and reason for final disposition if no judgment or
23 settlement;

24 (8) A summary of the occurrence which created the claim;

25 (9) Total number of claims;

26 (10) Total claims closed without payment;

27 (11) Total claims closed with payment;

28 (12) Total amount of payments;

- 1 (13) Total number of suits filed;
- 2 (14) Total number of verdicts or judgments for defendants;
- 3 (15) Total number of verdicts or judgments for plaintiffs;
- 4 (16) Total amount for plaintiffs; and
- 5 (17) Such other information as the director may require.

6 5. With respect to amounts paid in claims for the year next
7 preceding the filing of each annual report, each company may be
8 required to provide the following information:

- 9 (1) Total amounts reserved with respect to those claims;
- 10 (2) The year in which the reserves were set; and
- 11 (3) The amounts set in each year.

12 374.420. There shall be no liability on the part of and no
13 cause of action of any nature shall arise against any insurer
14 reporting hereunder or its agents or employees, or the director
15 [of insurance] or the director's employees, for any action taken
16 by them pursuant to sections 374.400 to 374.425.

17 374.426. 1. Any entity in the business of delivering or
18 financing health care shall provide data regarding quality of
19 patient care and patient satisfaction to the director of the
20 department of insurance, financial and professional regulation.
21 Failure to provide such data as required by the director [of the
22 department of insurance] shall constitute grounds for violation
23 of the unfair trade practices act, sections 375.930 to 375.948,
24 RSMo.

25 2. In defining data standards for quality of care and
26 patient satisfaction, the director of the department of
27 insurance, financial and professional regulation shall:

- 28 (1) Use as the initial data set the HMO Employer Data and

1 Information Set developed by the National Committee for Quality
2 Assurance;

3 (2) Consult with nationally recognized accreditation
4 organizations, including but not limited to the National
5 Committee for Quality Assurance and the Joint Committee on
6 Accreditation of Health Care Organizations; and

7 (3) Consult with a state committee of a national committee
8 convened to develop standards regarding uniform billing of health
9 care claims.

10 374.450. Unless otherwise clearly indicated by the context,
11 the following words and terms as used in sections 374.450 and
12 374.455 shall mean:

13 (1) "Director", the director of the department of
14 insurance, financial and professional regulation;

15 (2) "Insurer", any insurance company, reciprocal or
16 inter-insurance exchange, licensed and authorized by the director
17 to write automobile insurance within this state;

18 (3) "Private automobile insurance", a policy of insurance
19 covering private passenger nonfleet vehicles owned by an
20 individual or by a husband and wife and providing any one or more
21 perils of protection against bodily injury liability, property
22 damage liability, medical payments, uninsured motorist,
23 comprehensive, collision, or other insurance coverage incidental
24 to the operation of the vehicle.

25 374.455. 1. The director shall establish statistical bases
26 for the reporting of premium and loss data under policies of
27 automobile insurance.

28 2. Each insurer shall annually report to the director or a

1 statistical agency designated by the director all premium and
2 loss data under policies of automobile insurance in such a manner
3 as the director may require.

4 3. The director shall have the authority to review and
5 verify the accuracy of the data reported.

6 4. The director [of the department of insurance] shall make
7 reports of data acquired hereunder and such reports shall be made
8 available to the public.

9 374.456. 1. The director of the department of insurance,
10 financial and professional regulation shall personally report to
11 the appropriate committees of the general assembly by March first
12 of each year on the status of all actions initiated, maintained
13 by the director, or which have been concluded, during the
14 preceding year to enforce the provisions [of this act] listed in
15 subsection 2 of this section. The director shall answer all
16 questions regarding such actions, or regarding other matters that
17 are related to the provisions [of this act] listed in subsection
18 2 of this section.

19 2. The report to the appropriate committees of the general
20 assembly shall cover enforcement actions related to sections
21 354.400 to 354.636, RSMo, relating to health maintenance
22 organizations, sections 374.500 to 374.515 relating to
23 utilization review agents, and sections 376.1350 to 376.1399,
24 RSMo, relating to all managed care health benefit plans.

25 374.500. As used in sections 374.500 to 374.515, the
26 following terms mean:

27 (1) "Certificate", a certificate of registration granted by
28 the department of insurance, financial and professional

1 regulation to a utilization review agent;

2 (2) "Director", the director of the department of
3 insurance, financial and professional regulation;

4 (3) "Enrollee", an individual who has contracted for or who
5 participates in coverage under a health insurance policy, an
6 employee welfare benefit plan, a health services corporation plan
7 or any other benefit program providing payment, reimbursement or
8 indemnification for health care costs for himself or eligible
9 dependents or both himself and eligible dependents. The term
10 "enrollee" shall not include an individual who has health care
11 coverage pursuant to a liability insurance policy, workers'
12 compensation insurance policy, or medical payments insurance
13 issued as a supplement to a liability policy;

14 (4) "Provider of record", the physician or other licensed
15 practitioner identified to the utilization review agent as having
16 primary responsibility for the care, treatment and services
17 rendered to an enrollee;

18 (5) "Utilization review", a set of formal techniques
19 designed to monitor the use of, or evaluate the clinical
20 necessity, appropriateness, efficacy, or efficiency of, health
21 care services, procedures, or settings. Techniques may include
22 ambulatory review, prospective review, second opinion,
23 certification, concurrent review, case management, discharge
24 planning or retrospective review. Utilization review shall not
25 include elective requests for clarification of coverage;

26 (6) "Utilization review agent", any person or entity
27 performing utilization review, except:

28 (a) An agency of the federal government;

1 (b) An agent acting on behalf of the federal government,
2 but only to the extent that the agent is providing services to
3 the federal government; or

4 (c) Any individual person employed or used by a utilization
5 review agent for the purpose of performing utilization review
6 services, including, but not limited to, individual nurses and
7 physicians, unless such individuals are providing utilization
8 review services to the applicable benefit plan, pursuant to a
9 direct contractual relationship with the benefit plan;

10 (d) An employee health benefit plan that is self-insured
11 and qualified pursuant to the federal Employee Retirement Income
12 Security Act of 1974, as amended;

13 (e) A property-casualty insurer or an employee or agent
14 working on behalf of a property-casualty insurer;

15 (f) A health carrier, as defined in section 376.1350, RSMo,
16 that is performing a review of its own health plan;

17 (7) "Utilization review plan", a summary of the utilization
18 review procedures of a utilization review agent.

19 374.503. 1. A utilization review agent may not conduct
20 utilization review in this state unless the [Missouri] department
21 of insurance, financial and professional regulation has granted
22 the utilization review agent a certificate.

23 2. No certificate is required for those review agents
24 conducting general in-house utilization review for hospitals,
25 home health agencies, clinics, private offices or any other
26 health facility or entity, so long as the review does not result
27 in the approval or denial of payment for hospital or medical
28 services for a particular case.

1 374.505. 1. An applicant for a certificate shall:

2 (1) Submit an application to the department [of insurance];

3 and

4 (2) Pay to the department [of insurance] the application
5 fee established by the department through regulation.

6 2. The application shall:

7 (1) Be on a form and accompanied by any reasonably related
8 supporting documentation that the department [of insurance]
9 requires; and

10 (2) Be signed and verified by the applicant.

11 3. The application fee required under this subsection shall
12 be sufficient to pay for the administrative cost of the
13 certification program and any other cost associated with carrying
14 out the provisions of sections 374.500 to 374.515.

15 374.507. In conjunction with the application, the
16 utilization review agent shall submit additional information as
17 required by the department [of insurance].

18 374.700. As used in sections 374.695 to 374.789, the
19 following terms shall mean:

20 (1) "Bail bond agent", a surety agent or an agent of a
21 property bail bondsman who is duly licensed pursuant to the
22 provisions of sections 374.695 to 374.789, is employed by and is
23 working under the authority of a licensed general bail bond
24 agent;

25 (2) "Bail bond or appearance bond", a bond for a specified
26 monetary amount which is executed by the defendant and a
27 qualified licensee pursuant to sections 374.695 to 374.789, and
28 which is issued to a court or authorized officer as security for

1 the subsequent court appearance of the defendant upon the
2 defendant's release from actual custody pending the appearance;

3 (3) "Department", the department of insurance, financial
4 and professional regulation of the state of Missouri;

5 (4) "Director", the director of the department of
6 insurance, financial and professional regulation;

7 (5) "General bail bond agent", a surety agent or a property
8 bail bondsman, as defined in sections 374.700 to 374.775, who is
9 licensed in accordance with sections 374.700 to 374.775 and who
10 devotes at least fifty percent of his working time to the bail
11 bond business in this state;

12 (6) "Insurer", any surety insurance company which is
13 qualified by the department to transact surety business in
14 Missouri;

15 (7) "Licensee", a bail bond agent or a general bail bond
16 agent;

17 (8) "Property bail bondsman", a person who pledges United
18 States currency, United States postal money orders or cashier's
19 checks or other property as security for a bail bond in
20 connection with a judicial proceeding, and who receives or is
21 promised therefor money or other things of value;

22 (9) "Surety bail bond agent", any person appointed by an
23 insurer by power of attorney to execute or countersign bail bonds
24 in connection with judicial proceedings, and who receives or is
25 promised money or other things of value therefor;

26 (10) "Surety recovery agent", a person not performing the
27 duties of a sworn peace officer who tracks down, captures and
28 surrenders to the custody of a court a fugitive who has violated

1 a bail bond agreement, excluding a bail bond agent or general
2 bail bond agent;

3 (11) "Taking a bail" or "take bail", the acceptance by a
4 person authorized to take bail of the undertaking of a sufficient
5 surety for the appearance of the defendant according to the terms
6 of the undertaking or that the surety will pay to the court the
7 sum specified. Taking of bail or take bail does not include the
8 fixing of the amount of bail and no person other than a competent
9 court shall fix the amount of bail.

10 374.740. Any person applying to be licensed as a
11 nonresident general bail bond agent who has been licensed in
12 another state shall devote fifty percent of his or her working
13 time in the state of Missouri and shall file proof with the
14 director [of insurance] as to his or her compliance, and
15 accompany his or her application with the fees set by the
16 director by regulation and, if applying for a nonresident general
17 bail bond agent's license, with a duly executed assignment of
18 twenty-five thousand dollars to the state of Missouri, which
19 assignment shall become effective upon the applicant's violating
20 any provision of sections 374.695 to 374.789. Failure to comply
21 with this section will result in revocation of the nonresidence
22 license. The assignment required by this section shall be in the
23 form and executed in the manner prescribed by the department.
24 All licenses issued pursuant to this section shall be subject to
25 the same renewal requirements set for other licenses issued
26 pursuant to sections 374.695 to 374.789.

27 374.764. 1. The director shall examine and inquire into
28 all alleged violations or complaints filed with the department

1 [of insurance] of the bail bond law of the state, and inquire
2 into and investigate the bail bond business transacted in the
3 state by any bail bond agent, general bail bond agent, or surety
4 recovery agent.

5 2. The director or any of his or her duly appointed agents
6 may compel the attendance before him or her, and may examine,
7 under oath, the directors, officers, bail bond agents, general
8 bail bond agents, surety recovery agents, employees, or any other
9 person in reference to the condition, affairs, management of the
10 bail bond or surety recovery business, or any matters relating
11 thereto. He or she may administer oaths or affirmations and
12 shall have power to summon and compel the attendance of witnesses
13 and to require and compel the production of records, books,
14 papers, contracts, or other documents if necessary.

15 3. The director may make and conduct the investigation in
16 person or the director may appoint one or more persons to make
17 and conduct the investigation. If made by a person other than
18 the director, the person duly appointed by the director shall
19 have the same powers as granted to the director pursuant to this
20 section. A certificate of appointment under the official seal of
21 the director shall be sufficient authority and evidence thereof
22 for the person to act. For the purpose of making the
23 investigations, or having the same made, the director may employ
24 the necessary clerical, actuarial, and other assistance.

25 374.790. The department of insurance, financial and
26 professional regulation shall prepare and submit a plan to the
27 general assembly by September 1, 1993, to reduce the number of
28 employers insured through the residual market. The department

1 shall specifically examine and address in its plan the following
2 topics:

3 (1) The use of an employer's experience modification factor
4 and the appropriate level thereof as an objective criterion in
5 determining eligibility for coverage;

6 (2) The maximum amount of such coverage an insurer would be
7 required to issue, expressed as a percentage of its voluntary
8 business;

9 (3) Providing a system of incentives to insurers to
10 voluntarily cover employers which had been insured through the
11 residual market by reducing the amount of coverage required to be
12 provided by such insurer under the plan;

13 (4) The effect of the implementation of such plan on the
14 competitive voluntary insurance workers' compensation market in
15 Missouri in terms of the number of insurers actively competing,
16 the availability of coverage by classification and pricing by
17 classification;

18 (5) Permitting insurers to file separate rates by
19 classification for employers which they may be required to insure
20 under such plan;

21 (6) Requiring that only agents which have been appointed by
22 such insurer may submit applications for coverage under such
23 plan;

24 (7) The results of this plan in other jurisdictions where
25 it has been implemented in either workers' compensation or other
26 lines of insurance;

27 (8) Requiring nonexperienced rated employers or employers
28 not eligible for experience rating, as a condition to receive

1 coverage, to utilize the insurer's managed care medical program
2 and to comply with the insurer's loss control or safety
3 engineering program.

4
5 Upon receipt of the plan, the general assembly shall, by
6 concurrent resolution disapprove such plan by September 24, 1993.
7 If the plan is not disapproved it shall be implemented by rule on
8 January 1, 1994. If the plan is not submitted to the general
9 assembly under the provisions of this section, it shall not be
10 implemented by rule.

11 374.800. 1. Notwithstanding any other provision of law,
12 when the department of insurance, financial and professional
13 regulation intends to enter into any contract or other written
14 agreement or approve any letter of intent for payment of money by
15 the state in excess of one hundred thousand dollars, modification
16 or potential reduction of a party's financial obligation to the
17 state in excess of one hundred thousand dollars, the [department
18 of insurance] director shall forward a copy to the attorney
19 general before entering into that contract, subcontract or other
20 written agreement or approving the letter of intent.

21 2. Upon receiving the contract, other written agreement or
22 letter of intent, the attorney general shall, within ten days,
23 review and approve that contract, other written contract or
24 letter of intent for its legal form and content as may be
25 necessary to protect the legal interest of the state. If the
26 attorney general does not approve, then the attorney general
27 shall return the contract, other written agreement or letter of
28 intent with additional proposed provisions as may be necessary to

1 the proper enforcement of the contract as required to protect the
2 state's legal interest. If the attorney general does not respond
3 within ten days or, in the case of any contract that involves a
4 payment of money by the state or a modification or potential
5 reduction of a party's financial obligation to the state of one
6 million dollars or more, within thirty days, the contract shall
7 be deemed approved.

8 3. Communications related to the attorney general's review
9 are attorney-client communications. The attorney general's
10 written disposition shall be subject to chapter 610, RSMo.

11 375.001. 1. As used in this chapter, unless otherwise
12 clearly indicated by the context, the following words mean:

13 (1) "Department", the department of insurance, financial
14 and professional regulation;

15 (2) "Director", the director of the department of
16 insurance, financial and professional regulation.

17 2. As used in sections 375.001 to 375.008 the following
18 words and terms mean:

19 (1) "Insurer", all insurance companies, reciprocals, or
20 interinsurance exchanges transacting the business of insurance in
21 this state;

22 (2) "Nonpayment of premium", failure of the named insured
23 to discharge when due any of his obligations in connection with
24 the payment of premiums on the policy, or any installment of the
25 premium, whether the premium is payable directly to the insurer
26 or its agent or indirectly under any premium finance plan or
27 extension of credit;

28 (3) "Nonrenewal", the determination of an insurer not to

1 issue or deliver a policy replacing at the end of the policy
2 period a policy previously issued and delivered by the same
3 insurer or a certificate or notice extending the term of a policy
4 beyond its policy period or term;

5 (4) "Policy", a contract of insurance providing fire and
6 extended coverage insurance, whether separately or in combination
7 with other coverages, on owner-occupied habitational property not
8 exceeding two families. "Policy" does not include any insurance
9 contracts issued under a property insurance inspection and
10 placement program ("FAIR" plan) or an assigned risk plan, or any
11 insurance contracts insuring property not used predominantly for
12 habitational purposes, or an insurance contract insuring a mobile
13 home;

14 (5) "Renewal" or "to renew", the issuance and delivery by
15 an insurer of a policy replacing at the end of the policy period
16 a policy previously issued and delivered by the same insurer, or
17 the issuance and delivery of a certificate or notice extending
18 the term of the policy beyond its policy period or term. Any
19 policy with a policy period or term of less than six months shall
20 for the purposes of sections 375.001 to 375.008 be considered as
21 if written for a policy period or term of six months. Any policy
22 written for a term longer than one year or any policy with no
23 fixed expiration date, shall for the purpose of sections 375.001
24 to 375.008, be considered as if written for successive policy
25 periods or terms of one year, and the policy may be terminated at
26 the expiration of any annual period upon giving thirty days'
27 notice of cancellation prior to the anniversary date, and the
28 cancellation shall not be subject to any other provisions of

1 sections 375.001 to 375.008.

2 375.006. There shall be no liability on the part of, and no
3 cause of action of any nature shall arise against, the director
4 [of insurance] or against any insurer, its authorized
5 representative, its agents, its employees, or any firm, person or
6 corporation furnishing to the insurer information as to reasons
7 for cancellation or nonrenewal, for any statement made by any of
8 them in any written notice of cancellation or nonrenewal, or in
9 any other communication, oral or written, specifying the reasons
10 for cancellation or nonrenewal, or the providing of information
11 pertaining thereto, or for statements made or evidence submitted
12 at any hearings conducted in connection therewith.

13 375.018. 1. Unless denied licensure pursuant to section
14 375.141, persons who have met the requirements of sections
15 375.014, 375.015 and 375.016 shall be issued an insurance
16 producer license for a term of two years. An insurance producer
17 may qualify for a license in one or more of the following lines
18 of authority:

19 (1) Life insurance coverage on human lives including
20 benefits of endowment and annuities, and may include benefits in
21 the event of death or dismemberment by accident and benefits for
22 disability income;

23 (2) Accident and health or sickness insurance coverage for
24 sickness, bodily injury or accidental death and may include
25 benefits for disability income;

26 (3) Property insurance coverage for the direct or
27 consequential loss or damage to property of every kind;

28 (4) Casualty insurance coverage against legal liability,

1 including that for death, injury or disability or damage to real
2 or personal property;

3 (5) Variable life and variable annuity products insurance
4 coverage provided under variable life insurance contracts and
5 variable annuities;

6 (6) Personal lines property and casualty insurance coverage
7 sold to individuals and families for primarily noncommercial
8 purposes;

9 (7) Credit-limited line credit insurance;

10 (8) Any other line of insurance permitted under state laws
11 or regulations.

12 2. Any insurance producer who is certified by the Federal
13 Crop Insurance Corporation on September 28, 1995, to write
14 federal crop insurance shall not be required to have a property
15 license for the purpose of writing federal crop insurance.

16 3. The biennial renewal fee for a producer's license is one
17 hundred dollars for each license. A producer's license shall be
18 renewed biennially on the anniversary date of issuance and
19 continue in effect until refused, revoked or suspended by the
20 director in accordance with section 375.141.

21 4. An individual insurance producer who allows his or her
22 license to expire may, within twelve months from the due date of
23 the renewal fee, reinstate the same license without the necessity
24 of passing a written examination. The insurance producer seeking
25 relicensing pursuant to this subsection shall provide proof that
26 the continuing education requirements have been met and shall pay
27 a penalty of twenty-five dollars per month that the license was
28 expired in addition to the requisite renewal fees that would have

1 been paid had the license been renewed in a timely manner.
2 Nothing in this subsection shall require the director to
3 relicense any insurance producer determined to have violated the
4 provisions of section 375.141.

5 5. A business entity insurance producer that allows the
6 license to expire may, within twelve months of the due date of
7 the renewal, reinstate the license by paying the license fee that
8 would have been paid had the license been renewed in a timely
9 manner plus a penalty of twenty-five dollars per month that the
10 license was expired.

11 6. The license shall contain the name, address,
12 identification number of the insurance producer, the date of
13 issuance, the lines of authority, the expiration date and any
14 other information the director deems necessary.

15 7. Insurance producers shall inform the director by any
16 means acceptable to the director of a change of address within
17 thirty days of the change. Failure to timely inform the director
18 of a change in legal name or address may result in a forfeiture
19 not to exceed the sum of ten dollars per month.

20 8. In order to assist the director in the performance of
21 his or her duties, the director may contract with nongovernmental
22 entities, including the National Association of Insurance
23 Commissioners or any affiliates or subsidiaries that the
24 organization oversees or through any other method the director
25 deems appropriate, to perform any ministerial functions,
26 including the collection of fees, related to producer licensing
27 that the director may deem appropriate.

28 9. Any bank or trust company in the sale or issuance of

1 insurance products or services shall be subject to the insurance
2 laws of this state and rules adopted by the [department of
3 insurance] director.

4 10. A licensed insurance producer who is unable to comply
5 with license renewal procedures due to military service or some
6 other extenuating circumstance, such as a long-term medical
7 disability, may request a waiver of those procedures. The
8 producer may also request a waiver of any other fine or sanction
9 imposed for failure to comply with renewal procedures.

10 375.031. As used in sections 375.031 to 375.039, the
11 following words and terms mean:

12 (1) "Director", the director of the department of
13 insurance, financial and professional regulation;

14 (2) "Exclusive insurance producer", any licensed insurance
15 producer whose contract with an insurer requires the insurance
16 producer to act as an agent only for that insurer or a group of
17 insurers under common ownership or control or other insurers
18 authorized by that insurer;

19 (3) "Independent insurance producer", any licensed
20 insurance producer representing an insurance company as an
21 independent contractor and not as an employee, or any individual,
22 partnership or corporation transacting business with the public
23 or insurance companies as an agent is an independent insurance
24 producer, but shall not include an exclusive insurance producer;

25 (4) "Insurer", any property and casualty insurance company
26 doing business in the state of Missouri.

27 375.033. 1. All contracts between an insurer and an
28 independent insurance producer in effect in the state of Missouri

1 on or after September 28, 1979, shall not be terminated or
2 canceled by the insurer except by mutual agreement or unless
3 ninety days' written notice in advance has been given to the
4 independent insurance producer and the director [of insurance].

5 2. During the ninety days' notice period the independent
6 insurance producer shall not write or bind any new business on
7 behalf of the insurer without specific written approval.

8 375.037. 1. The director [of insurance], on the written
9 complaint of any person, or when the director deems it necessary
10 without a complaint, shall determine whether there has been a
11 violation of sections 375.031 to 375.037. After such
12 determination, the director shall notify all parties concerned by
13 certified mail and shall prescribe a method of cancellation to be
14 followed by the concerned parties. Any party who is aggrieved by
15 the decision of the director [of insurance] shall be entitled to
16 judicial review thereof, as provided in sections 536.100 to
17 536.140, RSMo.

18 2. Sections 375.031 to 375.037 shall not apply if the
19 director determines nonrenewal is necessary to preserve an
20 insurer's solvency or to protect the insured's interest. Nor
21 shall sections 375.031 to 375.037 apply in the case of fraud,
22 failure to properly remit premiums, or whenever the director
23 determines the license of the insurance producer could be revoked
24 or not renewed pursuant to the provisions of section 375.141.

25 3. If any provision of sections 375.031 to 375.037 or the
26 application thereof to any person or circumstances is held
27 invalid, the validity of the remainder of sections 375.031 to
28 375.037 and of the application of such provision to other persons

1 and circumstances shall not be affected thereby.

2 375.039. 1. No insurer may cancel, terminate or otherwise
3 withdraw coverage for a certain class of commercial risk, unless
4 written notice of such cancellation, termination, or withdrawal
5 is given to the insurer's independent insurance producer
6 authorized to sell such insurance coverage at least sixty days
7 prior to such cancellation, termination or withdrawal.

8 2. The provisions of subsection 1 of this section shall not
9 apply if the cancellation, termination or withdrawal of coverage
10 by an insurer is by reason of reinsurance requirements, adverse
11 loss experience, or by the requirement of the [Missouri
12 department of insurance] director. In these circumstances, the
13 notice described in subsection 1 of this section shall be given
14 at least thirty days prior to such cancellation, termination or
15 withdrawal.

16 375.146. 1. Any person who knowingly employs, uses or
17 engages in any act, scheme, device or practice in violation of
18 section 375.144 with the purpose to defraud shall upon conviction
19 be fined not more than one hundred thousand dollars and
20 imprisoned not more than ten years, or both. In addition to any
21 fine, imprisonment, or fine and imprisonment imposed, the court
22 may order restitution to the victim in an amount equal to twice
23 the losses due to such offense. If the offender holds a license
24 under these sections, the court imposing sentence shall order the
25 [department of insurance] director to revoke such license.

26 2. Any person willfully violating any of the provisions of
27 sections 375.012 to 375.141 is guilty of a class A misdemeanor
28 and on conviction thereof, if the offender holds a license under

1 these sections, the court imposing sentence shall order the
2 [department of insurance] director to revoke the license.

3 3. The director may refer such evidence as is available
4 concerning violations of this chapter to the proper prosecuting
5 attorney or circuit attorney who may, with or without reference,
6 initiate the appropriate criminal proceedings.

7 4. Nothing in this section shall limit the power of the
8 state to punish any person for any conduct that constitutes a
9 crime in any other state statute.

10 375.147. 1. Sections 375.147 to 375.153 may be cited as
11 the "Managing General Agents Act".

12 2. Sections 375.147 to 375.153 shall take effect on July 1,
13 1991. No insurer may continue to utilize the services of a
14 managing general agent after June 30, 1991, unless such
15 utilization is in compliance with sections 375.147 to 375.153.

16 3. As used in sections 375.147 to 375.153, the following
17 words and phrases shall mean:

18 (1) "Actuary", a person who is a member in good standing of
19 the American Academy of Actuaries;

20 (2) "Director", the director of the department of
21 insurance, financial and professional regulation;

22 (3) "Insurer", any person, firm, association or corporation
23 duly licensed in this state as an insurance company pursuant to
24 section 375.161 or 375.791;

25 (4) "Managing general agent" or "MGA", any person, firm,
26 association or corporation who manages all or part of the
27 insurance business of an insurer, including the management of a
28 separate division, department or underwriting office, and acts as

1 an agent for such insurer whether known as a managing general
2 agent, manager or other similar term, who, with or without the
3 authority, either separately or together with affiliates,
4 produces, directly or indirectly, and underwrites an amount of
5 gross direct written premiums equal to or more than five percent
6 of the policyholder surplus as reported in the last annual
7 statement of the insurer in any one quarter or year together with
8 one or more of the following:

9 (a) Adjusts or pays claims in excess of an amount
10 determined by the director. The threshold amount set by the
11 director pursuant to this paragraph shall be applied equally to
12 both domestic and foreign insurers; or

13 (b) Negotiates reinsurance on behalf of the insurer.
14

15 Notwithstanding the above, the following persons shall not be
16 considered as managing general agents for the purposes of
17 sections 375.147 to 375.153:

18 a. An employee of the insurer;

19 b. A manager of the United States branch of an alien
20 insurer;

21 c. An underwriting manager which, pursuant to contract,
22 manages all the insurance operation of the insurer, is under
23 common ownership or control with the insurer, subject to the
24 provisions of chapter 382, RSMo;

25 d. A person holding a valid certificate of registration as
26 an administrator and acting solely as an "administrator" as
27 defined in section 376.1075; or

28 e. The attorney authorized by and acting for the

1 subscribers of a reciprocal insurer or interinsurance exchange
2 under powers of attorney;

3 (5) "Underwrite", the authority to accept or reject risk on
4 behalf of the insurer.

5 375.159. 1. The provisions of this section shall apply to
6 all domestic, foreign and alien insurers who are authorized to
7 transact business in this state, and shall also apply to those
8 companies organized and authorized to transact business in this
9 state pursuant to the provisions of chapter 354, 377, 378 or 381,
10 RSMo.

11 2. Each domestic, foreign and alien insurer who is
12 authorized to transact insurance in this state, and each company
13 organized and authorized to transact business in this state
14 pursuant to the provisions of chapter 354, 377, 378 or 381, RSMo,
15 shall annually, on or before March first of each year, file with
16 the National Association of Insurance Commissioners a copy of its
17 annual statement convention blank, along with such additional
18 filings as prescribed by the director for the preceding year.
19 The information filed with the National Association of Insurance
20 Commissioners shall be in the same format and scope as that
21 required by the director and shall include the signed jurat page
22 and the actuarial certification. Any amendments and addendums to
23 the annual statement filing subsequently filed with the director
24 shall also be filed with the National Association of Insurance
25 Commissioners. Foreign insurers that are domiciled in a state
26 which has a law substantially similar to this subsection shall be
27 deemed in compliance with this subsection.

28 3. In the absence of actual malice, or gross negligence,

1 members of the National Association of Insurance Commissioners,
2 their duly authorized committees, subcommittees and task forces,
3 their delegates, National Association of Insurance Commissioners'
4 employees, and all others charged with the responsibility of
5 collecting, reviewing, analyzing and disseminating the
6 information developed from the filing of the annual statement
7 convention blanks shall be acting as agents of the director under
8 the authority of this section and shall not be subject to civil
9 liability for libel, slander or any other cause of action by
10 virtue of their collection, review and analysis or dissemination
11 of the data and information collected from the filings required
12 under this section.

13 4. The director may suspend, revoke or refuse to renew the
14 certificate of authority of any insurer failing to file its
15 annual statement when due or within any extension of time which
16 the director, for good cause, may have granted.

17 375.164. 1. All agreements or contracts under which any
18 person, organization or corporation enjoys in fact the exclusive
19 or dominant right to manage or control any insurer doing business
20 under any of the insurance laws of this state to the substantial
21 exclusion of the board of directors, officers, attorney in fact
22 or other lawful management shall be filed with the director on
23 his request.

24 2. The director, for the purpose of ascertaining the
25 assets, conditions and affairs of any insurer, may examine the
26 books, records, documents and assets of any person having a
27 contract or agreement as provided in subsection 1 to the extent
28 necessary to determine the financial condition of the insurer.

1 The failure or refusal of any such person to submit his books,
2 papers, accounts, records or affairs to the reasonable inspection
3 or examination of the director shall be grounds for the
4 suspension or revocation of the certificate of authority of the
5 insurer to do business in this state.

6 3. No agreement or contract as provided in subsection 1
7 shall operate to the financial detriment of the insurer in such
8 manner as to endanger the financial stability of the insurer or
9 otherwise be hazardous to the policyholders and creditors of the
10 insurer.

11 4. On examination of any agreement or contract, if the
12 director finds it violates the provisions of this section, he
13 shall proceed in accordance with the provisions of section
14 374.046, RSMo.

15 5. Any person, organization or corporation having a
16 management contract as provided in subsection 1 hereof shall
17 within five days of execution of such contract provide notice of
18 such contract to the director [of insurance].

19 375.176. 1. Whenever it appears to the director [of the
20 insurance department] from any examination made by himself, or
21 from the report of the person or persons appointed by him to make
22 an examination, or from the statements of the company, or its
23 officers or promoters, or from any knowledge or information in
24 his possession that it would be hazardous to the public or to its
25 stockholders for the company to proceed with its organization,
26 the director may, if the company is a domestic corporation,
27 institute proceedings in the circuit court of the county or city
28 in which the company was organized, or in which it has, or last

1 had, its principal or chief office or place of business, and
2 enjoin the company from further proceeding with its organization,
3 either temporarily or perpetually, or for an injunction or
4 dissolution of the company and the settlement or winding up of
5 its affairs or for any or all of these remedies combined and for
6 such other decrees and relief as the court shall deem advisable.

7 2. In the event that the court appoints a receiver for any
8 company, the director [of insurance] may be appointed as
9 receiver, or some person other than the director [of insurance]
10 may be appointed, in the discretion of the court.

11 3. The compensation paid to any receiver appointed, upon
12 petition of the [insurance] director filed against any company
13 under this section, shall, in all cases, be fair and reasonable,
14 and when approved by the court, shall be paid out of any assets
15 which may be in the hands of the receiver.

16 375.198. 1. Any capital stock insurance company shall have
17 power to create and issue the number of shares stated in its
18 articles of incorporation. Such shares may be divided into one
19 or more classes, any or all of which classes shall consist of
20 shares with a minimum par value of one dollar, with such
21 designations, preferences, qualifications, limitations,
22 restrictions and such special or relative rights including the
23 right of conversion into any other class of shares as shall be
24 stated in the articles of incorporation; provided, that the
25 authorized number of shares of any class or classes without
26 voting rights shall not exceed in the aggregate a ratio of two
27 shares of such class or classes to one share of the voting stock
28 of the company to be outstanding when the corporation commences

1 business.

2 2. In case a corporation is authorized by its articles of
3 incorporation to issue preferred shares entitled to limited
4 preferential dividends and to a limited amount on dissolution or
5 liquidation, the board of directors may, if expressly authorized
6 so to do by the articles of incorporation, and with the written
7 approval of the director [of insurance], cause such shares to be
8 issued from time to time in series and may, to the extent
9 expressly authorized by such articles of incorporation, by
10 resolution adopted prior to the issue of shares of a particular
11 series, fix the distinctive serial designation of the shares of
12 such series, the dividend rate thereof, the date from which
13 dividends on shares issued prior to date for payment of the first
14 dividend thereon shall be cumulative, the redemption price and
15 the terms of redemption, the amounts payable thereon on
16 dissolution or liquidation and the terms and amount of any
17 sinking fund for the purchase or redemption thereof, and the
18 terms and conditions, if any, under which said shares may be
19 converted; and in respect of the terms so fixed by the board of
20 directors, the shares of a particular series may vary from those
21 of any or all other series, but only in respects and within the
22 limits, if any, set forth in the articles of incorporation; and,
23 except as so varied by the board of directors, all of the shares
24 of the same class, regardless of series, shall in all respects be
25 equal and shall have the preferences, rights, privileges and
26 restrictions fixed by the articles of incorporation. Before the
27 issue of any preferred shares of any series, the number of shares
28 of such series and the designation, description and terms thereof

1 fixed by the board of directors pursuant to such authority shall
2 be set forth in a certificate signed and verified by the
3 president or a vice president and countersigned by the secretary
4 or an assistant secretary of the corporation, which certificates
5 shall be filed with the director [of insurance] and secretary of
6 state and otherwise dealt with as in the case of articles of
7 incorporation.

8 3. In the event of the conversion or exchange of any issued
9 shares into or for other shares of the corporation, whether of
10 the same or of a different class or classes, the consideration
11 for the shares so issued in such conversion or exchange is deemed
12 to be:

13 (1) The consideration originally received for the shares so
14 converted or exchanged; and

15 (2) That part of surplus, if any, transferred to stated
16 capital upon the issuance of shares for the shares so converted
17 or exchanged; and

18 (3) Any additional consideration paid to the corporation
19 upon the issuance of shares for the shares so exchanged or
20 converted.

21 4. When payment of the consideration for which shares are
22 to be issued shall have been received by the corporation, the
23 shares are full-paid and nonassessable. In the absence of actual
24 fraud in the transaction, the judgment of the board of directors
25 or the shareholders, as the case may be, as to the value of the
26 consideration received for shares shall be conclusive.

27 375.206. Upon receipt by the director [of insurance] of any
28 certificate of amendment in triplicate, he shall file it if he

1 finds that the certificate of amendment conforms to law and that
2 the proceedings were regular, and that the same will not be
3 prejudicial to the interest of the policyholders and, if the
4 amendment increases or reduces the capital stock, that the
5 condition and the assets of the company justify the increase or
6 reduction. Keeping one of the copies as a permanent record, he
7 shall issue his certificate of amendment and shall certify the
8 same to the secretary of state, who shall affix his certificate
9 of amendment to a copy thereof retaining the same as a permanent
10 record and shall forward to the company his certificate of
11 amendment. The secretary of state shall also forward to the
12 director [of insurance] a certified copy of his certificate of
13 amendment.

14 375.221. 1. After the adoption of an amendment of the
15 articles, a certificate of amendment shall be executed in
16 triplicate by the insurance company by its president or vice
17 president and its secretary or assistant secretary verified by
18 one of the officers signing with corporate seal affixed. If the
19 insurance company is a reciprocal or interinsurance exchange, the
20 certificate of amendment shall be executed in a like manner by
21 its attorney in fact.

22 2. The certificates of amendment shall be delivered to the
23 director [of insurance] and shall state:

24 (1) The name of the insurance company;

25 (2) The date of the adoption of the amendment by the
26 shareholders, members or other group of persons entitled to vote
27 on the amendment;

28 (3) The amendment adopted;

1 (4) The number of shares, members, or other group of
2 persons entitled to vote, or if a mutual, the number of the
3 members present either in person or by proxy entitled to vote;

4 (5) The number of shares, members, or other group of
5 persons that voted for and against said amendment respectively;

6 (6) If the amendment effects a change in the number or par
7 value of authorized shares, then a statement showing the number
8 of shares and par value thereof previously authorized.

9 375.231. Any insurance company incorporated under the laws
10 of this state, the capital stock of which has not been fully
11 subscribed, may, by the vote of a majority of its stockholders
12 and subscribers of its capital stock, reduce its capital stock to
13 the extent prescribed by law in the following manner: The
14 stockholders and subscribers of its capital stock of any company
15 desiring so to reduce its stock, shall file or cause to be filed
16 with the director [of the insurance department] a certified copy
17 of the proceedings of the stockholders and subscribers of its
18 capital stock at which it was determined to reduce the stock,
19 which copy of the proceedings shall set forth in full the amount
20 of the capital stock after the reduction, the number of shares
21 and the par value of each, a list of the stockholders of the
22 company, together with their residences and the amount of stock
23 subscribed by each and the amount paid therefor and such other
24 information as shall be necessary to give the director [of the
25 insurance department] a complete record of all transactions of
26 the insurance company from its incorporation to the time of the
27 reduction of its capital stock as voted by the stockholders and
28 subscribers of its capital stock, and the director [of insurance]

1 may, in his discretion, make an examination of the records and
2 books of the insurance company; and if the director [of the
3 insurance department] is satisfied that the provisions of this
4 section have been fully complied with, and that the proceedings
5 were regular, the director shall issue a certificate authorizing
6 the reduction and showing that the capital stock of the company
7 has been reduced, the number and par value of the shares; and the
8 certificate shall be filed and recorded as in sections 375.010 to
9 375.920 is provided for filing and recording the certificates of
10 incorporation; and thereafter the company shall, with the reduced
11 capital, be subject to the same liabilities that it possessed or
12 was subject to at the time of the reduction of its capital; and
13 the charter or certificate of incorporation of the company shall
14 be deemed to be amended in respect to the amount of capital
15 stock, and the par value and number of shares, so as to conform
16 to the reduction.

17 375.246. 1. Credit for reinsurance shall be allowed a
18 domestic ceding insurer as either an asset or a reduction from
19 liability on account of reinsurance ceded only when the reinsurer
20 meets the requirements of subdivisions (1) to (5) of this
21 subsection. Credit shall be allowed pursuant to subdivision (1),
22 (2) or (3) of this subsection only as respects cessions of those
23 kinds or classes of business which the assuming insurer is
24 licensed or otherwise permitted to write or assume in its state
25 of domicile or, in the case of a United States branch of an alien
26 assuming insurer, in the state through which it is entered and
27 licensed to transact insurance or reinsurance. Credit shall be
28 allowed pursuant to subdivision (3) or (4) of this subsection

1 only if the applicable requirements of subdivision (6) have been
2 satisfied.

3 (1) Credit shall be allowed when the reinsurance is ceded
4 to an assuming insurer that is licensed to transact insurance in
5 this state;

6 (2) Credit shall be allowed when the reinsurance is ceded
7 to an assuming insurer that is accredited as a reinsurer in this
8 state. An accredited reinsurer is one that:

9 (a) Files with the director evidence of its submission to
10 this state's jurisdiction;

11 (b) Submits to the authority of the department [of
12 insurance] to examine its books and records;

13 (c) Is licensed to transact insurance or reinsurance in at
14 least one state, or in the case of a United States branch of an
15 alien assuming insurer is entered through and licensed to
16 transact insurance or reinsurance in at least one state;

17 (d) Files annually with the director a copy of its annual
18 statement filed with the insurance [department] regulator of its
19 state of domicile and a copy of its most recent audited financial
20 statement; and

21 (e) Maintains a surplus as regards policyholders in an
22 amount not less than twenty million dollars and whose
23 accreditation has not been denied by the director within ninety
24 days of its submission; or

25 (f) Maintains a surplus as regards policyholders in an
26 amount less than twenty million dollars and whose accreditation
27 has been approved by the director.

28

1 No credit shall be allowed a domestic ceding insurer if the
2 assuming insurer's accreditation has been revoked by the director
3 after notice and hearing;

4 (3) Credit shall be allowed when the reinsurance is ceded
5 to an assuming insurer that is domiciled in, or in the case of a
6 United States branch of an alien assuming insurer is entered
7 through, a state that employs standards regarding credit for
8 reinsurance substantially similar to those applicable under this
9 statute and the assuming insurer or United States branch of an
10 alien assuming insurer:

11 (a) Maintains a surplus as regards policyholders in an
12 amount not less than twenty million dollars; except that this
13 paragraph does not apply to reinsurance ceded and assumed
14 pursuant to pooling arrangements among insurers in the same
15 holding company system; and

16 (b) Submits to the authority of the department of
17 insurance, financial and professional regulation to examine its
18 books and records;

19 (4) (a) Credit shall be allowed when the reinsurance is
20 ceded to an assuming insurer that maintains a trust fund in a
21 qualified United States financial institution, as defined in
22 subdivision (2) of subsection 3 of this section, for the payment
23 of the valid claims of its United States ceding insurers, their
24 assigns and successors in interest. To enable the director to
25 determine the sufficiency of the trust fund, the assuming insurer
26 shall report annually to the director information substantially
27 the same as that required to be reported on the National
28 Association of Insurance Commissioners' annual statement form by

1 licensed insurers. The assuming insurer shall submit to
2 examination of its books and records by the director.

3 (b) Credit for reinsurance shall not be granted pursuant to
4 this subdivision unless the form of the trust and any amendments
5 to the trust have been approved by:

6 a. The commissioner or director of the state agency
7 regulating insurance in the state where the trust is domiciled;
8 or

9 b. The commissioner or director of another state who,
10 pursuant to the terms of the trust instrument, has accepted
11 principal regulatory oversight of the trust.

12 (c) The form of the trust and any trust amendments shall
13 also be filed with the commissioner or director in every state in
14 which the ceding insurer beneficiaries of the trust are
15 domiciled. The trust instrument shall provide that contested
16 claims shall be valid and enforceable upon the final order of any
17 court of competent jurisdiction in the United States. The trust
18 shall vest legal title to its assets in its trustees for the
19 benefit of the assuming insurer's United States ceding insurers,
20 their assigns and successors in interest. The trust and the
21 assuming insurer shall be subject to examination as determined by
22 the director.

23 (d) The trust shall remain in effect for as long as the
24 assuming insurer has outstanding obligations due under the
25 reinsurance agreements subject to the trust. No later than
26 February twenty-eighth of each year the trustees of the trust
27 shall report to the director in writing the balance of the trust
28 and listing the trust's investments at the preceding year end and

1 shall certify the date of termination of the trust, if so
2 planned, or certify that the trust will not expire prior to the
3 next following December thirty-first.

4 (e) The following requirements apply to the following
5 categories of assuming insurers:

6 a. The trust fund for a single assuming insurer shall
7 consist of funds in trust in an amount not less than the assuming
8 insurer's liabilities attributable to reinsurance ceded by the
9 United States ceding insurers, and, in addition, the assuming
10 insurer shall maintain a trusteed surplus of not less than twenty
11 million dollars;

12 b. In the case of a group of incorporated and individual
13 unincorporated underwriters:

14 (i) For reinsurance ceded under reinsurance agreements with
15 an inception, amendment or renewal date on or after August 1,
16 1995, the trust shall consist of a trusteed account in an amount
17 not less than the group's several liabilities attributable to
18 business ceded by United States domiciled ceding insurers to any
19 member of the group;

20 (ii) For reinsurance ceded under reinsurance agreements
21 with an inception date on or before July 31, 1995, and not
22 amended or renewed after that date, notwithstanding the other
23 provisions of this section, the trust shall consist of a trustee
24 account in an amount not less than the group's several insurance
25 and reinsurance liabilities attributable to business in the
26 United States; and

27 (iii) In addition to these trusts, the group shall maintain
28 in trust a trusteed surplus of which one hundred million dollars

1 shall be held jointly for the benefit of the United States
2 domiciled ceding insurers of any member of the group for all
3 years of account;

4 c. The incorporated members of the group shall not be
5 engaged in any business other than underwriting as a member of
6 the group and shall be subject to the same level of regulation
7 and solvency control by the group's domiciliary regulator as are
8 the unincorporated members;

9 d. Within ninety days after its financial statements are
10 due to be filed with the group's domiciliary regulator, the group
11 shall provide to the director an annual certification by the
12 group's domiciliary regulator of the solvency of each underwriter
13 member; or if a certification is unavailable, financial
14 statements, prepared by independent public accountants, of each
15 underwriter member of the group;

16 (5) Credit:

17 (a) Shall be allowed when the reinsurance is ceded to an
18 assuming insurer not meeting the requirements of subdivision (1),
19 (2), (3) or (4) of this subsection, but only as to the insurance
20 of risks located in a jurisdiction of the United States where the
21 reinsurance is required by applicable law or regulation of that
22 jurisdiction;

23 (b) May be allowed in the discretion of the director when
24 the reinsurance is ceded to an assuming insurer not meeting the
25 requirements of subdivision (1), (2), (3) or (4) of this
26 subsection, but only as to the insurance of risks located in a
27 foreign country where the reinsurance is required by applicable
28 law or regulation of that country;

1 (6) If the assuming insurer is not licensed or accredited
2 to transact insurance or reinsurance in this state, the credit
3 permitted by subdivisions (3) and (4) of this subsection shall
4 not be allowed unless the assuming insurer agrees in the
5 reinsurance agreements:

6 (a) That in the event of the failure of the assuming
7 insurer to perform its obligations under the terms of the
8 reinsurance agreement, the assuming insurer, at the request of
9 the ceding insurer shall submit to the jurisdiction of the courts
10 of this state, will comply with all requirements necessary to
11 give such courts jurisdiction, and will abide by the final
12 decisions of such courts or of any appellate courts in this state
13 in the event of an appeal; and

14 (b) To designate the director or a designated attorney as
15 its true and lawful attorney upon whom may be served any lawful
16 process in any action, suit or proceeding instituted by or on
17 behalf of the ceding company. This paragraph is not intended to
18 conflict with or override the obligation of the parties to a
19 reinsurance agreement to arbitrate their disputes, if this
20 obligation is created in the agreement and the jurisdiction and
21 situs of the arbitration is, with respect to any receivership of
22 the ceding company, any jurisdiction of the United States;

23 (7) If the assuming insurer does not meet the requirements
24 of subdivision (1), (2) or (3) of this subsection, the credit
25 permitted by subdivision (4) of this subsection shall not be
26 allowed unless the assuming insurer agrees in the trust
27 agreements to the following conditions:

28 (a) Notwithstanding any other provisions in the trust

1 instrument, if the trust fund is inadequate because it contains
2 an amount less than the amount required by paragraph (e) of
3 subdivision (4) of this subsection, or if the grantor of the
4 trust has been declared insolvent or placed into receivership,
5 rehabilitation, liquidation or similar proceedings under the laws
6 of its state or country of domicile, the trustee shall comply
7 with an order of the commissioner or director with regulatory
8 oversight over the trust or with an order of a court of competent
9 jurisdiction directing the trustee to transfer to the
10 commissioner or director with regulatory oversight all of the
11 assets of the trust fund;

12 (b) The assets shall be distributed by and claims shall be
13 filed with and valued by the commissioner or director with
14 regulatory oversight in accordance with the laws of the state in
15 which the trust is domiciled that are applicable to the
16 liquidation of domestic insurance companies;

17 (c) If the commissioner or director with regulatory
18 oversight determines that the assets of the trust fund or any
19 part thereof are not necessary to satisfy the claims of the
20 United States ceding insurers of the grantor of the trust, the
21 assets or part thereof shall be returned by the commissioner or
22 director with regulatory oversight to the trustee for
23 distribution in accordance with the trust agreement; and

24 (d) The grantor shall waive any right otherwise available
25 to it under United States law that is inconsistent with this
26 subsection.

27 2. An asset or reduction from liability for the reinsurance
28 ceded by a domestic insurer to an assuming insurer not meeting

1 the requirements of subsection 1 of this section shall be allowed
2 in an amount not exceeding the liabilities carried by the ceding
3 insurer. The reduction shall be in the amount of funds held by
4 or on behalf of the ceding insurer, including funds held in trust
5 for the ceding insurer, under a reinsurance contract with the
6 assuming insurer as security for the payment of obligations
7 thereunder, if the security is held in the United States subject
8 to withdrawal solely by, and under the exclusive control of, the
9 ceding insurer; or, in the case of a trust, held in a qualified
10 United States financial institution, as defined in subdivision
11 (2) of subsection 3 of this section. This security may be in the
12 form of:

13 (1) Cash;

14 (2) Securities listed by the securities valuation office of
15 the National Association of Insurance Commissioners and
16 qualifying as admitted assets;

17 (3) (a) Clean, irrevocable, unconditional letters of
18 credit, as defined in subdivision (1) of subsection 3 of this
19 section, issued or confirmed by a qualified United States
20 financial institution no later than December thirty-first of the
21 year for which filing is being made, and in the possession of, or
22 in trust for, the ceding company on or before the filing date of
23 its annual statement.

24 (b) Letters of credit meeting applicable standards of
25 issuer acceptability as of the dates of their issuance or
26 confirmation, notwithstanding the issuing or confirming
27 institution's subsequent failure to meet applicable standards of
28 issuer acceptability, shall continue to be acceptable as security

1 until their expiration, extension, renewal, modification or
2 amendment, whichever first occurs;

3 (4) Any other form of security acceptable to the director.

4 3. (1) For purposes of subdivision (3) of subsection 2 of
5 this section, a "qualified United States financial institution"
6 means an institution that:

7 (a) Is organized or, in the case of a United States office
8 of a foreign banking organization, licensed under the laws of the
9 United States or any state thereof;

10 (b) Is regulated, supervised and examined by federal or
11 state authorities having regulatory authority over banks and
12 trust companies; and

13 (c) Has been determined by either the director, or the
14 securities valuation office of the National Association of
15 Insurance Commissioners, to meet such standards of financial
16 condition and standing as are considered necessary and
17 appropriate to regulate the quality of financial institutions
18 whose letters of credit will be acceptable to the director.

19 (2) A "qualified United States financial institution"
20 means, for purposes of those provisions of this law specifying
21 those institutions that are eligible to act as a fiduciary of a
22 trust, an institution that:

23 (a) Is organized, or in the case of a United States branch
24 or agency office of a foreign banking organization, licensed
25 under the laws of the United States or any state thereof and has
26 been granted authority to operate with fiduciary powers; and

27 (b) Is regulated, supervised and examined by federal or
28 state authorities having regulatory authority over banks and

1 trust companies.

2 4. The director may adopt rules and regulations
3 implementing the provisions of this section.

4 5. (1) The director shall disallow any credit as an asset
5 or as a deduction from liability for any reinsurance found by him
6 to have been arranged for the purpose principally of deception as
7 to the ceding company's financial condition as of the date of any
8 financial statement of the company. Without limiting the general
9 purport of this provision, reinsurance of any substantial part of
10 the company's outstanding risks contracted for in fact within
11 four months prior to the date of any such financial statement and
12 canceled in fact within four months after the date of such
13 statement, or reinsurance under which the assuming insurer bears
14 no substantial insurance risk or substantial risk of net loss to
15 itself, shall prima facie be deemed to have been arranged for the
16 purpose principally of deception within the intent of this
17 provision.

18 (2) (a) The director shall also disallow as an asset or
19 deduction from liability to any ceding insurer any credit for
20 reinsurance unless the reinsurance is payable to the ceding
21 company, and if it be insolvent to its receiver, by the assuming
22 insurer on the basis of the liability of the ceding company under
23 the contracts reinsured without diminution because of the
24 insolvency of the ceding company.

25 (b) Such payments shall be made directly to the ceding
26 insurer or to its domiciliary liquidator except:

27 a. Where the contract of insurance or reinsurance
28 specifically provides for payment to the named insured, assignee

1 or named beneficiary of the policy issued by the ceding insurer
2 in the event of the insolvency of the ceding insurer; or

3 b. Where the assuming insurer, with the consent of it and
4 the direct insured or insureds in an assumption reinsurance
5 transaction subject to sections 375.1280 to 375.1295, has assumed
6 such policy obligations of the ceding insurer as direct
7 obligations of the assuming insurer to the payees under such
8 policies and in substitution for the obligations of the ceding
9 insurer to such payees.

10 (c) Notwithstanding paragraphs (a) and (b) of this
11 subdivision, in the event that a life and health insurance
12 guaranty association has made the election to succeed to the
13 rights and obligations of the insolvent insurer under the
14 contract of reinsurance, then the reinsurer's liability to pay
15 covered reinsured claims shall continue under the contract of
16 reinsurance, subject to the payment to the reinsurer of the
17 reinsurance premiums for such coverage. Payment for such
18 reinsured claims shall only be made by the reinsurer pursuant to
19 the direction of the guaranty association or its designated
20 successor. Any payment made at the direction of the guaranty
21 association or its designated successor by the reinsurer will
22 discharge the reinsurer of all further liability to any other
23 party for such claim payment.

24 (d) The reinsurance agreement may provide that the
25 domiciliary liquidator of an insolvent ceding insurer shall give
26 written notice to the assuming insurer of the pendency of a claim
27 against such ceding insurer on the contract reinsured within a
28 reasonable time after such claim is filed in the liquidation

1 proceeding. During the pendency of such claim, any assuming
2 insurer may investigate such claim and interpose, at its own
3 expense, in the proceeding where such claim is to be adjudicated
4 any defenses which it deems available to the ceding insurer, or
5 its liquidator. Such expense may be filed as a claim against the
6 insolvent ceding insurer to the extent of a proportionate share
7 of the benefit which may accrue to the ceding insurer solely as a
8 result of the defense undertaken by the assuming insurer. Where
9 two or more assuming insurers are involved in the same claim and
10 a majority in interest elect to interpose a defense to such
11 claim, the expense shall be apportioned in accordance with the
12 terms of the reinsurance agreement as though such expense had
13 been incurred by the ceding insurer.

14 6. To the extent that any reinsurer of an insurance company
15 in liquidation would have been required under any agreement
16 pertaining to reinsurance to post letters of credit or other
17 security prior to an order of liquidation to cover such reserves
18 reflected upon the last financial statement filed with a
19 regulatory authority immediately prior to receivership, such
20 reinsurer shall be required to post letters of credit or other
21 security to cover reserves after a company has been placed in
22 liquidation or receivership. If a reinsurer shall fail to post
23 letters of credit or other security as required by a reinsurance
24 agreement or the provisions of this subsection, the director may
25 consider disallowing as a credit or asset, in whole or in part,
26 any future reinsurance ceded to such reinsurer by a ceding
27 insurance company that is incorporated under the laws of the
28 state of Missouri.

1 7. The provisions of section 375.420 shall not apply to any
2 action, suit or proceeding by a ceding insurer against an
3 assuming insurer arising out of a contract of reinsurance
4 effectuated in accordance with the laws of Missouri.

5 8. The provisions of this section shall become effective on
6 January 1, 2003, and shall be applicable to the financial
7 statements of a reinsurer as of December 31, 2002.

8 375.251. 1. Civil actions may be maintained by any
9 insurance corporation formed under the laws of this state against
10 any of its members or stockholders, for any cause relating to the
11 business of the company.

12 2. Civil actions may also be prosecuted and maintained by
13 any member or stockholder of the corporation against the
14 corporation for loss which may have accrued in favor of any
15 member or stockholder on any risk or policy, if payment is
16 withheld for more than two months after the loss shall have
17 become due; but no action shall be brought or maintained by any
18 person other than the director [of the insurance department of
19 this state] for the winding up or dissolution of any insurance
20 company, or the distribution of its assets among its creditors.

21 375.256. Any insurance company, association, or other
22 insurer not incorporated or authorized under the laws of this
23 state, which shall do or cause to be done any of the following
24 acts in this state, effected by mail or otherwise: the issuance
25 or delivery of contracts of insurance to residents of this state
26 or to corporations authorized to do business in this state, the
27 solicitation of applications for contracts of insurance, the
28 collection of premiums, membership fees, assessments or other

1 considerations for contracts, or any other transaction of
2 business, shall be deemed to have constituted and appointed the
3 director [of insurance of the state of Missouri], and his
4 successor or successors in office, to be its true and lawful
5 attorney, upon whom may be served all lawful process in any
6 action, suit, or proceeding instituted in any county in this
7 state, by or on behalf of an insured or beneficiary arising out
8 of any contract of insurance, and any such act shall be
9 signification of its agreement that the service of process is of
10 the same legal force and validity as personal service of process
11 in this state upon the insurer, notwithstanding the fact that the
12 insurance company, association, or other insurer has failed or
13 neglected to file written power of attorney appointing and
14 authorizing the director [of insurance] of this state to
15 acknowledge or receive service of all lawful process for and on
16 behalf of the insurance company, association or other insurer, as
17 provided in section 375.906.

18 375.261. 1. Service of process as provided herein shall be
19 made by delivery of two copies of the summons, with copies of the
20 petition thereto attached, to the director [of the insurance
21 department of this state], or in his absence to the deputy
22 director of the [insurance] department, or in the absence of both
23 the director and deputy director, to the chief clerk of the
24 department [of insurance], at the office of the director of the
25 [insurance division] department of insurance, financial and
26 professional regulation of this state at Jefferson City,
27 Missouri. The director [of the insurance department] shall
28 forthwith mail by certified mail, with return receipt requested,

1 one of the copies of the summons, with petition thereto attached,
2 to the defendant at its last known principal place of business,
3 and shall keep a record of all process so served upon the
4 director, deputy director or chief clerk, and the date of
5 service, and the return receipt showing delivery thereof to the
6 defendant shall be filed therewith.

7 2. The director [of the insurance department], upon
8 receiving the return receipt, shall so certify the fact to the
9 clerk of the court in which the action is pending. The service
10 of process shall be deemed sufficient provided notice of service,
11 and a copy of the summons, with a copy of plaintiff's petition
12 thereto attached, are sent certified mail, with return receipt
13 requested, within ten days after service of process upon the
14 director [of the insurance department], or his deputy or chief
15 clerk, as aforesaid, by plaintiff or plaintiff's attorney to the
16 defendant at its last known principal place of business, and the
17 return receipt therefor issued by the post office and the
18 affidavit of plaintiff or plaintiff's attorney showing compliance
19 with the aforesaid provisions are filed in the office of the
20 clerk of the court in which the action is pending on or before
21 the date the defendant is required to appear and defend the cause
22 of action.

23 375.271. No plaintiff shall be entitled to a judgment
24 against the defendant by default under this section until after
25 the expiration of forty-five days from the date of service of
26 summons with copy of plaintiff's petition thereto attached upon
27 the director [of the insurance department], his deputy or chief
28 clerk as provided in section 375.261, or upon either of the

1 persons referred to in section 375.266.

2 375.330. 1. No insurance company formed under the laws of
3 this state shall be permitted to purchase, hold or convey real
4 estate, excepting for the purpose and in the manner herein set
5 forth, to wit:

6 (1) Such as shall be necessary for its accommodation in the
7 transaction of its business; provided that before the purchase of
8 real estate for any such purpose, the approval of the director
9 [of the department of insurance] must be first had and obtained,
10 and except with the approval of the director, the value of such
11 real estate, together with all appurtenances thereto, purchased
12 for such purpose shall not exceed twenty percent of the insurance
13 company's capital and surplus as shown by its last annual
14 statement; or

15 (2) Such as shall have been mortgaged in good faith by way
16 of security for loans previously contracted, or for moneys due;
17 or

18 (3) Such as shall have been conveyed to it in satisfaction
19 of debts contracted in the course of its dealings; or

20 (4) Such as shall have been purchased at sales upon the
21 judgments, decrees or mortgages obtained or made for such debts;
22 or

23 (5) Such as shall be necessary and proper for carrying on
24 its legitimate business under the provisions of the Urban
25 Redevelopment Corporations Act; or

26 (6) Such as shall have been acquired under the provisions
27 of the Urban Redevelopment Corporations Act permitting such
28 company to purchase, own, hold or convey real estate; or

1 (7) Such real estate, or any interest therein, as may be
2 acquired or held by it by purchase, lease or otherwise, as an
3 investment for the production of income, which real estate or
4 interest therein may thereafter be held, improved, developed,
5 maintained, managed, leased, sold or conveyed by it as real
6 estate necessary and proper for carrying on its legitimate
7 business; or

8 (8) A reciprocal or interinsurance exchange may, in its own
9 name, purchase, sell, mortgage, hold, encumber, lease, convey, or
10 otherwise affect the title to real property for the purposes and
11 objects of the reciprocal or interinsurance exchange. Such
12 deeds, notes, mortgages or other documents relating to real
13 property may be executed by the attorney in fact of the
14 reciprocal or interinsurance exchange. This provision shall be
15 retroactive and shall apply to real estate owned or sold by a
16 reciprocal insurer prior to August 28, 1990.

17 2. The investments acquired under subdivision (7) of
18 subsection 1 of this section may be in either existing or new
19 business or industrial properties, or for new residential
20 properties or new housing purposes.

21 3. Provided, no such insurance company shall invest more
22 than ten percent of its admitted assets, as shown by its last
23 annual statement preceding the date of acquisition, as filed with
24 the director [of the department of insurance of the state of
25 Missouri], in the total amount of real estate acquired under
26 subdivision (7) of subsection 1, nor more under subdivision (7)
27 of subsection 1 than one percent of its admitted assets or ten
28 percent of its capital and surplus, whichever is greater, in any

1 one property, nor more under subdivision (7) of subsection 1 than
2 one percent of its admitted assets or ten percent of its capital
3 and surplus, whichever is greater, in total properties leased or
4 rented to any one individual, partnership or corporation.

5 4. It shall not be lawful for any company incorporated as
6 aforesaid to purchase, hold or convey real estate in any other
7 case or for any other purpose; and all such real estate acquired
8 in payment of a debt, by foreclosure or otherwise, and real
9 estate exchanged therefor, shall be sold and disposed of within
10 ten years after such company shall have acquired absolute title
11 to the same, unless the company owning such real estate or
12 interest therein shall elect to hold it pursuant to subdivision
13 (7) of subsection 1.

14 5. The director [of the department of insurance] may, for
15 good cause shown, extend the time for holding such real estate
16 acquired in paying of a debt, by foreclosure or otherwise, and
17 real estate exchanged therefor, and not held by the company under
18 subdivision (7) of subsection 1, for such period as he may find
19 to be to the best interests of the policyholders of said company.

20 6. If a life insurance company depositing under section
21 376.170, RSMo, becomes the owner of real estate pursuant to this
22 section, the company may execute its own deed for the real estate
23 to the director [of the department of insurance], as trustee.
24 The deed may be deposited with the director as proper security,
25 under and according to the provisions of sections 376.010 to
26 376.670, RSMo, the value to be subject to the approval of the
27 director.

28 375.345. 1. As used in this section, the following words

1 and terms mean:

2 (1) "Admitted assets", assets permitted to be reported as
3 admitted assets on the statutory financial statement of the
4 insurance company most recently required to be filed with the
5 director, but excluding assets of separate accounts, the
6 investments of which are not subject to the provisions of law
7 governing the general investment account of the insurance
8 company;

9 (2) "Cap", an agreement obligating the seller to make
10 payments to the buyer, with each payment based on the amount by
11 which a reference price, level, performance, or value of one or
12 more underlying interests exceeds a predetermined number,
13 sometimes called the strike rate or strike price;

14 (3) "Collar", an agreement to receive payments as the buyer
15 of an option, cap, or floor and to make payments as the seller of
16 a different option, cap, or floor;

17 (4) "Counterparty exposure amount":

18 (a) The amount of credit risk attributable to an
19 over-the-counter derivative instrument. The amount of credit
20 risk equals:

21 a. The market value of the over-the-counter derivative
22 instrument if the liquidation of the derivative instrument would
23 result in a final cash payment to the insurance company; or

24 b. Zero if the liquidation of the derivative instrument
25 would not result in a final cash payment to the insurance
26 company;

27 (b) If over-the-counter derivative instruments are entered
28 into under a written master agreement which provides for netting

1 of payments owed by the respective parties, and the domicile of
2 the counterparty is either within the United States or within a
3 foreign jurisdiction listed in the Purposes and Procedures of the
4 Securities Valuation Office as eligible for netting, the net
5 amount of credit risk shall be the greater of zero or the net sum
6 of:

7 a. The market value of the over-the-counter derivative
8 instruments entered into under the agreement, the liquidation of
9 which would result in a final cash payment to the insurance
10 company; and

11 b. The market value of the over-the-counter derivative
12 instruments entered into under the agreement, the liquidation of
13 which would result in a final cash payment by the insurance
14 company to the business entity;

15 (c) For open transactions, market value shall be determined
16 at the end of the most recent quarter of the insurance company's
17 fiscal year and shall be reduced by the market value of
18 acceptable collateral held by the insurance company or placed in
19 escrow by one or both parties;

20 (5) "Derivative instrument", an agreement, option,
21 instrument, or a series or combination thereof that makes, takes
22 delivery of, assumes, relinquishes, or makes a cash settlement in
23 lieu of a specified amount of one or more underlying interests,
24 or that has a price, performance, value, or cash flow based
25 primarily upon the actual or expected price, level, performance,
26 value or cash flow of one or more underlying interests.
27 Derivative instruments also include options, warrants used in a
28 hedging transaction and not attached to another financial

1 instrument, caps, floors, collars, swaps, forwards, futures and
2 any other agreements, options or instruments substantially
3 similar thereto, and any other agreements, options, or
4 instruments permitted under rules or orders promulgated by the
5 director;

6 (6) "Derivative transaction", a transaction involving the
7 use of one or more derivative instruments;

8 (7) "Director", the director of the department of
9 insurance, financial and professional regulation of this state;

10 (8) "Floor", an agreement obligating the seller to make
11 payments to the buyer in which each payment is based on the
12 amount by which a predetermined number, sometimes called the
13 floor rate or price, exceeds a reference price, level,
14 performance, or value of one or more underlying interests;

15 (9) "Forward", an agreement other than a future to make or
16 take delivery of, or effect a cash settlement based on the actual
17 or expected price, level, performance or value of, one or more
18 underlying interests, but not including spot transactions
19 effected within customary settlement periods, when issued
20 purchases or other similar cash market transactions;

21 (10) "Future", an agreement traded on an exchange to make
22 or take delivery of, or effect a cash settlement based on the
23 actual or expected price, level, performance or value of one or
24 more underlying interests and which includes an insurance future;

25 (11) "Hedging transaction", a derivative transaction that
26 is entered into and maintained to reduce:

27 (a) The risk of economic loss due to a change in the value,
28 yield, price, cash flow or quantity of assets or liabilities that

1 the insurance company has acquired or incurred or anticipates
2 acquiring or incurring;

3 (b) The currency exchange rate risk or the degree of
4 exposure as to assets or liabilities that the insurance company
5 has acquired or incurred or anticipates acquiring or incurring;
6 or

7 (c) Risk through such other derivative transactions as may
8 be specified to constitute hedging transactions by rules or
9 orders adopted by the director;

10 (12) "Income generation transaction":

11 (a) A derivative transaction involving the writing of
12 covered call options, covered put options, covered caps or
13 covered floors that is intended to generate income or enhance
14 return; or

15 (b) Such other derivative transactions as may be specified
16 to constitute income generation transactions in rules or orders
17 adopted by the director;

18 (13) "Initial margin", the amount of cash, securities or
19 other consideration initially required to be deposited to
20 establish a futures position;

21 (14) "NAIC", the National Association of Insurance
22 Commissioners;

23 (15) "Option", an agreement giving the buyer the right to
24 buy or receive, sell or deliver, enter into, extend, terminate or
25 effect a cash settlement based on the actual or expected price,
26 level, performance or value of one or more underlying interests;

27 (16) "Over-the-counter derivative instrument", a derivative
28 instrument entered into with a business entity other than through

1 an exchange or clearinghouse;

2 (17) "Potential exposure", the amount determined in
3 accordance with the NAIC Annual Statement Instructions;

4 (18) "Replication transaction", a derivative transaction
5 effected either separately or in conjunction with cash market
6 investments included in the insurer's investment portfolio and
7 intended to replicate the investment characteristic of another
8 authorized transaction, investment or instrument or to operate as
9 a substitute for cash market transactions. A derivative
10 transaction that is entered into as a hedging transaction or an
11 income generation transaction shall not be considered a
12 replication transaction;

13 (19) "SVO", the Securities Valuation Office of the NAIC or
14 any successor office established by the NAIC;

15 (20) "Swap", an agreement to exchange or to net payments at
16 one or more times based on the actual or expected price, level,
17 performance or value of one or more underlying interests;

18 (21) "Underlying interest", the assets, liabilities, other
19 interests, or a combination thereof underlying a derivative
20 instrument, such as any one or more securities, currencies,
21 rates, indices, commodities or derivative instruments;

22 (22) "Warrant", an instrument that gives the holder the
23 right to purchase an underlying financial instrument at a given
24 price and time or at a series of prices and times outlined in the
25 warrant agreement.

26 2. An insurance company may, directly or indirectly through
27 an investment subsidiary, engage in derivative transactions
28 pursuant to this section under the following conditions:

1 (1) In general:

2 (a) An insurance company may use derivative instruments
3 pursuant to this chapter to engage in hedging transactions and
4 certain income generation transactions;

5 (b) Upon request, an insurance company shall demonstrate to
6 the director the intended hedging characteristics and the ongoing
7 effectiveness of the derivative transaction or combination of the
8 transactions through cash flow testing or other appropriate
9 analyses;

10 (2) An insurance company shall only maintain its position
11 in any outstanding derivative instrument used as part of a
12 hedging transaction for as long as the hedging transaction
13 continues to be effective;

14 (3) An insurance company may enter into hedging
15 transactions if as a result of and after giving effect to the
16 transaction:

17 (a) The aggregate statement value of options, caps, floors
18 and warrants not attached to another financial instrument
19 purchased and used in hedging transactions then engaged in by the
20 insurer does not exceed seven and one-half percent of its
21 admitted assets;

22 (b) The aggregate statement value of options, caps and
23 floors written in hedging transactions then engaged in by the
24 insurer does not exceed three percent of its admitted assets; and

25 (c) The aggregate potential exposure of collars, swaps,
26 forwards and futures used in hedging transactions then engaged in
27 by the insurer does not exceed six and one-half percent of its
28 admitted assets;

1 (4) An insurance company may only enter into the following
2 types of income generation transactions if as a result of and
3 after giving effect to an income generation transaction, the
4 aggregate statement value of the fixed income assets that are
5 subject to call or that generate the cash flows for payments
6 under the caps or floors, plus the face value of fixed income
7 securities underlying a derivative instrument subject to call,
8 plus the amount of the purchase obligations under the puts, shall
9 not exceed ten percent of its admitted assets:

10 (a) Sales of covered call options on noncallable fixed
11 income securities, callable fixed income securities if the option
12 expires by its terms prior to the end of the noncallable period,
13 or derivative instruments based on fixed income securities;

14 (b) Sales of covered call options on equity securities if
15 the insurance company holds in its portfolio or can immediately
16 acquire through the exercise of options, warrants or conversion
17 rights already owned, the equity securities subject to call
18 during the complete term of the call option sold;

19 (c) Sales of covered puts on investments that the insurance
20 company is permitted to acquire under the applicable insurance
21 laws of the state, if the insurance company has escrowed or
22 entered into a custodian agreement segregating cash or cash
23 equivalents with a market value equal to the amount of its
24 purchase obligations under the put during the complete term of
25 the put option sold; or

26 (d) Sales of covered caps or floors if the insurance
27 company holds in its portfolio the investments generating the
28 cash flow to make the required payments under the caps or floors

1 during the complete term that the cap or floor is outstanding;

2 (5) An insurance company may use derivative instruments for
3 replication transactions only after the director promulgates
4 reasonable rules that set forth methods of disclosure, reserving
5 for risk-based capital, and determining the asset valuation
6 reserve for these instruments. Any asset being replicated is
7 subject to all the provisions and limitations on the making
8 thereof specified in this chapter and chapters 376 and 379, RSMo,
9 with respect to investments by the insurer as if the transaction
10 constituted a direct investment by the insurer in the replicated
11 asset;

12 (6) An insurance company shall include all counterparty
13 exposure amounts in determining compliance with this state's
14 single-entity investment limitations;

15 (7) The director may approve, by rule or order, additional
16 transaction conditions involving the use of derivative
17 instruments for other risk management purposes.

18 3. Written investment policies and record-keeping
19 procedures shall be approved by the board of directors of the
20 insurance company or by a committee authorized by such board
21 before the insurance company may engage in the practices and
22 activities authorized by this section. These policies and
23 procedures must be specific enough to define and control
24 permissible and suitable investment strategies with regard to
25 derivative transactions with a view toward the protection of the
26 policyholders. The minutes of any such committee shall be
27 recorded and regular reports of such committee shall be submitted
28 to the board of directors.

1 4. The director may promulgate reasonable rules and
2 regulations pursuant to the provisions of chapter 536, RSMo, not
3 inconsistent with this section and any other insurance laws of
4 this state, establishing standards and requirements relating to
5 practices and activities authorized in this section, including,
6 but not limited to, rules which impose financial solvency
7 standards, valuation standards, and reporting requirements.

8 375.350. 1. No insurance company shall, directly or
9 indirectly, purchase or hold, either absolutely or as collateral,
10 its own stock, after the same has been once issued, without prior
11 approval of the director [of insurance]. The written application
12 shall specify the number of shares offered, their description,
13 the price offered by the company, the book value of said shares
14 and any other pertinent information regarding the value of said
15 shares. A copy of said application shall be given to the seller
16 prior to the filing of said written application with the director
17 [of insurance]. This section shall not prevent a company from
18 buying its own stock, if the same shall be forfeited and sold to
19 the company for nonpayment of assessments thereon, in which case
20 it shall be treated and issued as part of the original stock.
21 Any person willfully making a false statement or representation
22 in the application mentioned above shall be deemed guilty of a
23 felony and be imprisoned for a period of not less than two years
24 nor more than five years.

25 2. Notwithstanding the limitations set out in subsection 1
26 of this section, an insurance company may purchase or otherwise
27 acquire its own stock, after the same has once been issued,
28 without prior approval of the director [of insurance] provided

1 that:

2 (1) The insurance company does not thereby reduce its
3 capital and surplus below the minimums required by law for such
4 company to continue to do business; and

5 (2) The insurance company, within ten days after the end of
6 any three-month period in which it acquires more than five
7 percent of any class of its outstanding shares, files a report
8 with the director [of insurance] showing:

9 (a) The date of such purchase;

10 (b) The class of stock purchased;

11 (c) The number of shares of each class so purchased;

12 (d) The aggregate price paid for such shares of each class
13 so purchased; and

14 (e) The authorized capital, actual capital, and surplus of
15 such company immediately prior to such purchase.

16 3. No shares which are or have been reacquired, purchased,
17 pledged, or held by an insurance company pursuant to subsection 1
18 or 2 of this section shall be considered an admitted asset, nor
19 shall be considered in determining the solvency of any insurance
20 company.

21 375.355. 1. Any insurance company organized under the laws
22 of this state may hereafter, with the approval of the director
23 first obtained,

24 (1) Organize any subsidiary insurance company in which it
25 shall own and hold not less than a majority of the common stock;
26 or

27 (2) Acquire control of another insurance company by
28 purchase, merger or otherwise, regardless of the domicile of any

1 company so organized or acquired, for the purpose of operating
2 any such company under a plan of common control.

3 2. Whenever any insurance company shall propose under the
4 provisions of this section to acquire control of another
5 insurance company by purchase, merger or otherwise or to dispose
6 of any stock so purchased or so acquired, it shall present its
7 petition to the director setting forth the terms and conditions
8 of the proposed acquisition or disposition and praying for the
9 approval of the acquisition or disposition. The director shall
10 thereupon issue an order of notice, requiring notice to be given,
11 to the policyholders of a mutual company and stockholders of a
12 stock company, of the pendency of the petition, and the time and
13 place at which the same will be heard, by publication of the
14 order of notice in two daily newspapers designated by the
15 director for at least once a week for two weeks before the time
16 appointed for the hearing upon the petition; and any further
17 notice which the director may require shall be given by the
18 petitioners. At the time and place fixed in the notice, or at
19 such time and place as shall be fixed by adjournment, the
20 director shall proceed with the hearing, and may make such
21 examination into the affairs and conditions of the companies as
22 he may deem proper. For the purpose of making the examination,
23 or having the same made, the director may employ the necessary
24 clerical, actuarial, legal, and other assistance. The director
25 [of the insurance department of this state] shall have the same
26 power to summon and compel the attendance and testimony of
27 witnesses and the production of books and papers at the hearing
28 as by law granted in examinations of companies. Any policyholder

1 or stockholder of the company or companies may appear before the
2 director and be heard in reference to the petition. The
3 director, if satisfied that the proposed acquisition or
4 disposition was properly approved after notice as required by the
5 articles and bylaws of the company or companies, and that the
6 interest of the policyholders of the company or companies is
7 protected, and that no reasonable objection exists as to the
8 acquisition or disposition, and that the acquisition will not
9 tend to substantially lessen competition or create a monopoly,
10 shall approve and authorize the proposed acquisition or
11 disposition. All expenses and costs incident to the proceedings
12 under this subsection shall be paid by the company or companies
13 bringing the petition.

14 3. The shares of any subsidiary life insurance company
15 acquired or held under the provisions of this section by a parent
16 life insurance company organized under the provisions of chapter
17 376, RSMo, shall be eligible for deposit by the parent life
18 insurance company as provided in section 376.170, RSMo, at a
19 value no greater than the proportion of the capital and surplus
20 of the subsidiary company as shown by its last annual statement
21 filed in the state of its domicile represented by the shares held
22 by the parent life insurance company, but only to the extent that
23 the capital and surplus is represented by cash or securities of
24 the kind and type eligible for deposit under the provisions of
25 section 376.170, RSMo, and other applicable statutes.

26 4. (1) The provisions of this section shall not apply to
27 the acquisition or disposition by purchase, sale or otherwise of
28 not less than the majority of the stock of any insurance company

1 domiciled outside of the state of Missouri, if the consideration
2 involved in such acquisition or disposition does not exceed the
3 following threshold:

4 (a) With respect to an insurance holding company, so long
5 as such consideration does not exceed the lesser of three percent
6 of its consolidated assets or twenty percent of its consolidated
7 stockholders' equity as of the thirty-first day of December of
8 the preceding year according to its consolidated balance sheet
9 prepared in accordance with generally accepted accounting
10 principles and audited by independent certified accountants in
11 accordance with generally acceptable auditing standards; or

12 (b) With respect to an insurance company organized under
13 the laws of this state, so long as such consideration does not
14 exceed the lesser of three percent of its assets or ten percent
15 of its capital and surplus as of the thirty-first day of December
16 of the preceding year according to its balance sheet prepared in
17 accordance with accounting practices prescribed or permitted by
18 the department [of insurance] and in conformity with the
19 practices of the National Association of Insurance Commissioners
20 and audited by independent certified accountants in accordance
21 with generally acceptable auditing standards.

22 (2) In calculating the amount of consideration involved in
23 such acquisition or disposition for the purposes of subdivision
24 (1) of this subsection, there shall be included total net moneys
25 or other consideration expended, and obligations assumed in the
26 acquisition or disposition, including all organizational expenses
27 and contributions to capital and surplus of such insurance
28 company domiciled outside of the state of Missouri, whether

1 represented by the purchase of capital stock or issuance of other
2 securities. For the purposes of this subsection, the term
3 "insurance holding company" means a domestic insurance holding
4 company in which the majority of stock is owned by a domestic
5 insurance company, or a domestic insurance holding company which
6 owns the majority of the stock of a domestic insurance company.

7 375.400. 1. The director [of insurance] shall, as often as
8 he may deem proper, make careful inquiry and investigation as to
9 the manner in which the money, funds or securities of insurance
10 companies, doing business in this state, are invested or
11 employed, and record the result of such inquiry or investigation
12 in records kept in his office for the inspection of policyholders
13 and public officials.

14 2. In the event of a violation of this section or of
15 section 375.390, the prosecuting attorney of the proper county,
16 or in the city of St. Louis, the circuit attorney, shall proceed
17 at once by information or indictment against the offenders.

18 375.422. Every person who is directly or indirectly the
19 beneficial owner of more than ten percent of any class of any
20 equity security of any insurance company organized under the laws
21 of this state and having capital stock, or who is a director or
22 an officer of such company, shall file in the office of the
23 director of the department [of insurance of the state of
24 Missouri] on or before January 1, 1966, or within ten days after
25 he becomes such beneficial owner, director or officer, a
26 statement in such form as the director may prescribe, of the
27 amount of all equity securities of such company of which he is
28 the beneficial owner, and within ten days after the close of each

1 calendar month thereafter, if there has been a change in such
2 ownership during such month, any such person shall file in the
3 office of the director a statement, in such form as the director
4 may prescribe, indicating his ownership at the close of each such
5 calendar month and such changes in his ownership as have occurred
6 during such calendar month.

7 375.430. Whenever any judgment shall be obtained in any of
8 the courts of this state against any insurance company doing
9 business in this state, and said judgment shall remain
10 unsatisfied for fifteen days after execution shall have been
11 lawfully issued thereon, the certificate of authority or license
12 to do business issued or granted to such insurance company shall
13 immediately be suspended or revoked by the director [of the
14 insurance department], upon said director being notified thereof,
15 and such insurance company shall, after such suspension or
16 revocation, be prohibited from transacting any business in this
17 state until such judgment shall be satisfied.

18 375.440. Any person, who has heretofore obtained or may
19 hereafter obtain, in any of the courts of this state, a decree
20 against any insurance company, doing business in this state,
21 commanding or directing said insurance company to specifically
22 perform a contract of insurance, may, if the insurance company
23 against which said decree is obtained, fails, for a period of
24 fifteen days after the rendition of said decree, to comply with
25 the same, obtain a copy of said decree, certified to under the
26 hand and seal of the clerk of the court in which said decree was
27 rendered, and transmit the same, together with the certificate of
28 said clerk, reciting therein, the failure of such insurance

1 company to comply with said decree, and transmit the same to the
2 director [of the insurance department of the state of Missouri],
3 and immediately upon receipt thereof, the said director [of
4 insurance] shall cause such insurance company to be notified of
5 the fact of the filing of such certified copy of said decree and
6 certificate, and if such insurance company fails for a period of
7 thirty days thereafter to comply with said decree, the
8 certificate of authority or license to do business issued or
9 granted to such insurance company, shall immediately be suspended
10 or revoked by the director [of the insurance department], until
11 such decree shall be satisfied; provided, however, the foregoing
12 shall not be applicable while an appeal is pending if a
13 supersedeas bond shall have been given.

14 375.460. 1. The director [of the insurance department]
15 shall receive the deposits and securities required by law to be
16 transferred to and deposited with him, and shall give vouchers
17 for the same to the parties so depositing.

18 2. He shall at all times require each company to keep up
19 its deposits aforesaid to the full actual value required by law.

20 3. It shall be the duty of the director [of the insurance
21 department], upon receipt of securities from any insurance
22 company, to forthwith deposit the same in the presence of the
23 president, vice president or authorized agent of the company, in
24 a strong iron box, which shall require two distinct and different
25 keys to unlock the same, one key to be kept by the director and
26 the other by the company; and the box shall not be opened except
27 in the presence of the director or deputy, and said president,
28 vice president, or authorized agent of the company; provided,

1 however, that in case the company having such securities on
2 deposit shall be adjudged insolvent, or be dissolved, or in cases
3 arising under section 375.490, the court shall make and enforce
4 the necessary orders to place said securities, or any part of
5 them, at the sole disposal of the director.

6 4. The boxes shall be kept in the vault of the Safe Deposit
7 Company of St. Louis, or other like depository to be selected by
8 said director, and the insurance companies shall pay the several
9 fees for the safekeeping of their respective boxes.

10 5. So long as any company so depositing shall continue
11 solvent, the director shall permit such company to collect and
12 receive the interest or dividends on its securities so deposited
13 and transferred, and from time to time to withdraw any such
14 securities on depositing other securities in the stead of those
15 to be withdrawn, such new securities to be of the same value and
16 of the kinds required by law in the first instance.

17 6. The director shall not be subject to garnishment,
18 attachment or any other process or order in respect to such
19 securities than by law provided.

20 375.500. 1. Whenever any company has been or shall be
21 adjudged insolvent, or shall be or has been dissolved, if a
22 distribution of its assets among its policyholders and creditors
23 is or shall be decreed, it shall be the duty of the director [of
24 insurance] to hold all securities on deposit for the benefit of
25 all policyholders in such company, whether the claims of such
26 policyholders are in judgment or not, to reduce such securities
27 to money, and when so reduced, to apply the same, less the
28 expenses herein provided for, to the liquidation of policy claims

1 pro rata; in case there should be any surplus after the payment
2 of all policy claims in full, such surplus shall become a part of
3 the general assets of the company.

4 2. If the policy claimants are not paid in full out of the
5 proceeds of said securities, they shall be entitled to share in
6 the distribution of its general assets for the remainder of their
7 claims, as is provided by law, and as to said remainder shall not
8 be charged with the amount received by them on their policy
9 claims out of the proceeds of said securities; provided, however,
10 that when said securities have been deposited to secure
11 registered policies or annuity bonds, as provided by sections
12 375.010 to 375.920, the proceeds of the securities so deposited
13 shall be first applied to the payment of the registered policies
14 and annuity bonds, for the security of which the same were
15 deposited.

16 375.510. 1. If any insolvent and dissolved company shall
17 be reinsured under the provisions of law, the securities on
18 deposit with the director at the date of the dissolution of the
19 said company shall remain on deposit with him, as a fund for the
20 benefit of the policyholders of the reinsured company, so long as
21 their said policies remain in force; and the same shall not, by
22 virtue of the reinsurance, be transferred to or become a part of
23 the deposit of the reinsuring company, except that said
24 reinsuring company shall have the same right as to the withdrawal
25 or substitution, and as to receiving the interest thereon, as the
26 depositing company had; and said reinsuring company shall be
27 subject to the same liabilities, penalties and obligations as the
28 company depositing would have been with respect to policy claims

1 against it.

2 2. In case the reinsuring company becomes insolvent, the
3 director [of insurance] shall dispose of the deposits as provided
4 in case of insolvent companies, paying first, out of the net
5 proceeds thereof, the policy claims against the reinsured
6 company, and the remainder, if any, into the general assets of
7 the reinsuring company.

8 375.537. 1. As used in this section, the following terms
9 mean:

10 (1) "Chief executive officer", the person, irrespective of
11 his title, designated by the board of directors or trustees of an
12 insurer as the person charged with the responsibility of
13 administering and implementing the insurer's policies and
14 procedures;

15 (2) "Director", the director of the department of
16 insurance, financial and professional regulation;

17 (3) "Impaired", a financial situation in which the assets
18 of an insurer are less than the sum of the insurer's minimum
19 required capital, minimum required surplus and all liabilities as
20 determined in accordance with the requirements for the
21 preparation and filing of the annual statement of an insurer;

22 (4) "Insurer", any insurance company or other insurer
23 licensed to do business in this state.

24 2. Whenever an insurer is impaired, its chief executive
25 officer shall immediately notify the director in writing of such
26 impairment and shall also immediately notify in writing all of
27 the board of directors or trustees of the insurer.

28 3. Any officer, director or trustee of an insurer shall

1 notify the person serving as chief executive officer of the
2 impairment of such insurer in the event such officer, director or
3 trustee knows or has reason to know that the insurer is impaired.

4 4. Any person who knowingly or recklessly violates
5 subsection 2 or 3 of this section shall, upon conviction thereof,
6 be fined not more than fifty thousand dollars or be imprisoned
7 for not more than one year, or both. Any person who knowingly
8 does any of the following shall be guilty of a class D felony:

9 (1) Conceals any property belonging to an insurer;

10 (2) Transfers or conceals in contemplation of a state
11 insolvency proceeding his own property or property belonging to
12 an insurer;

13 (3) Conceals, destroys, mutilates, alters or makes a false
14 entry in any document which affects or relates to the property of
15 an insurer or withholds any such document from a receiver,
16 trustee or other officer of a court entitled to its possession;

17 (4) Gives, obtains or receives a thing of value for acting
18 or forbearing to act in any court proceedings; and any such act
19 or acts results in or contributes to an insurer's becoming
20 impaired or insolvent.

21 375.740. 1. In proceedings to enjoin, rehabilitate,
22 dissolve, wind up or otherwise settle the affairs and dispose of
23 the assets of insurers, the director shall receive no fees nor
24 compensation for any services personally performed by him.

25 2. He shall have power and authority, however, in such
26 cases, and through the course of the whole case, to employ the
27 necessary legal counsel and assistance, and clerical and
28 actuarial force. The compensation of legal counsel and

1 assistance, and clerical and actuarial force shall be fixed and
2 all expenses of taking possession of the property of the insurer
3 and the administration thereof shall be approved by the director,
4 all subject to the approval of the court, and shall be paid out
5 of the funds or assets of the insurer; provided, however, that
6 the salaries of those persons employed by the director under this
7 section together with the expenses of such employment, may be
8 paid out of amount appropriated to the department [of insurance];
9 provided, further, that the amount paid out under this section
10 for salaries and expenses from appropriated funds shall be repaid
11 to the state treasury from any available funds or assets of the
12 insurer.

13 3. The director shall keep a full account of all receipts
14 and disbursements, and make report of the same to the court at
15 least once in twelve months, and oftener if required by the
16 court, and shall be responsible on his official bond for all
17 assets coming into his possession.

18 4. The court may, in its discretion, require of the
19 director a bond in addition to his official bond.

20 5. This section shall apply only to proceedings instituted
21 prior to August 28, 1991.

22 375.772. 1. There is created a nonprofit unincorporated
23 legal entity to be known as the "Missouri Property and Casualty
24 Insurance Guaranty Association", hereinafter referred to as
25 "association". All member insurers shall be and remain members
26 of the association as a condition of their authority to transact
27 insurance in this state. The association shall perform its
28 functions under a plan of operation and through a board of

1 directors established by section 375.776.

2 2. As used in sections 375.771 to 375.779, the following
3 terms mean:

4 (1) "Account", any one of the four accounts established by
5 section 375.773;

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

9 (3) "Affiliate of an insolvent insurer", a person who
10 directly or indirectly through one or more intermediaries
11 controls, is controlled by, or is under common control with an
12 insolvent insurer on December thirty- first of the year
13 immediately preceding the date the insurer becomes an insolvent
14 insurer;

15 (4) "Association", the Missouri property and casualty
16 insurance guaranty association;

17 (5) "Claimant", any insured making a first-party claim or
18 any person instituting a liability claim, provided that no person
19 who is an affiliate of the insolvent insurer may be a claimant;

20 (6) "Control", the possession, direct or indirect, of the
21 power to direct or cause the direction of the management and
22 policies of a person, whether through the ownership of voting
23 securities, by contract other than a commercial contract for
24 goods or nonmanagement services, or otherwise, unless the power
25 is the result of an official position with the corporate office
26 held by the person. Control shall be presumed to exist if any
27 person, directly or indirectly, owns, controls, holds the power
28 to vote, or holds proxies representing ten percent or more of the

1 voting securities of any other person. Such presumption may be
2 rebutted by a showing that control does not exist in fact;

3 (7) "Covered claim", an unpaid claim including those for
4 unearned premiums, presented by a claimant within the time
5 specified in accordance with subsection 1 and subdivision (2) of
6 subsection 2 of section 375.775, and is for a loss arising out of
7 and is within the coverage of an insurance policy to which
8 sections 375.771 to 375.779 apply made by a person insured under
9 such policy or by a person suffering injury or for which a person
10 insured under such policy is legally liable, if:

11 (a) The policy is issued by a member insurer and such
12 member insurer becomes an insolvent insurer after August 28,
13 2004; and

14 (b) The claimant or insured is a resident of this state at
15 the time of the insured event, or the claim is a first-party
16 claim by an insured for damage to property and the property from
17 which the claim arises is permanently located in this state or in
18 the case of an unearned premium, the policyholder is a resident
19 of this state at the time the policy is issued. The residency of
20 the claimant, insured, or policyholder, other than an individual,
21 is the state in which its principal place of business is located
22 at the time of the insured event;

23 (c) "Covered claim" shall not include:

24 a. Any amount awarded as punitive or exemplary damages, or
25 which is a fine or penalty;

26 b. Any amount sought as a return of premium under any
27 retrospective rating plan; or

28 c. Any amount due any reinsurer, insurer, insurance pool,

1 or underwriting association, health maintenance organization,
2 hospital plan corporation, health services corporation, or
3 self-insurer as subrogation recoveries, reinsurance recoveries,
4 contribution, indemnity, or otherwise. To the extent of any
5 amount due any reinsurer, insurer, insurance pool, or
6 underwriting association, health maintenance organization,
7 hospital plan corporation, health services corporation, or
8 self-insurer as subrogation recoveries or otherwise there shall
9 be no right of recovery by any person against a tortfeasor
10 insured of an insolvent insurer, except that such limitation
11 shall not apply with respect to those amounts that exceed the
12 limits of the policy issued such tortfeasor by the insolvent
13 insurer;

14 d. A claim by or against an insured of an insolvent
15 insurer, if such insured has a net worth of more than twenty-five
16 million dollars on the later of the end of the insured's most
17 recent fiscal year or the December thirty-first of the year next
18 preceding the date the insurer becomes an insolvent insurer;
19 provided that an insured's net worth on such date shall be deemed
20 to include the aggregate net worth of the insured and all of its
21 affiliates as calculated on a consolidated basis;

22 e. Any first-party claim by an insured which is an
23 affiliate of the insolvent insurer;

24 f. Supplementary payment obligations incurred prior to the
25 final order of liquidation, including but not limited to
26 adjustment fees and expenses, fees for medical cost containment
27 services, including but not limited to medical case management
28 fees, attorney's fees and expenses, court costs, penalties, and

1 bond premiums;

2 g. Any claims for interest;

3 h. Any amount that constitutes a portion of a covered claim
4 that is within an insured's deductible or self-insured retention;

5 i. Any fee or other amount sought by or on behalf of an
6 attorney or other provider of goods or services retained by an
7 insured or claimant in connection with the assertion or
8 prosecuting of any claim, covered or otherwise, against the
9 association;

10 j. Any amount that constitutes a claim under a policy
11 issued by an insolvent insurer with a deductible or self-insured
12 retention of three hundred thousand dollars or more. However,
13 such a claim shall be considered a covered claim, if, as of the
14 deadline set forth for the filing of claims against the insolvent
15 insurer or its liquidator, the insured is a debtor under 11
16 U.S.C. Section 701, et seq.;

17 k. Any amount to the extent that it is covered by any
18 insurance that is available to the claimant or the insured,
19 whether such other insurance is primary, pro rata, or excess. In
20 all such instances, the association's obligations to the insured
21 or claimant shall not be deemed to be other insurance;

22 (8) "Insolvent insurer", an insurer licensed to transact
23 insurance in this state, either at the time the policy was issued
24 or when the insured event occurred, and against whom a final
25 order of liquidation with a finding of insolvency has been
26 entered by a court of competent jurisdiction in the insurer's
27 state of domicile or of this state under the provisions of
28 sections 375.950 to 375.990 or sections 375.1150 to 375.1246, and

1 which such order of liquidation has not been stayed or been the
2 subject of a writ of supersedeas or other comparable order;

3 (9) "Insured", any named insured, additional insured,
4 vendor, lessor, or any other party identified as an insured under
5 the policy;

6 (10) "Member insurer", any person who writes any kind of
7 insurance to which sections 375.771 to 375.779 apply, including
8 the exchange of reciprocal or interinsurance contracts, and
9 possesses a certificate of authority to transact the business of
10 insurance in this state issued by the director [of the department
11 of insurance]. Whether or not approved by the director [of the
12 department of insurance] for the placing of lines of insurance by
13 producers so authorized under the provisions of chapter 384,
14 RSMo, an insurance company not licensed to do business in this
15 state shall not be a member insurer. Missouri mutual and
16 extended Missouri mutual insurance companies doing business under
17 chapter 380, RSMo, shall be considered member insurers for the
18 purposes of sections 375.771 to 375.779, and a special account
19 shall be established applicable only to such companies;

20 (11) "Net direct written premiums", direct gross premiums
21 written in this state on insurance policies to which sections
22 375.771 to 375.779 apply, less return premiums thereon and
23 dividends paid or credited to policyholders on such direct
24 business. "Net direct written premiums" does not include
25 premiums on contracts between insurers or reinsurers;

26 (12) "Net worth", the total assets of a person less the
27 total liabilities against those assets. Where the person is one
28 who prepares an annual report to shareholders such report for the

1 fiscal year immediately preceding the date of insolvency of the
2 insurance carrier shall be used to determine net worth. If the
3 person is one who does not prepare such an annual report, but
4 does prepare an annual financial report for management which
5 reflects net worth, then such report for the fiscal year
6 immediately preceding the date of insolvency of the insurance
7 carrier shall be used to determine net worth;

8 (13) "Ocean marine insurance" includes marine insurance
9 that insures against maritime perils or risks and other related
10 perils or risks which are usually insured against by traditional
11 marine insurance, such as hull and machinery, marine builders'
12 risks, and marine protection and indemnity. Such perils and
13 risks insured against include, without limitation, loss, damage,
14 or expense or legal liability of the insured arising out of an
15 incident related to ownership, operation, chartering,
16 maintenance, use, repair, or construction of any vessel, craft,
17 or instrumentality in use in ocean or inland waters for
18 commercial purposes, including liability of the insured for
19 personal injury, illness, or death for loss or damage to the
20 property of the insured or another person;

21 (14) "Person", any individual, corporation, partnership,
22 association or voluntary organization, municipality, or political
23 subdivision;

24 (15) "Political subdivision", the same meaning as such term
25 is defined in section 70.210, RSMo;

26 (16) "Self-insurer", a person that covers its liability
27 through a qualified individual or group self-insurance program or
28 any other formal program created for the specific purpose of

1 covering liabilities typically covered by insurance.
2 Self-insurer does not include the Missouri private sector
3 individual self-insurers guaranty corporation created pursuant to
4 section 287.860, RSMo, et seq.

5 375.788. 1. Any act of transacting an insurance business
6 as set forth in section 375.786 by any unauthorized insurance
7 company is equivalent to and shall constitute an irrevocable
8 appointment by such insurance company, binding upon him, his
9 executor or administrator, or successor in interest if a
10 corporation, of the secretary of state or his successor in
11 office, to be the true and lawful attorney of such insurance
12 company upon whom may be served all lawful process in any action,
13 suit, or proceeding in any court by the director [of insurance]
14 or by the state, and upon whom may be served any notice, order,
15 pleading or process in any proceeding before the director [of
16 insurance] and which arises out of transacting an insurance
17 business in this state by such insurance company. Any act of
18 transacting an insurance business in this state by any
19 unauthorized insurance company shall be signification of its
20 agreement that any such lawful process in such court action,
21 suit, or proceeding and any such notice, order, pleading or
22 process in such administrative proceeding before the director [of
23 insurance] so served shall be of the same legal force and
24 validity as personal service of process in this state upon such
25 insurance company.

26 2. Service of process in such action shall be made by
27 delivering to and leaving with the secretary of state, or some
28 person in apparent charge of his office, two copies thereof and

1 by payment to the secretary of state of the fee prescribed by
2 law. Service upon the secretary of state as such attorney shall
3 be service upon the principal.

4 3. The secretary of state shall forthwith forward by
5 certified mail one of the copies of such process or such notice,
6 order, pleading, or process in proceedings before the director to
7 the defendant in such court proceeding or to whom the notice,
8 order, pleading, or process in such administrative proceeding is
9 addressed or directed at its last known principal place of
10 business and shall keep a record of all process so served on him
11 which shall show the day and hour of service. Such service is
12 sufficient, provided:

13 (1) Notice of such service and a copy of the court process
14 or the notice, order, pleading, or process in such administrative
15 proceeding are sent within ten days thereafter by certified mail
16 by the plaintiff or the plaintiff's attorney in the court
17 proceeding or by the director [of insurance] in the
18 administrative proceeding to the defendant in the court
19 proceeding or to whom the notice, order, pleading or process in
20 such administrative proceeding is addressed or directed at the
21 last known principal place of business of the defendant in the
22 court or administrative proceeding.

23 (2) The defendant's receipt or receipts issued by the post
24 office with which the letter is registered, showing the name of
25 the sender of the letter and the name and address of the person
26 or insurance company to whom the letter is addressed, and an
27 affidavit of the plaintiff or the plaintiff's attorney in court
28 proceeding or of the director [of insurance] in administrative

1 proceeding, showing compliance therewith, are filed with the
2 clerk of the court in which such action, suit, or proceeding is
3 pending or with the director in administrative proceedings, on or
4 before the date the defendant in the court or administrative
5 proceeding is required to appear or respond thereto, or within
6 such further time as the court or director [of insurance] may
7 allow.

8 4. No plaintiff shall be entitled to a judgment or a
9 determination by default in any court or administrative
10 proceeding in which court process or notice, order, pleading or
11 process in proceedings before the director [of insurance] is
12 served under this section until the expiration of forty-five days
13 from the date of filing of the affidavit of compliance.

14 5. Nothing in this section shall limit or affect the right
15 to serve any process, notice, order, or demand upon any person or
16 insurance company in any other manner now or hereafter permitted
17 by law.

18 375.789. 1. Before any unauthorized insurance company
19 files or causes to be filed any pleading in any court action,
20 suit or proceeding or in any notice, order, pleading, or process
21 in such administrative proceeding before the director instituted
22 against such person or insurance company, by services made and
23 provided in section 375.788, such insurance company shall either:

24 (1) Deposit with the clerk of the court in which such
25 action, suit, or proceeding is pending, or with the director [of
26 insurance] in administrative proceedings before the director,
27 cash or securities, or file with such clerk or director a bond
28 with good and sufficient sureties, to be approved by the clerk or

1 director in an amount to be fixed by the court or director
2 sufficient to secure the payment of any final judgment which may
3 be rendered in such action or administrative proceeding;

4 (2) Procure a certificate of authority to transact the
5 business of insurance in this state. In considering the
6 application of an insurance company for a certificate of
7 authority, for the purposes of this paragraph the director need
8 not assert the provisions of section 375.916 against such
9 insurance company with respect to its application if he
10 determines that such insurance company would otherwise comply
11 with the requirements for such certificate of authority.

12 2. The director [of insurance], in any administrative
13 proceeding in which service is made as provided in section
14 375.788, may, in his discretion, order such postponement as may
15 be necessary to afford the defendant reasonable opportunity to
16 comply with the provisions of this section and to defend such
17 action.

18 3. Nothing in this section shall be construed to prevent an
19 unauthorized insurance company from filing a motion to quash a
20 writ or to set aside service thereof made in the manner provided
21 in section 375.788 on the ground that such unauthorized insurance
22 company has not done any of the acts enumerated in section
23 375.786.

24 375.790. 1. The attorney general upon request of the
25 director may proceed in the courts of this state or any
26 reciprocal state to enforce an order or decision in any court
27 proceeding or in any administrative proceeding before the
28 director [of insurance].

1 2. As used in this section:

2 (1) "Foreign decree" means any decree or order in equity of
3 a court located in a "reciprocal state", including a court of the
4 United States located therein, against any insurance company
5 incorporated or authorized to do business in this state;

6 (2) "Qualified party" means a state regulatory agency
7 acting in its capacity to enforce the insurance laws of its
8 state;

9 (3) "Reciprocal state" means any state or territory of the
10 United States the laws of which contain procedures substantially
11 similar to those specified in this section for the enforcement of
12 decrees or orders in equity issued by courts located in other
13 states or territories of the United States against any insurance
14 company incorporated or authorized to do business in said state
15 or territory.

16 3. The director [of insurance] shall determine which states
17 and territories qualify as reciprocal states and shall maintain
18 at all times an up-to-date list of such states.

19 4. A copy of any foreign decree authenticated in accordance
20 with the statutes of this state may be filed in the office of the
21 clerk of any circuit court of this state. The clerk, upon
22 verifying with the director [of insurance] that the decree or
23 order qualifies as a "foreign decree", shall treat the foreign
24 decree in the same manner as a decree of a circuit court of this
25 state. A foreign decree so filed has the same effect and shall
26 be deemed as a decree of a circuit court of this state, and is
27 subject to the same procedures, defenses and proceedings for
28 reopening, vacating or staying as a decree of a circuit court of

1 this state and may be enforced or satisfied in like manner;
2 provided, however, the maximum money judgment which may be
3 enforced under this section shall be five thousand dollars.

4 5. (1) At the time of the filing of the foreign decree,
5 the attorney general shall make and file with the clerk of the
6 court an affidavit setting forth the name and last known
7 post-office address of the defendant.

8 (2) Promptly upon the filing of the foreign decree and the
9 affidavit, the clerk shall mail notice of the filing of the
10 foreign decree to the defendant at the address given and to the
11 director [of insurance of this state] and shall make a note of
12 the mailing in the docket. In addition, the attorney general may
13 mail a notice of the filing of the foreign decree to the
14 defendant and to the director [of insurance of this state] and
15 may file proof of mailing with the clerk. Lack of mailing notice
16 of filing by the clerk shall not affect the enforcement
17 proceedings if proof of mailing by the attorney general has been
18 filed.

19 (3) No execution or other process for enforcement of a
20 foreign decree filed hereunder shall issue until thirty days
21 after the date the decree is filed.

22 6. (1) If the defendant shows the circuit court that an
23 appeal from the foreign decree is pending or will be taken, or
24 that a stay of execution has been granted, the court shall stay
25 enforcement of the foreign decree until the appeal is concluded,
26 the time for appeal expires, or the stay of execution expires or
27 is vacated, upon proof that the defendant has furnished the
28 security for the satisfaction of the decree required by the state

1 in which it was rendered.

2 (2) If the defendant shows the circuit court any ground
3 upon which enforcement of a decree of any circuit court of this
4 state would be stayed, the court shall stay enforcement of the
5 foreign decree for an appropriate period, upon requiring the same
6 security for satisfaction of the decree which is required in this
7 state.

8 7. Any person filing a foreign decree shall pay to the
9 clerk of court fifty dollars. Fees for docketing, transcription
10 or other enforcement proceedings shall be as provided for decrees
11 of the circuit court.

12 8. Any unauthorized insurance company who transacts any
13 unauthorized act of an insurance business as set forth in section
14 375.786 may be fined not more than five thousand dollars.

15 375.791. 1. Upon complying with the provisions of this
16 chapter, a foreign insurance company organized under the laws of
17 any state of the United States other than this state or the laws
18 of any foreign government as a stock company, mutual company,
19 assessment life company, reciprocal, fraternal benefit society
20 may be admitted to transact in this state the kind or kinds of
21 business which a domestic company similarly organized may be
22 authorized to transact under the laws of this state.

23 2. No insurance company shall transact any business in this
24 state on an admitted basis without first obtaining a certificate
25 of authority issued by the director [of insurance] as provided
26 for in this chapter.

27 375.811. 1. A foreign insurance company in order to secure
28 a certificate of authority to transact business in this state

1 shall make application therefor to the director. The application
2 shall set forth:

3 (1) The name of the company and the state under the laws of
4 which it was incorporated or organized;

5 (2) The date of its incorporation and the period of its
6 duration;

7 (3) The address, including street and number of its
8 principal office, in the state under the laws of which it is
9 organized;

10 (4) The names of the states and countries, if any, in which
11 it is admitted or qualified to transact business;

12 (5) The kinds of insurance it is authorized to write in its
13 state of organization;

14 (6) The kinds of insurance it proposes to write in this
15 state;

16 (7) A statement of the aggregate number of shares it has
17 outstanding, if any, and the par value thereof and the amount of
18 surplus as regards to policyholders; and

19 (8) Any additional information which the director may
20 require to enable him to determine whether the company is
21 entitled to a certificate of authority to transact business in
22 this state and to determine and assess the taxes, fees and
23 charges payable as prescribed by Missouri law.

24 2. The application shall be made on forms prescribed and
25 furnished by the director and shall be executed by the company by
26 its president or a vice president or executive officer
27 corresponding thereto and verified by the officer, and if a
28 corporation, the corporate seal shall be thereto affixed,

1 attested by its secretary or other proper officer.

2 3. There shall be delivered to the director the application
3 for the certificate of authority, and attached thereto shall be
4 the following:

5 (1) A copy of its articles of incorporation or articles of
6 association as amended, duly certified by the proper officer of
7 the state under whose laws the company is organized or
8 incorporated;

9 (2) A copy of its bylaws or regulations and if a fraternal
10 benefit society, a copy of its constitution certified by its
11 secretary or officer corresponding thereto;

12 (3) A certificate from the proper official of the state or
13 country wherein the company is incorporated or organized that it
14 is duly incorporated or organized and is authorized to write the
15 kinds of insurance which it proposes to write in this state and
16 is duly licensed to do business in its home state;

17 (4) The appointment of the Missouri director [of insurance]
18 as attorney to accept service of legal process in Missouri
19 executed on the forms furnished by his office as prescribed by
20 section 375.906;

21 (5) A copy of the most recent annual statement of the
22 company on the standard form prescribed by the National
23 Association of Insurance Commissioners or a financial statement
24 as of such later date as the director may require;

25 (6) A copy of the last report of examination certified to
26 by an insurance commissioner or other proper supervisory
27 official;

28 (7) Duplicate copies of all policy forms which the company

1 proposes to use in this state;

2 (8) A biographical sketch of the directors and officers of
3 the company listed on the annual statement submitted by the
4 company; and

5 (9) Such other information as the director deems necessary.

6 375.892. 1. Any foreign insurance company organized under
7 the laws of any foreign government entering through this state to
8 transact insurance in the United States to qualify for authority
9 to transact business in this state shall, in addition to deposits
10 required of like domestic insurers, maintain deposits under trust
11 agreements approved by the director [of insurance]. Such
12 deposits shall be not less than the amount of liabilities with
13 respect to the insurer's business in the United States. Such
14 deposits shall be held for the benefit of policyholders and
15 creditors within the United States.

16 2. Whenever an insurer which is organized under the laws of
17 any foreign government is required or permitted to deposit assets
18 with a trustee for the benefit and security of its policyholders,
19 or of its policyholders and creditors, in the United States, the
20 trustee of any such trust hereafter created shall be a solvent
21 bank or trust company in the United States acceptable to the
22 director [of insurance] and authorized to act as such trustee by
23 the laws of any state or of the United States. All trusteed
24 assets shall be continuously kept within the United States. Any
25 such trust heretofore created and now existing, and any such
26 trust hereafter created and existing when such insurer seeks to
27 be admitted, shall be continued in accordance with the terms of
28 the instrument creating it, unless inconsistent with the

1 provisions of this section, in which case the instrument shall,
2 after reasonable notice to and hearing of such insurer by the
3 director [of insurance], be amended to conform to the
4 requirements of this section. No amendment to any trust
5 agreement, whether heretofore or hereafter created, shall be
6 effective unless approved in writing by the director [of
7 insurance]. If the trustees of any such trust heretofore created
8 are natural persons and if the number of such trustees is reduced
9 by death, resignation, or from any other cause, to less than
10 three, then the director [of insurance] shall require the
11 substitution for such trustees of a solvent bank or trust company
12 in the United States acceptable to him and authorized to act as
13 such trustee by the laws of any state or of the United States.
14 The director [of insurance] may from time to time approve
15 modifications of, or variations in, any trust agreement which in
16 his judgment are not prejudicial to the interests of the people
17 of this state.

18 3. Such trust agreements shall:

19 (1) Vest the legal title to the trust assets in the
20 trustee and its successors lawfully appointed, in trust for the
21 benefit and security of all the policyholders, or of all the
22 policyholders and creditors, of such insurer organized under the
23 laws of any foreign government;

24 (2) Provide for the substitution of a new trustee in the
25 event of a vacancy by death, resignation or from any other cause,
26 subject to the approval of the director [of insurance];

27 (3) Require that the trust assets shall at all times be
28 maintained within the United States as a trust fund separate and

1 distinct from all other assets, and that the trustee shall
2 continuously maintain a record at all times sufficient to
3 identify such fund;

4 (4) Prescribe the conditions, satisfactory to the director
5 [of insurance] and not inconsistent with the purposes of this
6 section, under which any or all income, earnings, dividends or
7 interest accumulations of such fund may be paid over to the
8 United States manager of such insurer organized under the laws of
9 any foreign government;

10 (5) Prohibit the withdrawal, other than as provided in
11 accordance with subdivision (4) of this subsection, of any
12 trusted assets from such fund without the written approval of
13 the director [of insurance], except as follows:

14 (a) For the purpose of making general state deposits
15 required by law in any state;

16 (b) For the purpose of paying obligations due from such
17 insurer organized under the laws of any foreign government to
18 policyholders and creditors in the United States, and for the
19 purpose of making special state deposits required by law in any
20 state if such payments and deposits do not impair the insurer's
21 assets to an amount less than the minimum capital and surplus
22 required of like insurers organized under the laws of this state
23 and such fact is certified to the trustee by the insurer or its
24 United States manager duly authorized for that purpose;

25 (c) For the purpose of substituting other assets permitted
26 by law and at least equal in value to those to be withdrawn, upon
27 the specific written direction of the United States manager or an
28 assistant United States manager or other representative in the

1 United States of such insurer organized under the laws of any
2 foreign government when duly empowered and acting pursuant to
3 either general or specific written authority previously given or
4 delegated by the board of directors thereof, except as provided
5 in paragraph (e) of this subdivision;

6 (d) For the purpose of transferring such assets to an
7 official conservator, rehabilitator, or liquidator pursuant to an
8 order of a court of competent jurisdiction;

9 (e) In the case of a life insurer organized under the laws
10 of the Dominion of Canada or of any province thereof, the
11 provisions of this section applicable to the United States
12 manager or an assistant United States manager or other
13 representative in the United States of such insurer shall be
14 deemed to refer to the president, vice president, secretary or
15 treasurer of such insurer at its principal place of business in
16 said dominion or province thereof, when duly authorized for such
17 purpose.

18 4. The director [of insurance] may from time to time
19 examine the trustee assets of an insurer organized under the
20 laws of any foreign government and may from time to time require
21 the trustee holding trustee assets of an admitted insurer
22 organized under the laws of any foreign government to file with
23 the director [of insurance] a statement, in such form as he may
24 prescribe, certifying such trustee assets and the amounts
25 thereof. Refusal or neglect on the part of the trustee to comply
26 with such requirement shall be ground for the revocation of the
27 insurer's certificate of authority and for proceedings against it
28 under the provisions of this chapter.

1 375.906. 1. No insurance company or association not
2 incorporated or organized under the laws of this state shall
3 directly or indirectly issue policies, take risks, or transact
4 business in this state, until it shall have first executed an
5 irrevocable power of attorney in writing, appointing and
6 authorizing the director [of the department of insurance of this
7 state] to acknowledge or receive service of all lawful process,
8 for and on behalf of the company, in any action against the
9 company, instituted in any court of this state, or in any court
10 of the United States in this state, and consenting that service
11 upon the director shall be deemed personal service upon the
12 company.

13 2. Service of process shall be made by delivery of a copy
14 of the petition and summons to the director [of the department of
15 insurance], the deputy director [of the department of insurance],
16 or the chief clerk [of the department of insurance] at the office
17 of the director of the department of insurance, financial and
18 professional regulation at Jefferson City, Missouri, and service
19 as aforesaid shall be valid and binding in all actions brought by
20 residents of this state upon any policy issued or matured, or
21 upon any liability accrued in this state, or on any policy issued
22 in any other state in which the resident is named as beneficiary,
23 and in all actions brought by nonresidents of this state upon any
24 policy issued in this state in which the nonresident is named
25 beneficiary or which has been assigned to the nonresident, and in
26 all actions brought by nonresidents of this state on a cause of
27 action, other than an action on a policy of insurance, which
28 arises out of business transacted, acts done, or contracts made

1 in this state.

2 3. In case the process is issued by an associate circuit
3 judge, the same may be directed to and served by any officer
4 authorized to serve process in the city or county where the
5 director [of the department of insurance] has his office, at
6 least fifteen days before the return thereof.

7 4. Every instrument of appointment executed by the company
8 shall be attested by the seal of the company and shall recite the
9 whole of this section, and shall be accompanied by a copy of a
10 resolution of the board of directors or trustees of the company
11 similarly attested, showing that the president and secretary or
12 other chief officers of the company are authorized to execute the
13 instruments on behalf of the company; and if any company fails,
14 neglects, or refuses to appoint and maintain within this state an
15 attorney or agent in the manner herein described, it shall
16 forfeit the right to do or continue business in this state.

17 5. Whenever process is served upon the director [of the
18 department of insurance], the deputy director [of the department
19 of insurance], or the chief clerk [of the department of
20 insurance] under the provisions of this section, the process
21 shall immediately be forwarded by first class mail prepaid and
22 directed to the secretary of the company, or, in the case of an
23 alien company, to the United States manager or last appointed
24 general agent of the company in this country; provided, that
25 there shall be kept in the office of the director [of the
26 department of insurance] a permanent record showing for all
27 process served the name of the plaintiff and defendant, the court
28 from which the summons issued, the name and title of the officer

1 serving same, and the day and hour of the service.

2 375.908. 1. Any insurer which is organized under the laws
3 of any other state and is admitted to do business in this state
4 for the purpose of writing insurance may become a domestic
5 insurer by complying with all of the requirements of law relative
6 to the organization and licensing of a domestic insurer of the
7 same type and by designating its principal place of business at a
8 place in this state. Such domestic insurer shall be entitled to
9 like certificates and licenses to transact business in this
10 state, and shall be subject to the authority and jurisdiction of
11 this state.

12 2. Any domestic insurer may, upon the approval of the
13 director [of the department of insurance], transfer its domicile
14 to any other state in which it is admitted to transact the
15 business of insurance, and upon such a transfer shall cease to be
16 a domestic insurer, and shall be admitted to transact the
17 business of insurance in this state if qualified as a foreign
18 insurer. The director shall approve any such proposed transfer
19 unless he shall determine such transfer is not in the interest of
20 the policyholders of this state.

21 3. The certificate of authority, agent appointments and
22 licenses, rates, and other items which the director allows, in
23 his discretion, which are in existence at the time any insurer
24 licensed to transact the business of insurance in this state
25 transfers its corporate domicile to this or any other state by
26 merger, consolidation or any other lawful method shall continue
27 in full force and effect upon such transfer if such insurer
28 remains duly qualified to transact the business of insurance in

1 this state. All outstanding policies of any transferring insurer
2 shall remain in full force and effect and need not be endorsed as
3 to the new name of the company or its new location unless so
4 ordered by the director. Every transferring insurer shall file
5 new policy forms with the director on or before the effective
6 date of the transfer, but may use existing policy forms with
7 appropriate endorsements if allowed by, and under such conditions
8 as approved by, the director; however, every such transferring
9 insurer shall notify the director of the details of the proposed
10 transfer, and shall file promptly, any resulting amendments to
11 corporate documents filed or required to be filed with the
12 director.

13 4. The director may promulgate rules and regulations to
14 carry out the provisions of this section.

15 375.911. In case of a vacancy in the office of the director
16 of the [insurance] department of insurance, financial and
17 professional regulation or in case of the absence or inability or
18 suspension of the director, the service upon the deputy appointed
19 under the provisions of section 374.080, RSMo, shall be valid and
20 sufficient for the purpose of section 375.906; provided, further,
21 that in the absence or inability of both the director and deputy
22 or in case of a vacancy in both of the offices, service upon the
23 chief clerk, appointed under the provisions of section 374.130,
24 RSMo, shall be valid and sufficient for the purpose of section
25 375.906.

26 375.916. 1. When by the laws of any other state or foreign
27 country any premium or income or other taxes, or any fees, fines,
28 penalties, licenses, deposit requirements or other obligations,

1 prohibitions or restrictions are imposed upon Missouri insurance
2 companies or carriers doing business, or that might seek to do
3 business, in the other state or country, which in the aggregate
4 are in excess of the taxes, fees, fines, penalties, licenses,
5 deposit requirements or other obligations, prohibitions or
6 restrictions directly imposed upon insurance companies of the
7 other state or foreign country under the statutes of this state,
8 so long as the laws continue in force, the same obligations,
9 prohibitions, and restrictions of whatever kind shall be imposed
10 upon insurance companies or carriers of the other state or
11 foreign country doing business in Missouri. Any tax, license or
12 other obligation imposed by any city, county or other political
13 subdivision of a state or foreign country on Missouri insurance
14 companies or carriers shall be deemed to be imposed by the state
15 or foreign country within the meaning of this section, and the
16 director [of the department of insurance] for the purpose of this
17 section shall compute the burden of the tax, license or other
18 obligations on an aggregate statewide or foreign-countrywide
19 basis as an addition to the tax and other charges payable by
20 similar Missouri insurance companies or carriers in the state or
21 foreign country. The provisions of this section shall not apply
22 to ad valorem taxes on real or personal property, personal income
23 taxes or to assessments on or credits to insurers for the payment
24 of claims of policyholders of insolvent insurers.

25 2. All licenses, fees, taxes, fines or penalties
26 collectible under this section shall be paid to the director of
27 revenue. The payment and assessment of retaliatory tax shall be
28 made on an estimated quarterly basis in the same manner as

1 premium insurance tax as provided in sections 148.310 to 148.461,
2 RSMo.

3 375.918. 1. As used in this section, the following terms
4 mean:

5 (1) "Adverse action", a denial, nonrenewal of, or a
6 reduction in the amount of benefits payable or types of coverages
7 under any contract, existing or applied for, in connection with
8 the underwriting of insurance. An offer by an insurer to write a
9 contract through an affiliated insurer does not constitute an
10 adverse action;

11 (2) "Contract", any automobile insurance policy as defined
12 in section 379.110, RSMo, or any property insurance policy as
13 defined in section 375.001, including such a policy on a mobile
14 home or residential condominium unit or a policy of renters' or
15 tenants' insurance. Contract shall not include any policy of
16 mortgage insurance or commercial insurance;

17 (3) "Credit report", any written or electronic
18 communication of any information by a consumer reporting agency
19 that:

20 (a) Bears on a person's credit worthiness, credit standing,
21 or credit capacity; and

22 (b) Is used or collected wholly or partly to serve as a
23 factor in the underwriting of a contract;

24 (4) "Credit scoring entity", any entity that is involved in
25 creating, compiling, or providing insurance credit scores;

26 (5) "Insurance credit score", a numerical representation of
27 the insurance risk a person presents using the person's
28 attributes derived from a credit report or credit information in

1 a formula to assess insurance risk on an actuarial or statistical
2 basis;

3 (6) "Insurer", any insurance company or entity that offers
4 a contract;

5 (7) "Underwriting", the selection of the risk that will be
6 assumed by the insurer on a contract, and specifically the
7 decision whether to accept, deny, renew, nonrenew, reduce, or
8 increase the amount of benefits payable or types of coverages
9 under the contract.

10 2. An insurer using a credit report or insurance credit
11 score as a factor in underwriting shall not take an adverse
12 action based on such factor without consideration of another
13 noncredit-related underwriting factor.

14 3. No insurer shall take an adverse action against an
15 applicant or insured based on inability to compute an insurance
16 credit score without consideration of another underwriting
17 factor, unless the insurer can justify the credibility that the
18 lack of an insurance credit score has in underwriting to the
19 director [of insurance].

20 4. An insurer using a credit report or insurance credit
21 score as a factor in underwriting a contract shall disclose at
22 the time of the original application for the contract or on the
23 application itself that the insurer may gather credit
24 information.

25 5. An insurer using a credit report or insurance credit
26 score as a factor in underwriting of a contract shall not take an
27 adverse action on such contract based on information that is the
28 subject of a written dispute between the policyholder or

1 applicant and a consumer reporting agency, as noted in such
2 person's credit report, until such dispute has reached final
3 determination in accordance with the federal Fair Credit
4 Reporting Act, 15 U.S.C. Section 1681, et seq. In the event that
5 information is the subject of a written dispute under this
6 subsection, the sixty-day period provided by section 375.002 or
7 section 379.110, RSMo, shall be extended until fifteen days after
8 the dispute reaches final determination. Nothing in this
9 subsection shall be construed to require any consumer reporting
10 agency, as defined by the federal Fair Credit Reporting Act, 15
11 U.S.C. Section 1681, et seq., to include any information on a
12 credit report beyond the extent required by the federal Fair
13 Credit Reporting Act, 15 U.S.C. Section 1681, et seq.

14 6. If the use of a credit report or insurance credit score
15 on a contract results in an adverse action, the insurer shall
16 provide the policyholder or applicant:

17 (1) Notice that a credit report or insurance credit score
18 adversely affected the underwriting of the contract;

19 (2) The name, address, and telephone number of the consumer
20 credit reporting agency that furnished the credit information, in
21 compliance with the notice requirements of the federal Fair
22 Credit Reporting Act, 15 U.S.C. Section 1681, et seq.;

23 (3) Notice of the right to obtain a free credit report from
24 the consumer credit reporting agency within sixty days; and

25 (4) Notice of the right to lodge a dispute with the
26 consumer credit reporting agency to have any erroneous
27 information corrected in accordance with the federal Fair Credit
28 Reporting Act, 15 U.S.C. Section 1681, et seq.

1 7. Within thirty days from the date the insurer provides
2 notice of an adverse action pursuant to subdivision (1) of
3 subsection 6 of this section, the applicant or insured may in
4 writing request from the insurer a statement of reasons for such
5 action. For purposes of determining the thirty-day period, the
6 notice of an adverse action is deemed received three days after
7 mailing. The statement of reasons shall be sufficiently clear
8 and specific so that a person of average intelligence can
9 identify the basis for the insurer's decision without further
10 inquiry. An insurer may provide an explanation of significant
11 characteristics of the credit history that may have impacted such
12 person's insurance credit score to meet the requirements of this
13 subsection. Standardized credit explanations provided by credit
14 scoring entities comply with this subsection.

15 8. If an insurer bases an adverse action in part on a
16 credit report or insurance credit score, the applicant or insured
17 may within thirty days of such adverse action make a written
18 request for reunderwriting following any correction relating to
19 the credit report or insurance credit score.

20 9. An insurer may obtain and use a current credit report or
21 insurance credit score on new business or renewal contracts, but
22 shall not take an adverse action with respect to renewal
23 contracts based upon such credit report or insurance credit score
24 until or after the third anniversary date of the initial
25 contract.

26 10. Insurance inquiries shall not directly or indirectly be
27 used as a negative factor in any insurance credit scoring formula
28 or in the use of a credit report in underwriting.

1 11. Nothing in this section shall be construed as
2 superceding the provisions of section 375.002 and section
3 379.114, RSMo. Nothing in this section shall be construed as
4 prohibiting any insurer from using credit information in
5 determining whether to offer a policyholder or applicant the
6 option to finance or establish a payment plan for the payment of
7 any premium for a contract. Nothing in this section shall apply
8 to any entity not acting as an insurer or credit scoring entity
9 as defined in subsection 1 of this section.

10 12. No credit scoring entity shall provide or sell to any
11 party, other than the insurer, its insurance company affiliates
12 or holding companies, and the producer from whom the inquiry was
13 generated, data or lists that include any information that in
14 whole or in part is submitted in conjunction with credit
15 inquiries about consumers. Such information includes, but is not
16 limited to, expiration dates, information that may identify time
17 periods during which a consumer's insurance may expire, or other
18 nonpublic personal information as defined under the Gramm-Leach-
19 Bliley Act, 15 U.S.C. Sections 6801 to 6809. The provisions of
20 this subsection shall not preclude the exchange of information
21 specifically authorized under the federal Fair Credit Reporting
22 Act, 15 U.S.C. Section 1681, et seq., the Gramm-Leach-Bliley Act,
23 15 U.S.C. Sections 6801 to 6809 and other applicable federal law.
24 The provisions of this subsection shall not apply to data
25 disclosed in connection with a proposed or actual sale, merger,
26 transfer or exchange of all or a portion of an insurer's or
27 producer's business or operating unit, including but not limited
28 to, the sale of a portfolio of contracts, if such disclosure

1 concerns solely consumers of the business or unit and such
2 disclosure is not the primary reason for the sale, merger,
3 transfer or exchange.

4 13. A violation of this section may be enforceable under
5 section 374.280, RSMo.

6 14. The provisions of this section shall apply to all
7 contracts entered into on or after July 1, 2003.

8 375.920. No insurer shall deliver any policy of private
9 passenger automobile insurance, homeowner's insurance,
10 dwelling-owner's insurance, residential fire insurance, or
11 tenant's or renter's insurance written upon property within this
12 state until such policy form shall have been approved as provided
13 for in sections 375.920 to 375.923. Upon submission of any form
14 to the director [of the department of insurance], such form shall
15 be deemed approved. The director [of the department of
16 insurance] shall review such form within sixty days, and may have
17 a hearing during that time. If within that time he determines
18 the policy form is not in compliance with the insurance laws of
19 this state and does not contain such words, phraseology,
20 conditions and provisions which are specific, certain and
21 unambiguous and reasonably adequate to meet the needed
22 requirements of those insured under such policies, he may file a
23 petition with the administrative hearing commission asking that
24 the policy be disapproved, stating specifically the reasons why
25 such policy form shall be disapproved.

26 375.922. The director [of the department of insurance]
27 shall have no power to promulgate rules or regulations to
28 implement sections 375.920 to 375.923.

1 375.923. All forms on file with the director [of the
2 division of insurance] on or before January 1, 1980, shall be
3 exempt from the provisions of sections 375.920 to 375.923.

4 375.932. When used in sections 375.930 to 375.948, the
5 following terms mean:

6 (1) "Consultant", an individual, partnership or corporation
7 who, for a fee, holds himself or itself out to the public as
8 engaged in the business of offering any advice, counsel, opinion
9 or service with respect to the benefits, advantages or
10 disadvantages promised under any policy of insurance that could
11 be issued in this state;

12 (2) "Director", the director of the department of
13 insurance, financial and professional regulation of this state;

14 (3) "Insurer", any person, reciprocal exchange,
15 interinsurer, Lloyds insurer, fraternal benefit society, and any
16 other legal entity engaged in the business of insurance,
17 including agents, brokers, adjusters and third-party
18 administrators. "Insurer" also includes health services
19 corporations, health maintenance organizations, prepaid limited
20 health care service plans, dental, optometric and other similar
21 health service plans. For purposes of sections 375.930 to
22 375.948 such entities shall be deemed to be engaged in the
23 business of insurance. "Insurer" shall also include all
24 companies organized, incorporated or doing business under the
25 provisions of chapters 325, 375, 376, 377, 378, 379, 381 and 383,
26 RSMo;

27 (4) "Person", any natural or artificial entity, including,
28 but not limited to, individuals, partnerships, associations,

1 trusts or corporations;

2 (5) "Policy", "certificate" or "contract" includes any
3 contract of insurance, indemnity, medical, health or hospital
4 service, suretyship, or annuity issued, proposed for issuance, or
5 intended for issuance by any insurer.

6 375.950. 1. Sections 375.950 to 375.990 may be cited as
7 the "Uniform Insurer's Liquidation Act".

8 2. Sections 375.950 to 375.990 shall apply only to
9 proceedings instituted prior to August 28, 1991.

10 3. For the purposes of sections 375.950 to 375.990:

11 (1) "Ancillary state" means any state other than a
12 domiciliary state;

13 (2) "Delinquency proceeding" means any proceeding commenced
14 against an insurer for the purpose of liquidating,
15 rehabilitating, reorganizing, or conserving such insurer;

16 (3) "Domiciliary state" means the state in which an insurer
17 is incorporated or organized, or, in the case of an alien
18 insurer, the state in which such insurer, having become
19 authorized to do business in such state, has, at the commencement
20 of delinquency proceedings, the largest amount of its assets held
21 in trust and assets held on deposit for the benefit of its
22 policyholders or policyholders and creditors in the United
23 States; and any such insurer is deemed to be domiciled in such
24 state;

25 (4) "Foreign country" means territory not in any state;

26 (5) "General assets" means all property, real, personal, or
27 otherwise, not specifically mortgaged, pledged, deposited, or
28 otherwise encumbered for the security or benefit of specified

1 persons or a limited class or classes of persons, and as to such
2 specifically encumbered property the term includes all such
3 property or its proceeds in excess of the amount necessary to
4 discharge the sum or sums secured thereby. Assets held in trust
5 and assets held on deposit for the security or benefit of all
6 policyholders, or all policyholders and creditors in the United
7 States, shall be deemed general assets, except that general
8 assets shall not mean unearned premiums due or owed the insurer
9 by the policyholder, agent or broker at the time an insolvency or
10 liquidation is declared by a court of competent jurisdiction, nor
11 shall general assets mean unearned premiums held in trust or held
12 on deposit by the agent, broker or insurer;

13 (6) "Insurer" means any person, firm, corporation,
14 association, or aggregation of persons doing an insurance
15 business under the provisions of chapter 375, 376, 377, 378, 379,
16 380, 381 or 383, RSMo, and subject to the insurance supervisory
17 authority of, or to liquidation, rehabilitation, reorganization,
18 or conservation by the director [of the department of insurance
19 of this state], or the equivalent insurance supervisory official
20 of another state;

21 (7) "Preferred claim" means any claim with respect to which
22 the law of a state or of the United States accords priority of
23 payment from the general assets of the insurer;

24 (8) "Receiver" means receiver, liquidator, rehabilitator,
25 or conservator as the context may require;

26 (9) "Reciprocal state" means any state other than this
27 state in which in substance and effect the provisions of sections
28 375.950 to 375.990 are in force, including the provisions

1 requiring that the insurance commissioner or equivalent insurance
2 supervisory official be the receiver of a delinquent insurer;

3 (10) "Secured claim" means any claim secured by mortgage,
4 trust, deed, pledge, deposit as security, escrow, or otherwise,
5 but not including special deposit claims or claims against
6 general assets. The term also includes claims which more than
7 four months prior to the commencement of delinquency proceedings
8 in the state of the insurer's domicile have become liens upon
9 specific assets by reason of judicial process;

10 (11) "Special deposit claim" means any claim secured by a
11 deposit for the security or benefit of a limited class or classes
12 of persons, but not including any general assets;

13 (12) "State" means any state of the United States, and also
14 the District of Columbia and Puerto Rico.

15 375.954. 1. Whenever under the laws of this state a
16 receiver is to be appointed in delinquency proceedings for an
17 insurer domiciled in this state, the court shall appoint the
18 director [of the department of insurance] as such receiver. The
19 court shall direct the receiver forthwith to take possession of
20 the assets of the insurer and to administer the same under the
21 orders of the court.

22 2. The domiciliary receiver and his successors in office
23 shall be vested by operation of law with the title to all of the
24 property, contracts, and rights of action, and all of the books
25 and records of the insurer wherever located, as of the date of
26 entry of the order directing possession to be taken, and he shall
27 have the right to recover the same and reduce the same to
28 possession; except that ancillary receivers in reciprocal states

1 shall have, as to assets located in their respective states, the
2 rights and powers which are hereinafter prescribed for ancillary
3 receivers appointed in this state as to assets located in this
4 state. The filing or recording of the order directing possession
5 to be taken, or a certified copy thereof, in the office where
6 instruments affecting title to property are required to be filed
7 or recorded shall impart the same notice as would be imparted by
8 a deed, bill of sale, or other evidence of title duly filed or
9 recorded. The court may at any time require an additional bond
10 from him or his deputies if deemed desirable for the protection
11 of the assets.

12 3. Upon taking possession of the assets of a delinquent
13 insurer the domiciliary receiver shall, subject to the direction
14 of the court, immediately proceed to conduct the business of the
15 insurer or to take such other steps as are authorized by the laws
16 of this state for the purpose of liquidating, rehabilitating,
17 reorganizing, or conserving the affairs of the insurer. In
18 connection with delinquency proceedings he may appoint or employ
19 one or more special deputies to act for him, and may employ such
20 counsel, clerks, and assistants as he deems necessary. The
21 compensation of the special deputies, counsel, clerks, or
22 assistants and all expenses of taking possession of the
23 delinquent insurer and of conducting the delinquency proceedings
24 shall be fixed by the receiver, subject to the approval of the
25 court, and shall be paid out of the funds or assets of the
26 insurer in accordance with section 375.740. Within the limits of
27 the duties imposed upon them, special deputies shall possess all
28 the powers given to, and, in the exercise of those powers, shall

1 be subject to all of the duties imposed upon the receiver with
2 respect to delinquency proceedings.

3 375.958. 1. Whenever under the laws of this state an
4 ancillary receiver is to be appointed in delinquency proceedings
5 for an insurer not domiciled in this state, the court shall
6 appoint the director [of the department of insurance] as
7 ancillary receiver. The director shall file a petition
8 requesting the appointment if he finds that there are sufficient
9 assets of such insurer located in this state to justify the
10 appointment of an ancillary receiver. Notwithstanding any other
11 provision of the insurance laws of this state, said petition may
12 be filed in the circuit court in the county or city in which the
13 insurer has or last had its principal or chief office or place of
14 business in this state or in the county of Cole.

15 2. The domiciliary receiver of an insurer domiciled in a
16 reciprocal state shall be vested by operation of law with the
17 title to all of the property, contracts, and rights of action,
18 and all of the books and records of the insurer located in this
19 state, and he shall have the immediate right to recover balances
20 due from local agents and to obtain possession of any books and
21 records of the insurer found in this state. He shall also be
22 entitled to recover the other assets of the insurer located in
23 this state except that upon the appointment of an ancillary
24 receiver in this state, the ancillary receiver shall during the
25 ancillary receivership proceedings have the sole right to recover
26 such other assets. The ancillary receiver shall, as soon as
27 practicable, liquidate from their respective securities those
28 special deposit claims and secured claims which are proved and

1 allowed in the ancillary proceedings in this state, and shall pay
2 the necessary expenses of the proceedings. All remaining assets
3 shall be promptly transferred to the domiciliary receiver.

4 Subject to the foregoing provisions the ancillary receiver and
5 his deputies shall have the same powers and be subject to the
6 same duties with respect to the administration of such assets as
7 a receiver of an insurer domiciled in this state.

8 375.991. 1. As used in sections 375.991 to 375.994, the
9 term "statement" means any communication, notice statement, proof
10 of loss, bill of lading, receipt for payment, invoice, account,
11 estimate of damages, bills for services, diagnosis, prescription,
12 hospital or doctor records, x-rays, test results or other
13 evidence of loss, injury or expense.

14 2. For the purposes of sections 375.991 to 375.994, a
15 person commits a "fraudulent insurance act" if such person
16 knowingly presents, causes to be presented, or prepares with
17 knowledge or belief that it will be presented, to or by an
18 insurer, purported insurer, broker, or any agent thereof, any
19 oral or written statement including computer generated documents
20 as part of, or in support of, an application for the issuance of,
21 or the rating of, an insurance policy for commercial or personal
22 insurance, or a claim for payment or other benefit pursuant to an
23 insurance policy for commercial or personal insurance, which such
24 person knows to contain materially false information concerning
25 any fact material thereto or if such person conceals, for the
26 purpose of misleading another, information concerning any fact
27 material thereto.

28 3. A "fraudulent insurance act" shall also include but not

1 be limited to knowingly filing false insurance claims with an
2 insurer, health services corporation, or health maintenance
3 organization by engaging in any one or more of the following
4 false billing practices:

5 (1) "Unbundling", an insurance claim by claiming a number
6 of medical procedures were performed instead of a single
7 comprehensive procedure;

8 (2) "Upcoding", an insurance claim by claiming that a more
9 serious or extensive procedure was performed than was actually
10 performed;

11 (3) "Exploding", an insurance claim by claiming a series of
12 tests was performed on a single sample of blood, urine, or other
13 bodily fluid, when actually the series of tests was part of one
14 battery of tests; or

15 (4) "Duplicating", a medical, hospital or rehabilitative
16 insurance claim made by a health care provider by resubmitting
17 the claim through another health care provider in which the
18 original health care provider has an ownership interest. Nothing
19 in sections 375.991 to 375.994 shall prohibit providers from
20 making good faith efforts to ensure that claims for reimbursement
21 are coded to reflect the proper diagnosis and treatment.

22 4. If, by its own inquiries or as a result of complaints,
23 the [department of insurance] director has reason to believe that
24 a person has engaged in, or is engaging in, any fraudulent
25 insurance act or has violated any provision of chapters 375 to
26 385, RSMo, it may administer oaths and affirmations, serve
27 subpoenas ordering the attendance of witnesses or proffering of
28 matter, and collect evidence. The director may refer such

1 evidence as is available concerning violations of this chapter to
2 the proper prosecuting attorney or circuit attorney who may, with
3 or without such reference, initiate the appropriate criminal
4 proceedings.

5 5. If the matter that the [department of insurance]
6 director seeks to obtain by request is located outside the state,
7 the person so requested may make it available to the department
8 or its representative to examine the matter at the place where it
9 is located. The department may designate representatives,
10 including officials of the state in which the matter is located,
11 to inspect the matter on its behalf, and it may respond to
12 similar requests from officials of other states.

13 6. A fraudulent insurance act for a first offense is a
14 class D felony. Any person who pleads guilty to or is found
15 guilty of a fraudulent insurance act who has previously pled
16 guilty to or has been found guilty of a fraudulent insurance act
17 shall be guilty of a class C felony.

18 7. Any person who pleads guilty or is found guilty of a
19 fraudulent insurance act shall be ordered by the court to make
20 restitution to any person or insurer for any financial loss
21 sustained as a result of such violation. The court shall
22 determine the extent and method of restitution.

23 8. Nothing in this section shall limit the power of the
24 state to punish any person for any conduct that constitutes a
25 crime by any other state statute.

26 375.992. Any company which believes that a fraudulent claim
27 is being made shall, within sixty days of the receipt of such
28 notice, send to the department [of insurance], on a form

1 prescribed by the department, the information requested and such
2 additional information relative to the claim and the parties
3 claiming loss or damages because of the accident as the
4 department may require. The department [of insurance] shall
5 review such reports and select such claims as, in its judgment,
6 may require further investigation. It shall then cause an
7 independent examination of the facts surrounding such claim to be
8 made to determine the extent, if any, to which fraud, deceit, or
9 intentional misrepresentation of any kind exists in the
10 submission of the claim. The department [of insurance] shall
11 report any alleged violations of law which its investigations
12 disclose to the appropriate licensing agency and prosecutive
13 authority having jurisdiction with respect to any such violation.

14 375.993. 1. The department's papers, documents, reports,
15 or evidence relative to the subject of an investigation under
16 this section shall not be subject to public inspection for so
17 long as the department deems reasonably necessary to complete the
18 investigation and any subsequent legal action. Further, such
19 papers, documents, reports, or evidence relative to the subject
20 of an investigation under sections 375.991 to 375.994 shall not
21 be subject to subpoena until opened for public inspection by the
22 department, unless the department consents, or until, after
23 notice to the department and a hearing, the court determines the
24 department would not be unnecessarily hindered by such subpoena.
25 Department investigators shall not be subject to subpoena in
26 civil actions by any court of this state to testify concerning
27 any matter of which they have knowledge pursuant to a pending
28 insurance fraud investigation by the department.

1 2. No insurer, employees or agents of any insurer, or any
2 other person acting without malice, shall be subject to civil
3 liability for libel or otherwise by virtue of the filing of
4 reports or furnishing other information required by sections
5 375.991 to 375.994 or required by the department [of insurance]
6 as a result of the authority granted in sections 375.991 to
7 375.994.

8 375.1002. As used in sections 375.1000 to 375.1018, the
9 following terms mean:

10 (1) "Director", the director of the department of
11 insurance, financial and professional regulation;

12 (2) "Insurer", any person, reciprocal exchange,
13 interinsurer, Lloyds insurer, fraternal benefit society, and any
14 other legal entity engaged in the business of insurance,
15 including agents, brokers, adjusters, public adjuster and third
16 party administrators. "Insurer" shall also mean health services
17 corporations, health maintenance organizations, prepaid limited
18 health care service plans, dental, optometric and other similar
19 health service plans. For the purposes of sections 375.1000 to
20 375.1018, these foregoing entities shall be deemed to be engaged
21 in the business of insurance. "Insurer" shall also include all
22 companies organized, incorporated or doing business under the
23 provisions of chapters 325, 375, 376, 377, 378, 379, 381 and 383,
24 RSMo;

25 (3) "Person", any natural or artificial entity, or
26 aggregate of such entities, including, but not limited to,
27 individuals, partnerships, associations, trusts or corporations;

28 (4) "Policy", "certificate" or "contract" includes any

1 contract of insurance, indemnity, medical, health or hospital
2 service, suretyship, or annuity issued, proposed for issuance, or
3 intended for issuance by any insurer. "Policy" or "certificate",
4 for the purposes of sections 375.1000 to 375.1018, shall not mean
5 contracts of workers' compensation, fidelity, suretyship or
6 boiler and machinery insurance. This definition shall include
7 all entities and activities to the extent not preempted by the
8 federal Employees' Retirement Income Security Act.

9 375.1025. As used in sections 375.1025 to 375.1062, the
10 following terms shall mean:

11 (1) "Audited financial report" means and includes those
12 items specified in section 375.1032;

13 (2) "Accountant" and "independent certified public
14 accountant", an independent certified public accountant or
15 accounting firm in good standing with the American Institute of
16 Certified Public Accountants and in all states in which they are
17 licensed to practice. For Canadian and British companies, it
18 means a Canadian-chartered or British-chartered accountant;

19 (3) "Director", the director of the department of
20 insurance, financial and professional regulation;

21 (4) "Insurer", an insurer certified to do business in this
22 state pursuant to section 375.161 or 375.831, and to companies
23 authorized to transact business in this state pursuant to
24 chapters 354, 376, 377, 378, 379 and 381, RSMo.

25 375.1032. 1. The annual audited financial report shall
26 report the financial condition of the insurer as of the end of
27 the most recent calendar year and the results of its operation,
28 cash flows and changes in capital and surplus for the previous

1 year ended in conformity with accounting practices prescribed, or
2 otherwise permitted, by law or rule of the department [of
3 insurance] of the state of domicile of the insurer.

4 2. The annual audited financial report shall include the
5 following:

6 (1) Report of independent certified public accountant;

7 (2) Balance sheet reporting admitted assets, liabilities,
8 capital and surplus;

9 (3) Statement of gain or loss from operations;

10 (4) Statement of cash flows;

11 (5) Statement of changes in capital and surplus;

12 (6) Notes to financial statements. These notes shall be
13 those required by the National Association of Insurance
14 Commissioners' Annual Statement Instructions and any other notes
15 required by generally accepted accounting principles and shall
16 include:

17 (a) A reconciliation of differences, if any, between the
18 audited statutory financial statements and the annual statement
19 filed pursuant to section 375.041 and section 354.105, 354.435,
20 RSMo, 376.350, RSMo, 377.100, 377.380, RSMo, 378.350, RSMo,
21 379.105, RSMo, 380.051 or 380.482, RSMo, with a written
22 description of the nature of these differences;

23 (b) A summary of ownership and relationships of the insurer
24 and all affiliated companies; and

25 (c) A narrative explanation of all significant intercompany
26 transactions and balances.

27 3. The financial statements included in the audited
28 financial report shall be prepared in a form and using language

1 and groupings substantially the same as the relevant sections of
2 the annual statement of the insurer filed with the director:

3 (1) The financial statement shall be comparative,
4 presenting the amounts as of December thirty-first of the current
5 year and the amounts as of the immediately preceding December
6 thirty-first. However, in the first year in which an insurer is
7 required to file an audited financial report, the comparative
8 data may be omitted;

9 (2) Amounts may be rounded to the nearest thousand dollars;

10 (3) Insignificant amounts may be combined.

11 375.1035. 1. Each insurer required by sections 375.1025 to
12 375.1057 to file an annual audited financial report shall, within
13 sixty days after becoming subject to such requirement, register
14 with the director in writing the name and address of its
15 independent certified public accountant or accounting firm
16 (generally referred to in sections 375.1025 to 375.1057 as the
17 "accountant") retained to conduct the annual audit set forth in
18 sections 375.1025 to 375.1057. Any insurer not retaining an
19 independent certified public accountant on the effective date of
20 sections 375.1025 to 375.1057 shall register the name and address
21 of its retained certified public accountant not less than six
22 months before the date when the first audited financial report is
23 to be filed.

24 2. The insurer shall obtain a letter from such accountant,
25 and file a copy with the director stating that the accountant is
26 aware of the provisions of the insurance laws and the rules and
27 regulations of the department [of insurance] of the state of
28 domicile that relate to accounting and financial matters and

1 affirming that he will express his opinion on the financial
2 statements in the terms of their conformity to the statutory
3 accounting practices prescribed or otherwise permitted by that
4 department [of insurance], specifying such exceptions as he may
5 believe appropriate.

6 3. If an accountant who was the accountant for the
7 immediately preceding filed audited financial report is dismissed
8 or resigns, the insurer shall within five business days notify
9 the director of this event. The insurer shall also furnish the
10 director with a separate letter within ten business days of the
11 notification stating whether in the twenty-four months preceding
12 such event there were any disagreements with the former
13 accountant on any matter of accounting principles or practices,
14 financial statement disclosure, or auditing scope or procedure,
15 which disagreements, if not resolved to the satisfaction of the
16 former accountant, would have caused him to make reference to the
17 subject matter of the disagreement in connection with his
18 opinion. Disagreements required to be reported by this section
19 include both disagreements resolved to the former accountant's
20 satisfaction, and disagreements not resolved to the former
21 accountant's satisfaction. Disagreements contemplated by this
22 section are those that occur at the decision-making level,
23 between personnel of the insurer responsible for the presentation
24 of its financial statements and personnel of the accounting firm
25 responsible for rendering its report. The insurer shall also in
26 writing request such former accountant to furnish a letter
27 addressed to the director stating whether the accountant agrees
28 with the statements contained in the insurer's letter and, if

1 not, stating the reasons for which he does not agree, and the
2 insurer shall furnish such responsive letter from the former
3 accountant to the director together with its own.

4 375.1050. 1. As used in this section, "workpapers" are the
5 records kept by the independent certified public accountant of
6 the procedures followed, the tests performed, the information
7 obtained and the conclusions reached pertinent to his examination
8 of the financial statements of an insurer. Workpapers may
9 include audit planning documentation, work programs, analyses,
10 memoranda, letters of confirmation and representation, abstracts
11 of company documents, any communications between the accountant
12 and the insurer, and schedules or commentaries prepared or
13 obtained by the independent certified public accountant in the
14 course of his examination of the financial statements of an
15 insurer which relate to his opinion thereof.

16 2. Every insurer required to file an audited financial
17 report pursuant to sections 375.1025 to 375.1062 shall require
18 the accountant to make available for review by the examiners of
19 the department [of insurance] all workpapers prepared in the
20 conduct of his examination and any communications related to the
21 audit between the accountant and the insurer, at the offices of
22 the insurer, at the department [of insurance] or at any other
23 reasonable place designated by the director. The insurer shall
24 require that the accountant retain the audit workpapers until the
25 department has filed a report on examination covering the period
26 of the audit, but no longer than seven years from the date of the
27 audit report.

28 3. In the conduct of any examination or review by the

1 department examiners, it shall be agreed that photocopies of
2 pertinent audit workpapers may be made and retained by the
3 director. Such reviews by the director or his examiners shall be
4 considered investigations and all working papers and
5 communications obtained during the course of such investigations
6 shall be afforded the same confidentiality as other examination
7 workpapers generated by the department.

8 375.1080. As used in sections 375.1080 to 375.1105, the
9 following terms mean:

10 (1) "Completed operations liability", liability arising out
11 of the installation, maintenance, or repair of any product at a
12 site which is not owned or controlled by:

13 (a) Any person who performs that work; or

14 (b) Any person who hires an independent contractor to
15 perform that work; but shall include liability for activities
16 which are completed or abandoned before the date of the
17 occurrence giving rise to the liability;

18 (2) "Director", the director of the department of
19 insurance, financial and professional regulation;

20 (3) "Domicile", for purposes of determining the state in
21 which a purchasing group is domiciled, is:

22 (a) For a corporation, the state in which the purchasing
23 group is incorporated; and

24 (b) For an unincorporated entity, the state of its
25 principal place of business;

26 (4) "Hazardous financial condition", that, based on its
27 present or reasonably anticipated financial condition, a risk
28 retention group, although not yet financially impaired or

1 insolvent, is unlikely to be able:

2 (a) To meet obligations to policyholders with respect to
3 known claims and reasonably anticipated claims; or

4 (b) To pay other obligations in the normal course of
5 business;

6 (5) "Insurance", primary insurance, excess insurance,
7 reinsurance, surplus lines insurance, and any other arrangement
8 for shifting and distributing risk which is determined to be
9 insurance under the laws of this state;

10 (6) "Liability":

11 (a) Legal liability for damages, including costs of
12 defense, legal costs and fees, and other claims expenses, because
13 of injuries to other persons, damage to their property, or other
14 damage or loss to such other persons resulting from or arising
15 out of:

16 a. Any business whether profit or nonprofit, trade,
17 product, services, including professional services, premises, or
18 operations; or

19 b. Any activity of any state or local government, or any
20 agency or political subdivision thereof; and

21 (b) Does not include personal risk liability and an
22 employer's liability with respect to its employees other than
23 legal liability under the Federal Employers' Liability Act (45
24 U.S.C. 51 et seq.);

25 (7) "Personal risk liability", liability for damages
26 because of injury to any person, damage to property, or other
27 loss or damage resulting from any personal, familial, or
28 household responsibilities or activities;

1 (8) "Plan of operation or a feasibility study", an analysis
2 which presents the expected activities and results of a risk
3 retention group including, at a minimum:

4 (a) Information sufficient to verify that its members are
5 engaged in businesses or activities similar or related with
6 respect to the liability to which such members are exposed by
7 virtue of any related, similar or common business, trade,
8 product, services, premises or operations;

9 (b) For each state in which it intends to operate, the
10 coverages, deductibles, coverage limits, rates, and rating
11 classification systems for each line of insurance the group
12 intends to offer;

13 (c) Historical and expected loss experience of the proposed
14 members and national experience of similar exposures to the
15 extent that this experience is reasonably available;

16 (d) Pro forma financial statements and projections;

17 (e) Appropriate opinions by a qualified, independent
18 casualty actuary, including a determination of minimum premium or
19 participation levels required to commence operations and to
20 prevent a hazardous financial condition;

21 (f) Identification of management, underwriting and claims
22 procedures, marketing methods, managerial oversight methods,
23 investment policies and reinsurance agreements;

24 (g) Identification of each state in which the risk
25 retention group has obtained, or sought to obtain, a charter and
26 license, and a description of its status in each such state; and

27 (h) Such other matters as may be prescribed by the
28 commissioner of the state in which the risk retention group is

1 chartered for liability insurance companies authorized by the
2 insurance laws of that state;

3 (9) "Product liability", liability for damages because of
4 any personal injury, death, emotional harm, consequential
5 economic damage, or property damage, including damages resulting
6 from the loss of use of property, arising out of the manufacture,
7 design, importation, distribution, packaging, labeling, lease, or
8 sale of a product, but does not include the liability of any
9 person for those damages if the product involved was in the
10 possession of such a person when the incident giving rise to the
11 claim occurred;

12 (10) "Purchasing group", any group which:

13 (a) Has as one of its purposes the purchase of liability
14 insurance on a group basis;

15 (b) Purchases such insurance only for its group members and
16 only to cover their similar or related liability exposure, as
17 described in paragraph (c) of this subdivision;

18 (c) Is composed of members whose businesses or activities
19 are similar or related with respect to the liability to which
20 members are exposed by virtue of any related, similar or common
21 business, trade, product, services, premises or operations; and

22 (d) Is domiciled in any state;

23 (11) "Risk retention group", any corporation or other
24 limited liability association:

25 (a) Whose primary activity consists of assuming and
26 spreading all, or any portion, of the liability exposure of its
27 group members;

28 (b) Which is organized for the primary purpose of

1 conducting the activity described under paragraph (a) of this
2 subdivision;

3 (c) Which:

4 a. Is chartered and licensed as a liability insurance
5 company and authorized to engage in the business of insurance
6 under the laws of any state; or

7 b. Before January 1, 1985, was chartered or licensed and
8 authorized to engage in the business of insurance under the laws
9 of Bermuda or the Cayman Islands and, before such date, had
10 certified to the insurance commissioner of at least one state
11 that it satisfied the capitalization requirements of such state,
12 except that any such group shall be considered to be a risk
13 retention group only if it has been engaged in business
14 continuously since such date and only for the purpose of
15 continuing to provide insurance to cover product liability or
16 completed operations liability;

17 (d) Which does not exclude any person from membership in
18 the group solely to provide for members of such a group a
19 competitive advantage over such a person;

20 (e) Which:

21 a. Has as its owners only persons who comprise the
22 membership of the risk retention group and who are provided
23 insurance by such group; or

24 b. Has as its sole owner an organization which has as its
25 members only persons who comprise the membership of the risk
26 retention group and has as its owners only persons who comprise
27 the membership of the risk retention group and who are provided
28 insurance by such group;

1 (f) Whose members are engaged in businesses or activities
2 similar or related with respect to the liability of which such
3 members are exposed by virtue of any related, similar or common
4 business trade, product, services, premises or operations;

5 (g) Whose activities do not include the provision of
6 insurance other than:

7 a. Liability insurance for assuming and spreading all or
8 any portion of the liability of its group members; and

9 b. Reinsurance with respect to the liability of any other
10 risk retention group or any members of such other group which is
11 engaged in businesses or activities so that such group or member
12 meets the requirement described in paragraph (f) of this
13 subdivision from membership in the risk retention group which
14 provides such reinsurance; and

15 (h) The name of which includes the phrase "risk retention
16 group";

17 (12) "State", any state of the United States or the
18 District of Columbia.

19 375.1112. As used in sections 375.1110 to 375.1140, the
20 following terms mean:

21 (1) "Actuary", a person who is a member in good standing of
22 the American Academy of Actuaries;

23 (2) "Controlling person", any person, firm, association or
24 corporation who directly or indirectly has the power to direct or
25 cause to be directed, the management, control or activities of
26 the reinsurance intermediary;

27 (3) "Director", the director of the department of
28 insurance, financial and professional regulation;

1 (4) "Insurer", any person, firm, association or corporation
2 duly licensed in this state pursuant to the laws of this state as
3 an insurer;

4 (5) "Licensed producer", an agent, broker or reinsurance
5 intermediary licensed pursuant to the applicable laws of this
6 state;

7 (6) "Qualified United States financial institution", an
8 institution that:

9 (a) Is organized, or is licensed, under the laws of the
10 United States or any state thereof;

11 (b) Is regulated, supervised and examined by United States
12 federal or state authorities having regulatory authority over
13 banks and trust companies; and

14 (c) Has been determined by either the director, or the
15 Securities Valuation Office of the National Association of
16 Insurance Commissioners, to meet such standards of financial
17 condition and standing as are considered necessary and
18 appropriate to regulate the quality of a financial institution
19 whose letter of credit will be acceptable to the director;

20 (7) "Reinsurance intermediary", a reinsurance
21 intermediary-broker or a reinsurance intermediary-manager, as
22 these terms are defined in subdivisions (8) and (9) of this
23 section;

24 (8) "Reinsurance intermediary-broker" or "RB", any person,
25 other than an officer or employee of the ceding insurer, firm,
26 association or corporation who solicits, negotiates or places
27 reinsurance cessions or retrocessions on behalf of a ceding
28 insurer without the authority or power to bind reinsurance on

1 behalf of such insurer;

2 (9) "Reinsurance intermediary-manager" or "RM", any person,
3 firm, association or corporation who has authority to bind or
4 manages all or part of the assumed reinsurance business of a
5 reinsurer, including the management of a separate division,
6 department or underwriting office, and acts as an agent for such
7 reinsurer whether known as an RM, manager or other similar term.
8 The following persons shall not be considered an RM, with respect
9 to such reinsurer, for the purposes of sections 375.1110 to
10 375.1140:

11 (a) An employee of the reinsurer;

12 (b) A United States manager of the United States branch of
13 an alien reinsurer;

14 (c) An underwriting manager which, pursuant to contract,
15 manages all the reinsurance operations of the reinsurer, is under
16 common control with the reinsurer, subject to chapter 382, RSMo,
17 and whose compensation is not based on the volume of premiums
18 written;

19 (d) The manager of a group, association, pool or
20 organization of insurers which engages in joint underwriting or
21 joint reinsurance and who is subject to examination by the
22 insurance regulatory agency of the state in which the manager's
23 principal business office is located;

24 (10) "Reinsurer", any person, firm, association or
25 corporation duly licensed in this state pursuant to the laws of
26 this state as an insurer with the authority to assume
27 reinsurance;

28 (11) "To be in violation", the reinsurance intermediary,

1 insurer or reinsurer for whom the reinsurance intermediary was
2 acting failed to substantially comply with the provisions of
3 sections 375.1110 to 375.1140.

4 375.1152. For purposes of sections 375.570 to 375.750 and
5 375.1150 to 375.1246, the following words and phrases shall mean:

6 (1) "Allocated loss adjustment expenses", those fees, costs
7 or expenses reasonably chargeable to the investigation,
8 negotiation, settlement or defense of an individual claim or loss
9 or to the protection and perfection of the subrogation rights of
10 any insolvent insurer arising out of a policy of insurance issued
11 by the insolvent insurer. "Allocated loss adjustment expenses"
12 shall include all court costs, fees and expenses; fees for
13 service of process; fees to attorneys; costs of undercover
14 operative and detective services; fees of independent adjusters
15 or attorneys for investigation or adjustment of claims beyond
16 initial investigation; costs of employing experts for preparation
17 of maps, photographs, diagrams, chemical or physical analysis or
18 for advice, opinion or testimony concerning claims under
19 investigation or in litigation; costs for legal transcripts or
20 testimony taken at coroner's inquests, criminal or civil
21 proceedings; costs for copies of any public records; costs of
22 depositions and court-reported or -recorded statements.

23 "Allocated loss adjustment expenses" shall not include the
24 salaries of officials, administrators or other employees or
25 normal overhead charges such as rent, postage, telephone,
26 lighting, cleaning, heating or similar expenses;

27 (2) "Ancillary state", any state other than a domiciliary
28 state;

1 (3) "Creditor", a person having any claim, whether matured
2 or unmatured, liquidated or unliquidated, secured or unsecured,
3 absolute, fixed or contingent;

4 (4) "Delinquency proceeding", any proceeding instituted
5 against an insurer for the purpose of liquidating,
6 rehabilitating, reorganizing or conserving such insurer, and any
7 summary proceeding under sections 375.1160, 375.1162 and
8 375.1164;

9 (5) "Director", the director of the department of
10 insurance, financial and professional regulation;

11 (6) "Doing business" includes any of the following acts,
12 whether effected by mail or otherwise:

13 (a) The issuance or delivery of contracts of insurance to
14 persons resident in this state;

15 (b) The solicitation of applications for such contracts, or
16 other negotiations preliminary to the execution of such
17 contracts;

18 (c) The collection of premiums, membership fees,
19 assessments, or other consideration for such contracts;

20 (d) The transaction of matters subsequent to execution of
21 such contracts and arising out of them; or

22 (e) Operating under a license or certificate of authority,
23 as an insurer, issued by the department [of insurance];

24 (7) "Domiciliary state", the state in which an insurer is
25 incorporated or organized or, in the case of an alien insurer,
26 its state of entry;

27 (8) "Fair consideration" is given for property or
28 obligation:

1 (a) When in exchange for such property or obligation, as a
2 fair equivalent thereof, and in good faith, property is conveyed
3 or services are rendered or an obligation is incurred or an
4 antecedent debt is satisfied; or

5 (b) When such property or obligation is received in good
6 faith to secure a present advance or antecedent debt in an amount
7 not disproportionately small as compared to the value of the
8 property or obligation obtained;

9 (9) "Foreign country", any jurisdiction not in the United
10 States;

11 (10) "Formal delinquency proceeding", any liquidation or
12 rehabilitation proceeding;

13 (11) "General assets", all property, real, personal, or
14 otherwise, not specifically mortgaged, pledged, deposited or
15 otherwise encumbered for the security or benefit of specified
16 persons or classes of persons. As to specifically encumbered
17 property, "general assets" includes all such property or its
18 proceeds in excess of the amount necessary to discharge the sum
19 or sums secured thereby. Assets held in trust and on deposit for
20 the security or benefit of all policyholders or all policyholders
21 and creditors, in more than a single state, shall be treated as
22 general assets;

23 (12) "Guaranty association", the Missouri property and
24 casualty insurance guaranty association created by sections
25 375.771 to 375.779, as amended, the Missouri life and health
26 insurance guaranty association created by sections 376.715 to
27 376.758, RSMo, as amended, and any other similar entity now or
28 hereafter created by the laws of this state for the payment of

1 claims of insolvent insurers. "Foreign guaranty association"
2 means any similar entities now in existence or hereafter created
3 by the laws of any other state;

4 (13) "Insolvency" or "insolvent" means:

5 (a) For an insurer issuing only assessable fire insurance
6 policies:

7 a. The inability to pay an obligation within thirty days
8 after it becomes payable; or

9 b. If an assessment be made within thirty days after such
10 date, the inability to pay such obligation thirty days following
11 the date specified in the first assessment notice issued after
12 the date of loss;

13 (b) For any other insurer, that it is unable to pay its
14 obligations when they are due, or when its admitted assets do not
15 exceed its liabilities plus the greater of:

16 a. Any capital and surplus required by law for its
17 organization; or

18 b. The total par or stated value of its authorized and
19 issued capital stock;

20 (c) As to any insurer licensed to do business in this state
21 as of August 28, 1991, which does not meet the standards
22 established under paragraph (b) of this subdivision, the term
23 "insolvency" or "insolvent" shall mean, for a period not to
24 exceed three years from August 28, 1991, that it is unable to pay
25 its obligations when they are due or that its admitted assets do
26 not exceed its liabilities plus any required capital contribution
27 ordered by the director under any other provisions of law;

28 (d) For purposes of this subdivision "liabilities" shall

1 include but not be limited to reserves required by statute or by
2 [insurance] department of insurance, financial and professional
3 regulation regulations or specific requirements imposed by the
4 director upon a subject company at the time of admission or
5 subsequent thereto;

6 (e) For purposes of this subdivision, an obligation is
7 payable within ninety days of the resolution of any dispute
8 regarding the obligation;

9 (14) "Insurer", any person who has done, purports to do, is
10 doing or is licensed to do insurance business as described in
11 section 375.1150, and is or has been subject to the authority of,
12 or to liquidation, rehabilitation, reorganization, supervision,
13 or conservation by, any insurance department of any state. For
14 purposes of sections 375.1150 to 375.1246, any other persons
15 included under section 375.1150 shall be deemed to be insurers;

16 (15) "Preferred claim", any claim with respect to which the
17 terms of sections 375.1150 to 375.1246 accord priority of payment
18 from the general assets of the insurer;

19 (16) "Receiver", a receiver, liquidator, administrative
20 supervisor, rehabilitator or conservator, as the context
21 requires;

22 (17) "Reciprocal state", any state other than this state in
23 which in substance and effect, provisions substantially similar
24 to subsection 1 of section 375.1176 and sections 375.1235,
25 375.1236, 375.1240, 375.1242 and 375.1244 have been enacted and
26 are in force, and in which laws are in force requiring that the
27 director of the state insurance department or equivalent official
28 be the receiver of a delinquent insurer, and in which some

1 provision exists for the avoidance of fraudulent conveyances and
2 preferential transfers;

3 (18) "Secured claim", any claim secured by mortgage, trust
4 deed, pledge, deposit as security, escrow, or otherwise,
5 including a pledge of assets allocated to a separate account
6 established pursuant to section 376.309, RSMo; but not including
7 special deposit claims or claims against general assets. The
8 term also includes claims which have become liens upon specific
9 deposit claims or claims against general assets. The term also
10 includes claims which have become liens upon specific assets by
11 reason of judicial process;

12 (19) "Special deposit claim", any claim secured by a
13 deposit made pursuant to statute for the security or benefit of a
14 limited class or classes of persons, but not including any claim
15 secured by general assets;

16 (20) "State", any state, district, or territory of the
17 United States and the Panama Canal Zone;

18 (21) "Transfer" shall include the sale and every other and
19 different mode, direct or indirect, of disposing of or of parting
20 with property or with an interest therein, or with the possession
21 thereof, or of fixing a lien upon property or upon an interest
22 therein, absolutely or conditionally, voluntarily, by or without
23 judicial proceedings. The retention of a security title to
24 property delivered to a debtor shall be deemed a transfer
25 suffered by the debtor.

26 375.1158. 1. Unless otherwise provided, the portions of
27 sections 375.1150 to 375.1246 which substantively affect the
28 rights of any person shall be only applicable prospectively. The

1 provisions of sections 375.650 to 375.700, sections 375.740 and
2 375.750, and sections 375.950 to 375.990 shall be effective and
3 apply only to proceedings instituted pursuant to those sections
4 prior to August 28, 1991. The provisions of sections 375.1150 to
5 375.1246 which are procedural in nature and which do not conflict
6 with any provision of sections 375.570 to 375.750 and sections
7 375.950 to 375.990 applicable to any proceeding instituted prior
8 to August 28, 1991, shall be applicable to proceedings instituted
9 prior to August 28, 1991; provided that the provisions of this
10 subsection shall not affect any final order entered by a court of
11 competent jurisdiction prior to August 28, 1991.

12 2. No insurer that is subject to any delinquency
13 proceedings, whether formal or informal, administrative or
14 judicial, shall:

15 (1) Be released from such proceeding, unless such
16 proceeding is converted into a judicial rehabilitation or
17 liquidation proceeding;

18 (2) Be permitted to solicit or accept new business or
19 request or accept the restoration of any suspended or revoked
20 license or certificate of authority;

21 (3) Be returned to the control of its shareholders or
22 private management; or

23 (4) Have any of its assets returned to the control of its
24 shareholders or private management.

25
26 Until all payments of or on account of the insurer's contractual
27 obligations by all guaranty associations and all expenses on
28 account of such delinquency proceedings, along with all expenses

1 thereof and interest on all such payments and expenses, shall
2 have been repaid to the department of insurance, financial and
3 professional regulation and guaranty associations or a plan of
4 repayment by the insurer shall have been approved by the
5 director. Moneys collected by the director pursuant to this
6 section shall be transferred to the state treasurer and deposited
7 to the general revenue fund.

8 3. In any delinquency proceeding under sections 375.1150 to
9 375.1246, certified copies of the statement made by the company
10 proceeded against, or of reports of examinations of the company
11 made by the director or persons appointed by him, shall be
12 received, if offered by the director, as prima facie evidence of
13 the facts therein contained pertaining to the condition and
14 affairs of the insurer.

15 375.1160. 1. As used in this section:

16 (1) "Exceeded its powers" means one or more of the
17 following conditions:

18 (a) The insurer has refused to permit examination of its
19 books, papers, accounts, records or affairs by the director, his
20 deputy, employees or duly commissioned examiners;

21 (b) A domestic insurer has unlawfully removed from this
22 state or is unable to produce books, papers, accounts or records
23 necessary for an examination of the insurer;

24 (c) The insurer has failed to promptly comply with the
25 applicable financial reporting statutes or rules and requests
26 relating thereto;

27 (d) The insurer has neglected or refused to observe an
28 order of the director to make good, within the time prescribed by

1 law, any prohibited deficiency in its capital, capital stock or
2 surplus;

3 (e) The insurer is continuing to transact insurance or
4 write business after its license has been revoked or suspended by
5 the director;

6 (f) The insurer, by contract or otherwise, has unlawfully
7 or has in violation of an order of the director or has without
8 first having obtained written approval of the director if
9 approval is required by law:

10 a. Totally reinsured its entire outstanding business, or

11 b. Merged or consolidated substantially its entire property
12 or business with another insurer;

13 (g) The insurer engaged in any transaction in which it is
14 not authorized to engage under the laws of this state;

15 (h) A domestic insurer has committed or engaged in, or is
16 about to commit or engage in, any act, practice or transaction
17 that would subject it to delinquency proceedings under sections
18 375.1150 to 375.1246; or

19 (i) The insurer refused to comply with a lawful order of
20 the director;

21 (2) "Consent" means agreement to administrative supervision
22 by the insurer.

23 2. (1) An insurer may be subject to administrative
24 supervision by the director if upon examination or at any other
25 time it appears in the director's discretion that:

26 (a) The insurer's condition renders the continuance of its
27 business hazardous to the public or to its insureds;

28 (b) The insurer exceeded its powers granted under its

1 certificate of authority and applicable law;

2 (c) The insurer has failed to comply with the laws of this
3 state relating to insurance;

4 (d) The business of the insurer is being conducted
5 fraudulently; or

6 (e) The insurer gives its consent.

7 (2) If the director determines that the conditions set
8 forth in subdivision (1) of this subsection exist, the director
9 shall:

10 (a) Notify in writing the insurer of his determination;

11 (b) Furnish to the insurer a written list of his
12 requirements to rescind his determination; and

13 (c) Notify the insurer that it is under the supervision of
14 the director and that the director is applying and effectuating
15 the provisions of this section.

16 (3) The notice of supervision under this subsection and any
17 order issued pursuant to this section shall be served upon the
18 insurer in writing by registered mail. The notice of supervision
19 shall state the conduct, condition or ground upon which the
20 director bases his order.

21 (4) If placed under administrative supervision, the insurer
22 shall have sixty days, or another period of time as designated by
23 the director, to comply with the requirements of the director
24 subject to the provisions of this section. In the event of such
25 insurer's failure to comply with such time periods, the director
26 may institute proceedings under section 375.1165 or 375.1175 to
27 have a rehabilitator or liquidator appointed, or to extend the
28 period of supervision.

1 (5) If it is determined that none of the conditions giving
2 rise to the supervision exist, the director shall release the
3 insurer from supervision.

4 3. (1) Except as set forth in this subsection, all
5 proceedings, hearings, notices, orders, correspondence, reports,
6 records and other information in the possession of the director
7 or the department of insurance, financial and professional
8 regulation relating to the supervision of any insurer are
9 confidential except as provided by this section.

10 (2) Personnel of the department of insurance, financial and
11 professional regulation shall have access to these proceedings,
12 hearings, notices, orders, correspondence, reports, records or
13 information as permitted by the director.

14 (3) The director may open the proceedings or hearings or
15 disclose the notices, orders, correspondence, reports, records or
16 information to a department, agency or instrumentality of this or
17 another state or the United States if the director determines
18 that the disclosure is necessary or proper for the enforcement of
19 the laws of this or another state of the United States.

20 (4) The director may open the proceedings or hearings or
21 make public the notices, orders, correspondence, reports, records
22 or other information if the director deems that it is in the best
23 interest of the public or in the best interest of the insurer,
24 its insureds, creditors or the general public.

25 (5) This subsection does not apply to hearings, notices,
26 correspondence, reports, records or other information obtained
27 upon the appointment of a receiver for the insurer by a court of
28 competent jurisdiction.

1 4. During the period of supervision, the director or his
2 designated appointee shall serve as the administrative
3 supervisor. The director may provide that the insurer shall not
4 do any of the following things during the period of supervision,
5 without the prior approval of the director or the appointed
6 supervisor:

7 (1) Dispose of, convey or encumber any of its assets or its
8 business in force;

9 (2) Withdraw any of its bank accounts;

10 (3) Lend any of its funds;

11 (4) Invest any of its funds;

12 (5) Transfer any of its property;

13 (6) Incur any debt, obligation or liability;

14 (7) Merge or consolidate with another company;

15 (8) Approve new premiums or renew any policies;

16 (9) Enter into any new reinsurance contract or treaty;

17 (10) Terminate, surrender, forfeit, convert or lapse any
18 insurance policy, certificate or contract, except for nonpayment
19 of premiums due;

20 (11) Write any new or renewal business;

21 (12) Release, pay or refund premium deposits, accrued cash
22 or loan values, unearned premiums, or other reserves on any
23 insurance policy, certificate or contract;

24 (13) Make any material change in management; or

25 (14) Increase salaries and benefits of officers or
26 directors or the preferential payment of bonuses, dividends or
27 other payments deemed preferential.

28 5. Any insurer subject to a supervision order under this

1 section may seek review pursuant to section 536.150, RSMo, of
2 that order within thirty days of the entry of the order of
3 supervision. Such a request for a hearing shall not stay the
4 effect of the order.

5 6. During the period of supervision the insurer may contest
6 an action taken or proposed to be taken by the administrative
7 supervisor specifying the manner in which the action being
8 complained of would not result in improving the condition of the
9 insurer. An insurer may request review pursuant to section
10 536.150, RSMo, of written denial of the insurer's request to
11 reconsider pursuant to this subsection.

12 7. If any person has violated any supervision order issued
13 under this section which as to him was still in effect, the
14 director may impose an administrative penalty in an amount not to
15 exceed ten thousand dollars for each violation. Moneys collected
16 pursuant to the imposition of such penalties shall be transferred
17 to the state treasurer and deposited to the general revenue fund.

18 8. The director or administrative supervisor may apply for,
19 and any court of general jurisdiction may grant, such restraining
20 orders, preliminary and permanent injunctions, and other orders
21 as may be deemed necessary and proper to enforce a supervision
22 order.

23 9. In the event that any person, subject to the provisions
24 of sections 375.1150 to 375.1246, including those persons
25 described in subsection 1 of section 375.1156, shall knowingly
26 violate any valid order of the director issued under the
27 provisions of this section and, as a result of such violation,
28 the net worth of the insurer shall be reduced or the insurer

1 shall suffer loss it would not otherwise have suffered, said
2 person shall become personally liable to the insurer for the
3 amount of any such reduction or loss. The director or
4 administrative supervisor is authorized to bring an action on
5 behalf of the insurer in any court of competent jurisdiction to
6 recover the amount of reduction or loss together with any costs.

7 10. Nothing contained in sections 375.1150 to 375.1246
8 shall preclude the director from initiating judicial proceedings
9 to place an insurer in conservation, rehabilitation or
10 liquidation proceedings or other delinquency proceedings, however
11 designated under the laws of this state, regardless of whether
12 the director has previously initiated administrative supervision
13 proceedings under this section against the insurer.

14 11. The director may adopt reasonable rules necessary for
15 the implementation of this section.

16 12. Notwithstanding any other provision of law, the
17 director may meet with an administrative supervisor appointed
18 under this section and with the attorney or other representative
19 of the administrative supervisor, without the presence of any
20 other person, at the time of any proceeding or during the
21 pendency of any proceeding held under authority of this section
22 to carry out his duties under this section or for the
23 administrative supervisor to carry out his duties under this
24 section.

25 13. There shall be no liability on the part of, and no
26 cause of action of any nature shall arise against, the director
27 or the department of insurance, financial and professional
28 regulation or its employees or agents for any action taken by

1 them in the performance of their powers and duties under this
2 section.

3 375.1172. In all proceedings and judicial reviews thereof
4 under sections 375.1164 to 375.1170, all records of the insurer,
5 other documents, and all department [of insurance] files and
6 court records and papers, so far as they pertain to or are a part
7 of the record of the proceedings, shall be and remain open and
8 public records until the termination of such proceedings; except
9 as is necessary to obtain compliance therewith, unless and until
10 the court, upon motion of the receiver, and after hearing
11 arguments from the parties, shall determine that preservation of
12 the assets and claims of the insurer require confidentiality as
13 to specific records or documents, and shall enter an order of
14 such findings.

15 375.1176. 1. An order to liquidate the business of a
16 domestic insurer shall appoint the director and his successors as
17 liquidator and shall direct the liquidator forthwith to take
18 immediate possession of the assets of the insurer and to
19 administer them subject to the supervision of the court until the
20 liquidator is discharged by the court. The liquidation of any
21 insurer shall be considered to be the business of insurance for
22 purposes of application of any law of this state. The liquidator
23 shall be vested by operation of law with the title to all of the
24 property, contracts and rights of action, and all of the books
25 and records of the insurer ordered liquidated, wherever located,
26 as of the entry of the order of liquidation. The order shall
27 require the liquidator to take immediate possession of and to
28 secure all of the records and property of the insurer wherever it

1 is located, and to take all measures necessary to preserve the
2 integrity of the insurer's records. The filing or recording of
3 the order with the clerk of the court and the recorder of deeds
4 of the county in which its principal office or place of business
5 is located or, in the case of real estate, with the recorder of
6 deeds of the county where the property is located, shall impart
7 the same notice as a deed, bill of sale or other evidence of
8 title duly filed or recorded with that recorder of deeds would
9 have imparted.

10 2. With the approval of the court, the director as
11 liquidator may appoint a special deputy or deputies to act for
12 him under sections 375.1175 to 375.1230. The special deputy
13 shall not be an employee of the department [of insurance]. The
14 special deputy shall have all powers of the liquidator granted by
15 sections 375.1175 to 375.1230. The special deputy shall
16 administer and liquidate the insolvent insurer subject to the
17 general supervision of the director and the specific supervision
18 of the court as provided in sections 375.1175 to 375.1230.

19 3. Upon issuance of the order of liquidation, the rights
20 and liabilities of any such insurer and of its creditors,
21 policyholders, shareholders, members and any other persons
22 interested in its estate shall become fixed and the termination
23 of any period fixed by any statute of limitations provided by law
24 shall be suspended as of the date of entry of the order of
25 liquidation, except as provided in sections 375.1178, 375.1206
26 and 375.1210. Rights of shareholders provided by any law other
27 than as provided by sections 375.1150 to 375.1246 shall be
28 suspended upon issuance of the order of liquidation.

1 4. An order to liquidate the business of an alien insurer
2 domiciled in this state shall be in the same terms and have the
3 same legal effect as an order to liquidate a domestic insurer,
4 except that the assets and the business in the United States
5 shall be the only assets and business included therein.

6 5. At the time of petitioning for an order of liquidation,
7 or at any time thereafter, the director, after making
8 determination of an insurer's insolvency, may petition the court
9 for a judicial declaration of such insolvency. After providing
10 such notice and hearing as it deems proper, the court may make
11 the declaration.

12 6. (1) Any order issued under this section shall require
13 periodic financial reports to the court by the liquidator.
14 Financial reports shall include, at a minimum, the assets and
15 liabilities of the insurer and all funds received or disbursed by
16 the liquidator during the current period. Financial reports
17 shall be filed within one year of the liquidation order and at
18 least annually thereafter.

19 (2) After an order of liquidation has been entered, the
20 liquidator of such insurer shall file with the director a
21 statement which shall reflect the claims reserves, including
22 losses incurred but not reported, and unearned premium reserves
23 which have been established by the liquidator and which shall
24 also set forth the amounts of such reserves that are allocable to
25 particular reinsurers of the insolvent company. A similar
26 statement shall be filed by each liquidator not less frequently
27 than annually and shall be considered for all intents and
28 purposes as the annual statement which was required to be filed

1 by the insurer with the director prior to the liquidation
2 proceedings. To the extent that any reinsurer of an insurer in
3 liquidation would have been required under any agreement
4 pertaining to reinsurance to post letters of credit or other
5 security prior to an order of liquidation to cover such reserves
6 reflected upon a statement filed with a regulatory authority,
7 such reinsurer shall be required to post letters of credit or
8 other security to cover such reserves after an insurer has been
9 placed in liquidation. If a reinsurer shall fail to post letters
10 of credit or other security required by a reinsurance agreement
11 or the provisions of this section, the director may issue an
12 order barring such reinsurer from thereafter reinsuring any
13 insurer which is incorporated under the laws of the state of
14 Missouri.

15 7. (1) Within five days after the initiation of an appeal
16 of an order of liquidation, the liquidator shall present for the
17 court's approval a plan for the continued performance of the
18 defendant company's policy claims obligations, including the duty
19 to defend insureds under liability insurance policies, during the
20 pendency of an appeal. Such plan shall provide for the continued
21 performance and payment of policy claims obligations in the
22 normal course of events, notwithstanding the grounds alleged in
23 support of the order of liquidation including the ground of
24 insolvency. In the event the defendant company's financial
25 condition, in the judgment of the liquidator, will not support
26 the full performance of all policy claims obligations during the
27 appeal pendency period, the plan may prefer the claims of certain
28 policyholders and claimants over creditors and interested parties

1 as well as other policyholders and claimants, as the liquidator
2 finds to be fair and equitable considering the relative
3 circumstances of such policyholders and claimants. The court
4 shall examine the plan submitted by the liquidator and if it
5 finds the plan to be in the best interests of the parties, the
6 court shall approve the plan. No action shall lie against the
7 liquidator or any of his deputies, agents, clerks, assistants or
8 attorneys by any party based on preference in an appeal pendency
9 plan approved by the court.

10 (2) The appeal pendency plan shall not supersede or affect
11 the obligations of any insurance guaranty association.

12 (3) Any such plans shall provide for equitable adjustments
13 to be made by the liquidator to any distributions of assets to
14 guaranty associations, in the event that the liquidator pays
15 claims from assets of the estate, which would otherwise be the
16 obligations of any particular guaranty association but for the
17 appeal of the order of liquidation, such that all guaranty
18 associations equally benefit on a pro rata basis from the assets
19 of the estate. Further, in the event an order of liquidation is
20 set aside upon any appeal, the company shall not be released from
21 delinquency proceedings unless and until all funds advanced by
22 any guaranty association, including reasonable allocated loss
23 adjustment expenses in connection therewith relating to
24 obligations of the company, shall be repaid in full, together
25 with interest at the judgment rate of interest or unless an
26 arrangement for repayment thereof has been made with the consent
27 of all applicable guaranty associations.

28 8. Any person who shall knowingly destroy, conceal, convert

1 or alter any records or property of an insurer after entry of an
2 order of liquidation, without having received prior written
3 permission of the liquidator or of the court, or who shall
4 knowingly neglect or refuse, upon the order or demand of the
5 liquidator, to deliver to the liquidator any records or property
6 of an insurer in his possession or control, shall be guilty of a
7 class C felony.

8 375.1184. 1. The liquidator may disaffirm or repudiate any
9 contract or lease:

10 (1) To which the insurer is a party;

11 (2) The performance of which the liquidator, in his sole
12 discretion, determines to be burdensome; and

13 (3) The disaffirmance or repudiation of which the
14 liquidator determines, in his sole discretion, will promote the
15 orderly administration of the affairs of the insurer.

16 2. The liquidator shall determine whether or not to
17 exercise the right of repudiation under this section within a
18 reasonable period following the entry of the order of
19 liquidation. In the sole discretion of the liquidator, the
20 contract shall be repudiated as of either:

21 (1) The date of the entry of the order of liquidation; or

22 (2) Some other date subsequent to the entry of the order of
23 liquidation selected by the liquidator for the disaffirmance or
24 repudiation of such contract or agreement.

25 3. The liability of the liquidator for the disaffirmance or
26 repudiation of any contract pursuant to subsection 1 of this
27 section shall be calculated as of the date of repudiation, and
28 shall be limited to actual direct compensatory damages. Any such

1 damages shall be submitted as a claim to the liquidator pursuant
2 to sections 375.1206 to 375.1222. For purposes of this
3 subsection, the term "actual direct compensatory damages" does
4 not include:

5 (1) Punitive or exemplary damages;

6 (2) Damages for lost profits or opportunity; or

7 (3) Damages for pain and suffering.

8 4. An agreement which tends to diminish or defeat the
9 interest of the liquidator in any asset acquired by him under
10 section 375.1176, whether acquired before or subsequent to the
11 entry of the order of liquidation, shall not be valid against the
12 liquidator unless such agreement:

13 (1) Is in writing;

14 (2) Was executed by the insurer and any person claiming an
15 adverse interest thereunder, including the obligor,
16 contemporaneously with the acquisition of the asset by the
17 insurer;

18 (3) Was approved by the board of directors of the insurer,
19 which approval shall be reflected in the minutes of said board;
20 and

21 (4) Has been, continuously, from the time of its execution,
22 an official record of the insurer maintained and readily
23 available to the director or examiners of the department [of
24 insurance].

25 375.1186. 1. Every person who receives notice in the form
26 prescribed in section 375.1185 that an insurer which he
27 represents as an agent is the subject of a liquidation order,
28 within thirty days of such notice, shall provide to the

1 liquidator, in addition to the information he may be required to
2 provide pursuant to section 375.1156, the information in the
3 agent's records related to any policy issued by the insurer
4 through the agent and, if the agent is a general agent, the
5 information in the general agent's records related to any policy
6 issued by the insurer through any agent under contract to him,
7 including the name and address of such subagent. Such
8 information shall include information relating to premiums
9 collected and held by the agent and all commissions relating to
10 such policies, whether earned or unearned. A policy shall be
11 deemed issued through an agent if the agent has a property
12 interest in the expiration of the policy, or if the agent has had
13 in his possession a copy of the declarations of the policy at any
14 time during the life of the policy, except where the ownership of
15 the expiration of the policy has been transferred to another
16 person.

17 2. Any agent failing to provide information to the
18 liquidator as required in subsection 1 of this section may be
19 subject to payment of an administrative penalty of not more than
20 one thousand dollars for each day that the agent refuses to
21 provide the information requested and the department [of
22 insurance] may suspend any license issued by the department to
23 the agent. Any penalty provided by this subsection may be
24 imposed after a hearing conducted by the director. Any moneys
25 collected by the department [of insurance] pursuant to imposition
26 of such administrative penalties shall be paid to the state
27 treasurer for deposit to the general revenue fund.

28 375.1250. As used in sections 375.1250 to 375.1275 and in

1 the Risk-Based Capital (RBC) Instructions, the following terms
2 mean:

3 (1) "Adjusted RBC report", an RBC report which has been
4 adjusted in accordance with subsection 5 of section 375.1252;

5 (2) "Corrective order", an order issued by the director
6 specifying corrective actions which the director has determined
7 are required;

8 (3) "Director", the director of the department of
9 insurance, financial and professional regulation;

10 (4) "Domestic insurer", any insurance company domiciled in
11 this state;

12 (5) "Foreign insurer", any insurance company which is
13 licensed to do business in this state under section 375.791, but
14 is not domiciled in this state;

15 (6) "Life and health insurer", any insurance company
16 licensed under chapter 376, RSMo, or a licensed property and
17 casualty insurer writing only accident and health insurance;

18 (7) "NAIC", the National Association of Insurance
19 Commissioners;

20 (8) "Negative trend", with respect to life and health
21 insurers, a negative trend over a period of time, as determined
22 in accordance with the trend test calculations included in the
23 RBC instructions;

24 (9) "Property and casualty insurer", any insurance company
25 licensed under chapter 379, RSMo, but such term shall not include
26 monoline mortgage guaranty insurers, financial guaranty insurers
27 and title insurers;

28 (10) "RBC instructions", the RBC report, including

1 risk-based capital instructions adopted by the NAIC, as such RBC
2 instructions may be amended by the NAIC from time to time in
3 accordance with the procedures adopted by the NAIC;

4 (11) "RBC level", an insurer's company action level RBC,
5 regulatory action level RBC, authorized control level RBC, or
6 mandatory control level RBC where:

7 (a) "Company action level RBC" means, with respect to any
8 insurer, the product of 2.0 and its authorized control level RBC;

9 (b) "Regulatory action level RBC" means the product of 1.5
10 and its authorized control level RBC;

11 (c) "Authorized control level RBC" means the number
12 determined under the risk-based capital formula in accordance
13 with the RBC instruction; and

14 (d) "Mandatory control level RBC" means the product of .70
15 and the authorized control level RBC;

16 (12) "RBC plan", a comprehensive financial plan containing
17 the elements specified in subsection 2 of section 375.1255. If
18 the director rejects the RBC plan and it is revised by the
19 insurer, with or without the director's recommendation, the plan
20 shall be called the "Revised RBC Plan";

21 (13) "RBC report", the report required in section 375.1252;

22 (14) "Total adjusted capital", the sum of:

23 (a) An insurer's statutory capital and surplus as
24 determined in accordance with the statutory accounting applicable
25 to the annual financial reports required to be filed under
26 section 376.350, RSMo, for domestic life and health insurers,
27 section 379.105, RSMo, for domestic property and casualty
28 insurers and section 375.891 for foreign insurers; and

1 (b) Such other items, if any, as the RBC instructions may
2 provide.

3 375.1269. 1. The provisions of sections 375.1250 to
4 375.1275 are supplemental to any other provisions of the laws of
5 this state, and shall not preclude or limit any other powers or
6 duties of the director under such laws, including but not limited
7 to sections 375.1150 to 375.1246.

8 2. The director may adopt reasonable rules and regulations
9 necessary for the implementation of sections 375.1250 to
10 375.1275. [No rule or regulation promulgated under authority of
11 this section shall become effective unless it has been
12 promulgated pursuant to the provisions of section 536.024, RSMo.]
13 Any rule or portion of a rule, as that term is defined in section
14 536.010, RSMo, that is created under the authority delegated in
15 this section shall become effective only if it complies with and
16 is subject to all of the provisions of chapter 536, RSMo, and, if
17 applicable, section 536.028, RSMo. This section and chapter 536,
18 RSMo, are nonseverable and if any of the powers vested with the
19 general assembly pursuant to chapter 536, RSMo, to review, to
20 delay the effective date, or to disapprove and annul a rule are
21 subsequently held unconstitutional, then the grant of rulemaking
22 authority and any rule proposed or adopted after August 28, 2007,
23 shall be invalid and void.

24 3. The director may exempt from the provisions of sections
25 375.1250 to 375.1275 any domestic property and casualty insurer
26 which:

27 (1) Writes direct business only in this state;

28 (2) Writes direct annual premiums of two million dollars or

1 less; and

2 (3) Assumes no reinsurance in excess of five percent of
3 direct premium written.

4 4. There shall be no liability on the part of, and no cause
5 of action shall arise against, the director, the department [of
6 insurance] or its employees or agents for any action taken by
7 them in the performance of their powers and duties under sections
8 375.1250 to 375.1275.

9 375.1287. 1. A notice of transfer regarding an assumption
10 reinsurance agreement shall be provided to the policyholders of a
11 transferring insurer in the following manner:

12 (1) The transferring insurer shall provide or cause to be
13 provided to each policyholder a notice of transfer by first class
14 mail, addressed to the policyholder's last known address or to
15 the address to which premium notices or other policy documents
16 are sent or, with respect to home service business, by personal
17 delivery with acknowledged receipt. A notice of transfer shall
18 also be sent to the transferring insurer's agents and brokers of
19 record on the affected policies;

20 (2) The notice of transfer shall state or provide:

21 (a) The date on which the transfer and novation of the
22 policyholder's contract of insurance is proposed to take place;

23 (b) The name and addresses and telephone numbers of the
24 transferring insurer and assuming insurer;

25 (c) That the policyholder has the right to either consent
26 to or reject the transfer and novation;

27 (d) The procedures and time limit for consenting to or
28 rejecting the transfer and novation;

1 (e) A summary of any effect that consenting to or rejecting
2 the transfer and novation will have on the policyholder's rights;

3 (f) A statement that the assuming insurer is licensed to
4 write the type of business being assumed in the state where the
5 policyholder resides, or is otherwise authorized, as provided
6 herein, to assume such business;

7 (g) The name and address of the person at the transferring
8 insurer to whom the policyholder should send its written
9 statement of acceptance or rejection of the transfer and
10 novation;

11 (h) The address and phone number of the state insurance
12 department where the policyholder resides so that the
13 policyholder may write or call its insurance department for
14 further information regarding the financial condition of the
15 assuming insurer; and

16 (i) The following financial data for both companies:

17 a. Ratings for the last five years if available or for such
18 lesser period as is available from two nationally recognized
19 insurance rating services acceptable to the director including
20 the rating service's explanation of the rating's meaning. If
21 ratings are unavailable for any year of the five-year period,
22 this shall also be disclosed;

23 b. A balance sheet as of December thirty-first for the
24 previous three years if available or for such lesser period as is
25 available and as of the date of the most recent quarterly
26 statement;

27 c. A copy of the management's discussion and analysis that
28 was filed as a supplement to the previous year's annual

1 statement; and

2 d. An explanation of the reason for the transfer;

3 (3) Notice in a form identical or substantially similar to
4 the following, or as specified by the director [of insurance] by
5 regulation, shall be deemed to comply with the requirements of
6 this subsection:

7 (FIRST, SECOND OR THIRD AND FINAL)

8 NOTICE OF TRANSFER

9
10 IMPORTANT: THIS NOTICE AFFECTS YOUR CONTRACT RIGHTS.

11 PLEASE READ IT CAREFULLY.

12 TRANSFER OF POLICY

13

14 The (name of assuming insurance company) has agreed to replace us
15 as your insurer under (insert policy/certificate name and number)
16 effective (insert date). The (assuming insurance company's)
17 principal place of business is (insert address) and certain
18 financial information concerning both companies are attached,
19 including: (1) ratings for the last five years if available or
20 for such lesser period as is available from two nationally
21 recognized insurance rating services; (2) balance sheets for the
22 previous three years if available or for such lesser period as is
23 available and as of a date no later than ninety days prior to the
24 current date; (3) a copy of the management's discussion and
25 analysis that was filed as a supplement to the previous year's
26 annual statement; and (4) an explanation of the reason for the
27 transfer. You may obtain additional information concerning (name
28 of assuming insurance company) from reference materials in your

1 local library or by contacting your state insurance director at
2 (insert address). The (name of assuming insurance company) is
3 licensed to write this coverage in your state.

4 Your Rights

5
6 You may choose to accept or reject the transfer of your policy to
7 (name of assuming insurance company). If you want your policy
8 transferred, you must notify us in writing immediately by signing
9 and returning the enclosed preaddressed, postage-paid or by
10 writing to us at: (Insert name, address and facsimile number of
11 contact person.) Payment of your premiums to the assuming
12 company will also constitute acceptance of the transaction.
13 However, a method will be provided to allow you to pay the
14 premium while reserving the right to reject the transfer. If you
15 reject the transfer, you may keep your policy with us or exercise
16 any option under your policy. If we do not receive a written
17 rejection from you within thirty months of our first notice of
18 transfer, (insert date of initial mailing), you will, as a matter
19 of law, have consented to the transfer. However, before this
20 consent is final, you will be provided a second notice, twelve
21 months after our first notice, and a third and final notice,
22 twenty-four months after our first notice. After the third and
23 final notice is provided, you will have only six months to reply.
24 If you have paid your premium to (the assuming insurance company)
25 without reserving your right to reject the transfer, you will not
26 receive a subsequent notice.

27 Effect of Transfer

1 If you accept this transfer, (name of assuming insurance company)
2 will be your insurer. It will have direct responsibility to you
3 for the payment of all claims, benefits and for all other policy
4 obligations. We will no longer have any obligations to you. If
5 you accept this transfer, you should make all premium payments
6 and claims submissions to (name of assuming insurance company)
7 and direct all questions to (name of assuming insurance company).
8 If you have any further questions about this agreement, you may
9 contact (name of transferring insurance company) or (name of
10 assuming insurance company).

11 Sincerely,.....

12
13 (Name of Transferring (Name of Assuming
14 Insurance Company Insurance Company Address
15 Address Telephone Number)
16 Telephone Number)

17
18 For your convenience, we have enclosed a preaddressed
19 postage-paid response card. Please take time now to read the
20 enclosed notice and complete and return the response card to us.

21
22 (Notice Date)

23 RESPONSE CARD

24
25 Yes, I accept the transfer of my policy from (name of
26 transferring company) to (name of assuming company).

27
28 No, I reject the proposed transfer of my policy from (name

1 of transferring company) to (name of assuming company) and wish
2 to retain my policy with (name of transferring company). (Date)
3 (Signature) Name:
4 Street Address:
5 City, State, Zip:
6

7 (4) The notice to transfer shall include a preaddressed,
8 postage-paid response card which a policyholder may return as its
9 written statement of acceptance or rejection of the transfer and
10 novation;

11 (5) The notice of transfer proposed to be used shall be
12 filed as part of the prior approval requirement set forth below
13 in subdivision (1) of subsection 2 of this section.

14 2. (1) Prior approval by the director is required for any
15 transaction where an insurer domiciled in this state assumes or
16 transfers obligations or risks on contracts of insurance under an
17 assumption reinsurance agreement. No insurer licensed in this
18 state shall transfer obligations or risks on contracts of
19 insurance owned by policyholders residing in this state to any
20 insurer that is not licensed in this state. An insurer domiciled
21 in this state shall not assume obligations or risks on contracts
22 of insurance owned by policyholders residing in any other state
23 unless it is licensed in the other state, or the insurance
24 regulatory official of that state has approved such assumption in
25 writing;

26 (2) Any licensed foreign insurer that enters into an
27 assumption reinsurance agreement, which transfers the obligations
28 or risks on contracts of insurance owned by policyholders

1 residing in this state, shall file or cause to be filed the
2 assumption certificate with the director [of insurance of this
3 state], a copy of the notice of transfer, and an affidavit that
4 the transaction is subject to substantially similar requirements
5 in the state of domicile of both the transferring and assuming
6 insurer;

7 (3) Any licensed foreign insurer that enters into an
8 assumption reinsurance agreement, which transfers the obligations
9 or risks on contracts of insurance owned by policyholders
10 residing in this state, shall obtain the prior approval of the
11 director [of insurance of this state] and shall be subject to all
12 other requirements of sections 375.1280 to 375.1295 unless the
13 transferring and assuming insurers are subject to assumption
14 reinsurance requirements adopted by statute or regulation in the
15 jurisdiction of their domicile which are substantially similar to
16 sections 375.1280 to 375.1295;

17 (4) No insurer required to receive approval of assumption
18 reinsurance transactions under this section shall enter into an
19 assumption reinsurance transaction until:

20 (a) Thirty days after the director has received a request
21 for approval and has not within such period disapproved such
22 transaction; or

23 (b) The director shall have approved the transaction within
24 the thirty-day period;

25 (5) The following factors, along with such other factors as
26 the director deems appropriate under the circumstances, shall be
27 considered by the director in reviewing the request for approval:

28 (a) The financial condition of the transferring and

1 assuming insurer and the effect the transaction will have on the
2 financial condition of each company;

3 (b) The competence, experience and integrity of those
4 persons who control the operation of the assuming insurer;

5 (c) The plans or proposals the assuming party has with
6 respect to the administration of the policies subject to the
7 proposed transfer;

8 (d) Whether the transfer is fair and reasonable to the
9 policyholders of both companies;

10 (e) Whether the notice of transfer to be provided by the
11 insurer is fair, adequate and not misleading; and

12 (f) Whether the transfer lessens competition or restrains
13 trade.

14 3. Any officer, director or stockholder of any insurer
15 violating or consenting to the violation of any provision of
16 subsection 2 of this section is guilty of a class D felony.

17 375.1300. When used in sections 375.1300 to 375.1312, the
18 following terms mean:

19 (1) "Consultant", an individual, partnership or corporation
20 who, for a fee, holds himself or itself out to the public as
21 engaged in the business of offering any advice, counsel, opinion
22 or service with respect to the benefits, advantages or
23 disadvantages promised under any policy of insurance that could
24 be issued in this state;

25 (2) "Director", the director of the department of
26 insurance, financial and professional regulation of this state;

27 (3) "Genetic information", the results of a genetic test.
28 Genetic information shall not include family history, the results

1 of routine physical measurements, or the results of chemical,
2 blood, urine analysis, or the results of tests for drugs or the
3 presence of the human immunodeficiency virus, or from results of
4 any other tests commonly accepted in clinical practice at the
5 time;

6 (4) "Genetic test", a laboratory test of human
7 deoxyribonucleic acid (DNA) or ribonucleic acid (RNA) used to
8 identify the presence or absence of inherited alterations in the
9 DNA or RNA which cause predisposition to disease or illness. The
10 term does not include routine physical measurements and
11 examinations, routine tests performed as a part of a physical
12 examination, chemical, blood or urine analysis, cholesterol
13 tests, tests for the presence of the human immunodeficiency
14 virus, a test for drugs, or tests commonly accepted in clinical
15 practice at the time;

16 (5) "Insurer", any person, reciprocal exchange,
17 interinsurer, Lloyds insurer, fraternal benefit society, and any
18 other legal entity engaged in the business of insurance,
19 including agents, brokers, adjusters and third-party
20 administrators. "Insurer" also includes health services
21 corporations, health maintenance organizations, prepaid limited
22 health care service plans, dental, optometry and other similar
23 health service plans. For purposes of sections 375.930 to
24 375.948, such entities shall be deemed to be engaged in the
25 business of insurance. "Insurer" shall also include all
26 companies organized, incorporated or doing business pursuant to
27 the provisions of chapters 325, 375, 376, 377, 378, 379, 381 and
28 383, RSMo;

1 (6) "Person", any natural or artificial entity, including,
2 but not limited to, individuals, partnerships, associations,
3 trusts or corporations;

4 (7) "Policy", "certificate" or "contract" includes any
5 contract of insurance, indemnity, medical, health or hospital
6 service, suretyship, or annuity issued, proposed for issuance, or
7 intended for issuance by any insurer.

8 375.1506. 1. Each insurer marketing policies to which
9 sections 375.1500 to 375.1527 are applicable shall notify the
10 director [of the department of insurance] whether a policy form
11 is to be marketed with or without an illustration. For all
12 policy forms being actively marketed on August 28, 1998, the
13 insurer shall identify in writing those forms and whether or not
14 an illustration will be used with them. For policy forms filed
15 after August 28, 1998, the identification shall be made at the
16 time of filing. Any previous identification may be changed by
17 notice to the director [of the department of insurance].

18 2. If the insurer identifies a policy form as one to be
19 marketed without an illustration, any use of an illustration for
20 any policy using that form prior to the first policy anniversary
21 is prohibited.

22 3. If a policy form is identified by the insurer as one to
23 be marketed with an illustration, a basic illustration prepared
24 and delivered in accordance with sections 375.1500 to 375.1527 is
25 required, except that a basic illustration need not be provided
26 to individual members of a group or to individuals insured under
27 multiple lives coverage issued to a single applicant unless the
28 coverage is marketed to these individuals. The illustration

1 furnished an applicant for a group life insurance policy or
2 policies issued to a single applicant on multiple lives may be
3 either an individual or composite illustration representative of
4 the coverage on the lives of members of the group or the multiple
5 lives covered.

6 4. Potential enrollees of nonterm group life subject to
7 sections 375.1500 to 375.1527 shall be furnished a quotation with
8 the enrollment materials. The quotation shall show potential
9 policy values for sample ages and policy years on a guaranteed
10 and nonguaranteed basis appropriate to the group and the
11 coverage. This quotation shall not be considered an illustration
12 for purposes of sections 375.1500 to 375.1527, but all
13 information provided shall be consistent with the illustrated
14 scale. A basic illustration shall be provided at delivery of the
15 certificate to enrollees for nonterm group life who enroll for
16 more than the minimum premium necessary to provide pure death
17 benefit protection. In addition, the insurer shall make a basic
18 illustration available to any nonterm group life enrollee who
19 requests it.

20 375.1524. 1. The board of directors of each insurer shall
21 appoint one or more illustration actuaries.

22 2. The illustration actuary shall certify that the
23 disciplined current scale used in illustrations is in conformity
24 with the actuarial standard of practice for compliance with the
25 NAIC model regulation of life insurance illustrations promulgated
26 by the actuarial standards board, and that the illustrated scales
27 used in insurer-authorized illustrations meet the requirements of
28 sections 375.1500 to 375.1527.

1 3. The illustration actuary shall:

2 (1) Be a member in good standing of the American Academy of
3 Actuaries;

4 (2) Be familiar with the standard of practice regarding
5 life insurance policy illustrations;

6 (3) Not have been found by the director [of the department
7 of insurance], following appropriate notice and hearing to have:

8 (a) Violated any provision of, or any obligation imposed
9 by, the insurance law or other law in the course of his or her
10 dealings as an illustration actuary;

11 (b) Been found guilty of fraudulent or dishonest practices;

12 (c) Demonstrated his or her incompetence, lack of
13 cooperation, or untrustworthiness to act as an illustration
14 actuary; or

15 (d) Resigned or been removed as an illustration actuary
16 within the past five years as a result of acts or omissions
17 indicated in any adverse report on examination or as a result of
18 a failure to adhere to generally acceptable actuarial standards;

19 (4) Not fail to notify the director [of the department of
20 insurance] of any action taken by a commissioner or director of
21 insurance of another state similar to that pursuant to
22 subdivision (3) of this subsection;

23 (5) Disclose in the annual certification whether, since the
24 last certification, a currently payable scale applicable for
25 business issued within the previous five years and within the
26 scope of the certification has been reduced for reasons other
27 than changes in the experience factors underlying the disciplined
28 current scale. If nonguaranteed elements illustrated for new

1 policies are not consistent with those illustrated for similar
2 in-force policies, this shall be disclosed in the annual
3 certification. If nonguaranteed elements illustrated for both
4 new and in- force policies are not consistent with the
5 nonguaranteed elements actually being paid, charged or credited
6 to the same or similar forms, this shall be disclosed in the
7 annual certification; and

8 (6) Disclose in the annual certification the method used to
9 allocate overhead expenses for all illustrations:

10 (a) Fully allocated expenses;

11 (b) Marginal expenses; or

12 (c) A generally recognized expense table based on fully
13 allocated expenses representing a significant portion of
14 insurance companies and approved by the director [of the
15 department of insurance].

16 4. (1) The illustration actuary shall file a certification
17 with the board and with the director [of the department of
18 insurance]:

19 (a) Annually for all policy forms for which illustrations
20 are used; and

21 (b) Before a new policy form is illustrated.

22 (2) If an error in a previous certification is discovered,
23 the illustration actuary shall notify the board of directors of
24 the insurer and the director [of the department of insurance]
25 promptly.

26 5. If an illustration actuary is unable to certify the
27 scale for any policy form illustration the insurer intends to
28 use, the actuary shall notify the board of directors of the

1 insurer and the director [of the department of insurance]
2 promptly of his or her inability to certify.

3 6. A responsible officer of the insurer, other than the
4 illustration actuary, shall certify annually:

5 (1) That the illustration formats meet the requirements of
6 sections 375.1500 to 375.1527 and that the scales used in
7 insurer-authorized illustrations are those scales certified by
8 the illustration actuary; and

9 (2) That the company has provided its agents with
10 information about the expense allocation method used by the
11 company in its illustrations and disclosed as required in
12 subdivision (6) of subsection 3 of this section.

13 7. The annual certifications shall be provided to the
14 director [of the department of insurance] each year by a date
15 determined by the insurer.

16 8. If an insurer changes the illustration actuary
17 responsible for all or a portion of the company's policy forms,
18 the insurer shall notify the director [of the department of
19 insurance] of that fact promptly and disclose the reason for the
20 change.

21 375.1730. Any insurance company that sells liability
22 insurance which provides coverage for dram shop liability as
23 described in section 537.053, RSMo, shall report all costs
24 associated with such coverages to the department [of insurance].
25 The rates for such coverage shall be governed pursuant to section
26 379.889, RSMo.

27 376.005. 1. As used in this chapter, unless otherwise
28 clearly indicated by the context, the following words mean:

1 (1) "Department", the department of insurance, financial
2 and professional regulation; and

3 (2) "Director", the director of the department of
4 insurance, financial and professional regulation.

5 376.020. Corporations doing the business mentioned in
6 section 376.010, which are owned and controlled entirely by the
7 stockholders, and in neither the management nor the profits of
8 which the policyholders participate, shall be considered "joint
9 stock companies"; such corporations having no capital stock, and
10 in the management and profits of which the policyholders alone
11 participate shall be considered "mutual companies"; and such
12 corporations having a capital stock, but in the management or in
13 the profits of which, or in both, the policyholders or any class
14 or classes of policyholders are or may become entitled to
15 participate, shall be considered "stock and mutual companies";
16 provided, that any association consisting of not more than one
17 thousand five hundred citizens, residents of the state of
18 Missouri, all living within the boundaries of not more than three
19 counties in this state, said counties to be contiguous to each
20 other, organized not for profit and solely for the purpose of
21 assessing each of the members thereof upon the death of a member,
22 the entire amount of said assessment, except ten cents paid by
23 each member, to be given to a beneficiary or beneficiaries named
24 by the deceased member in his or her certificate of membership,
25 said certificate of membership to be issued by such association,
26 shall not be construed to be a life insurance company under the
27 laws of this state, but provided, however, no officer, trustee or
28 other employee of such association shall receive any remuneration

1 for any services rendered, except the secretary of such
2 association who shall be permitted to charge each member, for his
3 services and for the cost of collecting the assessment, not more
4 than ten cents for each assessment levied; and provided further,
5 that said association may if necessary assess not more than
6 twenty-five cents per member in any one year to be used only to
7 purchase necessary supplies, pay court costs and attorney fees;
8 and provided further, that whenever the director [of the
9 insurance department] suspects or believes that any officer,
10 trustee or other employee of such association is in fact directly
11 or indirectly receiving remuneration, or that the secretary of
12 such association is collecting and receiving more than herein
13 provided for, he may cause an examination of the books, records
14 and other effects of such association, including its officers and
15 employees, to be made in order to ascertain the true condition of
16 affairs and whenever such examination is made, an assessment
17 shall be levied on the members thereof, sufficient to pay the
18 cost of such examination, but no such assessment shall be for
19 more than one dollar per member; provided, that nothing herein
20 shall be construed to apply to any corporation organized under
21 the provisions of sections 377.010 to 377.190, RSMo, or to any
22 association having more than one thousand five hundred members.

23 376.050. The persons mentioned in section 376.010 shall be
24 designated as "corporators", and such corporators, desiring to
25 form a company for the purpose of transacting the business
26 mentioned in said section, or any part of the same, shall file in
27 the office of the director [of the insurance department] a
28 declaration signed by each of said corporators, setting forth the

1 place of residence of each of them, and their intention to form a
2 corporation for the purpose of transacting the business
3 aforesaid, which declaration shall comprise a copy of the charter
4 proposed to be adopted by them; and they shall publish once in
5 each week, or oftener, for at least four weeks, in a newspaper of
6 general circulation, published in the county where such
7 corporation is proposed to be located, a notice of the filing of
8 such declaration, together with a copy of the same.

9 376.070. Whenever the incorporators have filed the
10 declaration required by section 376.050 and also the proof of
11 publication therein required by the affidavit of the publisher of
12 the newspaper in which the publication was made, his foreman or
13 clerk, with the director [of insurance], the director shall
14 submit the declaration to the attorney general of this state for
15 examination, and if it is found by him to be in accordance with
16 the provisions of sections 376.010 to 376.670 and not
17 inconsistent with the constitution and laws of this state and the
18 United States, he shall so certify and deliver it back to the
19 director. The director shall cause the declaration and
20 affidavit, with the certificate of the attorney general, to be
21 recorded in a book kept for that purpose, and furnish a certified
22 copy of the same to the incorporators, and also file a certified
23 copy of the same with the secretary of state, who, upon payment
24 to the director of revenue of the tax required by section
25 351.065, RSMo, shall issue a certificate of incorporation, upon
26 the receipt of which they become a body politic and corporate,
27 and may proceed to organize in the manner set forth in their
28 charter, and to open books for subscription to the capital stock

1 of the company, and keep the same open until the whole amount
2 specified in the charter is subscribed. No company shall issue
3 policies or transact any business of any kind or nature
4 whatsoever, except as aforesaid, until it has fully complied with
5 the requirements of sections 376.010 to 376.670.

6 376.090. When the corporators have fully complied with the
7 requirements of the preceding sections, and the laws of this
8 state governing the organization of private corporations, and
9 said corporation has deposited with the director [of the
10 insurance department] the amount of capital required to be
11 deposited by section 376.290, and shall have filed with the
12 director a certified copy of the certificate of incorporation
13 issued by the secretary of state, it shall be his duty to furnish
14 the company a certificate of such deposit, and his certificate of
15 authority for it to commence the business proposed in its
16 charter, which, with the certified copies of the aforesaid
17 declaration and certificates, on being filed and recorded in the
18 office of the recorder of the county in which the company is to
19 be located, shall be its authority to commence business and issue
20 policies; and such certified copies of the declaration
21 certificates and certificate of deposit may be used in evidence
22 for or against said company, with the same effect as the
23 originals.

24 376.130. When the corporators have fully complied with the
25 requirements of the preceding sections, and the laws of this
26 state governing the organization of private corporations, and
27 said corporation has deposited with the director [of the
28 insurance department] the amount of notes, bonds and mortgages,

1 or deeds of trust, required by sections 376.010 to 376.670, and
2 shall have filed with the director a certified copy of the
3 certificate of incorporation issued by the secretary of state, it
4 shall be his duty to furnish the company a certificate of such
5 deposit, and his certificate of authority for it to commence the
6 business proposed in its charter, which, with the certified
7 copies of the aforesaid declaration and certificates, on being
8 filed and recorded in the office of the recorder of the county in
9 which the company is to be located, shall be its authority to
10 commence business and issue policies; and such certified copies
11 of the declarations, certificates and certificate of deposit may
12 be used in evidence, for or against said company, with the same
13 effect as the originals.

14 376.142. 1. Any domestic stock life insurance corporation,
15 incorporated under a general law, may become a mutual life
16 insurance corporation, and to that end may carry out a plan for
17 the acquisition of shares of its capital stock, provided such
18 plan

19 (1) Has been adopted by a vote of a majority of the
20 directors of such corporation;

21 (2) Has been approved by a vote of stockholders
22 representing a majority of the capital stock then outstanding at
23 a meeting of stockholders called for the purpose;

24 (3) Has been approved by a majority of the policyholders
25 voting at a meeting of policyholders called for the purpose, each
26 of whom is insured in a sum of at least one thousand dollars and
27 whose insurance shall then be in force and shall have been in
28 force for at least one year prior to such meeting.

1 2. As used in this section, "policyholder" means the person
2 insured under an individual policy of life insurance, and the
3 person to whom any annuity or pure endowment is presently or
4 prospectively payable by the terms of an individual annuity or
5 pure endowment contract, except where the policy or contract
6 declares some other person to be the owner or holder thereof, in
7 which case such owner or policyholder shall be deemed the
8 policyholder, and except in cases of assignment. In the case of
9 any individual policy or contract insuring two or more persons
10 jointly or in case the policy or contract declares two or more
11 persons to be the owner, the persons insured or declared to be
12 the owner are considered as one policyholder for the purposes of
13 this section. In case any such policy or contract has been
14 assigned by an assignment absolute on its face to an assignee
15 other than the corporation, and such assignment has been filed at
16 the principal office of the corporation at least thirty days
17 prior to the date of the meeting of the policyholders, then such
18 assignee shall be deemed a policyholder. Except as provided in
19 this section, an assignee of a policy or contract shall not be
20 deemed a policyholder. The reference in subdivision (3) of
21 subsection 1 to insurance in the amount of one thousand dollars
22 or more is deemed to include any annuity contract, the commuted
23 value of which is one thousand dollars or more on the date of
24 said meeting, and any pure endowment contract for the principal
25 sum of one thousand dollars or more.

26 3. Notice of the meeting of policyholders shall be given by
27 mailing such notice from the home office of the corporation at
28 least thirty days prior to such meeting in a sealed envelope,

1 postage prepaid, addressed to such policyholders at their last
2 known post-office addresses, provided that personal delivery of
3 such written notice to any policyholder evidenced by written
4 receipt therefor may be substituted for mailing the same. The
5 meeting shall be otherwise provided for and conducted in such
6 manner as is provided in the mutualization plan, provided that
7 policyholders may vote in person, by proxy, or by mail, and that
8 all votes shall be cast by ballot on a uniform ballot furnished
9 by the corporation. The director [of the department of
10 insurance] shall supervise and direct the method and procedure of
11 said meeting and shall appoint an adequate number of inspectors
12 to conduct the voting at said meeting who may determine all
13 questions concerning the verification of the ballots, the
14 ascertainment of the validity of such ballots, the qualifications
15 of the voters, and the canvass of the vote, and who shall certify
16 to the director and to the corporation the result of such
17 proceedings, which shall be supervised by said inspectors in
18 accordance with such rules and regulations as are prescribed by
19 the director. All necessary expenses incurred by the director
20 shall be paid by the corporation, as certified to by him.

21 4. Such plan may provide for the acquisition of the shares
22 of the capital stock of the corporation, the price at which it is
23 proposed to acquire the same, and the method of acquisition and
24 mode of payment therefor, whether immediate or deferred. Before
25 such a plan can be carried out, it must be submitted to the
26 director [of the department of insurance] and must be approved by
27 him in writing; provided that every payment for the acquisition
28 of any shares of the capital stock of such corporation, the

1 purchase price of which is not fixed by such plan, shall be
2 subject to the approval of the director, and provided that
3 neither such plan, nor any such payment, shall be approved by the
4 director unless at the time of such approvals, respectively, the
5 corporation, after deducting the aggregate sum appropriated by
6 such plan for the acquisition of any part or all of its capital
7 stock, and, in the case of any payment not fixed by such plan and
8 subject to separate approval by the director, after deducting
9 also the amount of such payment, shall be possessed of assets
10 sufficient to maintain its deposit made previously with the
11 director, and such assets shall be not less than the entire
12 liabilities of the corporation, including the net values of its
13 outstanding contracts computed according to the standard adopted
14 by the corporation under sections 376.010 to 376.670 and
15 including all funds, contingent reserves, and surplus, except for
16 such surplus as has been appropriated or paid under such plan.

17 376.143. 1. If a domestic stock life insurance corporation
18 determines to become a mutual life insurance corporation, it may,
19 in carrying out any plan to that end under section 376.142,
20 acquire any shares of its own stock by gift, bequest, or
21 purchase. Until all of such shares are acquired, any shares so
22 acquired, or acquired pursuant to section 376.144, shall be
23 acquired in trust for the corporation as provided in subsection
24 2, and shall be assigned and transferred on the books of the
25 corporation to not less than three nor more than five trustees.
26 Such shares shall be held by them in trust and be voted by such
27 trustees at all corporate meetings at which stockholders have the
28 right to vote, until all of the capital stock of such corporation

1 is acquired, at which time the entire capital stock shall be
2 retired and canceled and the corporation shall become, thereupon,
3 a mutual life insurance corporation without capital stock.

4 2. The trustees provided for in subsection 1 shall be
5 appointed and vacancies shall be filled by the director [of the
6 department of insurance]. Such trustees shall be qualified
7 directors of the corporation at the time of such appointment and
8 shall continue as such trustees until the purpose of the trust is
9 accomplished or abandoned, unless they are removed for cause by
10 the director. Said trustees shall file with the director a
11 verified acceptance of their appointment and a declaration that
12 they will faithfully discharge their duties as trustees. Such
13 trustees shall give and file with the director bonds in such an
14 amount as under the circumstances the director deems proper, with
15 sureties thereon approved by the director. All dividends and
16 other sums received by said trustees on the shares of stock held
17 by them shall be immediately repaid to said corporation. The
18 necessary expenses of executing the trust shall be paid by the
19 corporation. All shares held by such trustees are considered as
20 admitted assets of such corporation at their par value.

21 3. Neither the retirement of the corporation's capital
22 stock nor the amendment of its articles of incorporation shall
23 affect existing suits, rights, or contracts of such corporation.
24 The deposit of securities made by such corporation, pursuant to
25 sections 376.010 to 376.670, shall be retained by the director in
26 trust for the benefit and security of all of the members and
27 policyholders of such corporation.

28 376.144. 1. If a stockholder of any domestic stock life

1 insurance corporation planning to become a mutual life insurance
2 corporation under section 376.142 files with the corporation
3 prior to or at the meeting of the stockholders at which the plan
4 is submitted to a vote, a written objection to such plan and does
5 not vote in favor thereof, and such stockholder within twenty
6 days after the plan is approved by such meeting makes written
7 demand on the corporation for payment of the fair cash value of
8 his shares as of the day prior to the date on which such plan is
9 approved by the stockholders, excluding from such fair cash value
10 any appreciation or depreciation in consequence of such
11 mutualization, such stockholder shall be entitled to receive,
12 within ninety days after such fair cash value is agreed upon or
13 determined, upon surrender of his certificates representing his
14 shares, such fair cash value thereof. Any stockholder who fails
15 to make such objection or having objected fails to make demand
16 within the twenty-day period shall be conclusively presumed to
17 have consented to the plan and shall be bound by the terms
18 thereof.

19 2. Any such objection and demand for the payment of the
20 fair cash value of shares shall state the number and kind of
21 shares held by the dissenting stockholder making the demand, and
22 the amount which such stockholder claims is their fair cash
23 value.

24 3. The right of a dissenting stockholder to be paid the
25 fair cash value of his shares shall cease when the corporation,
26 for any reason and in accordance with the provisions set forth in
27 this section, abandons the plan to mutualize the corporation.

28 4. No demand for payment of such fair cash value may be

1 withdrawn by the stockholder making the same unless the
2 corporation, by its board of directors, consents to such
3 withdrawal.

4 5. Within ten days after the receipt of any such demand the
5 corporation shall inform such stockholder in writing whether it
6 will pay the demanded amount, and, if it refuses to pay such
7 amount, it shall offer in writing to pay another amount as such
8 fair cash value.

9 6. If, within thirty days after the date of the written
10 demand made by the dissenting stockholder, the value of such
11 shares is agreed upon between the dissenting stockholder and the
12 corporation and such value is approved by the director [of the
13 department of insurance], payment therefor shall be made within
14 ninety days after the date of such agreement, upon the surrender
15 of the stockholder's certificates representing such shares. Upon
16 payment of the agreed value the dissenting stockholder ceases to
17 have any interest in such shares and ceases to be a stockholder
18 in the corporation, but the shares previously held by him and
19 upon which he has been paid such fair cash value shall be
20 transferred to and held by the trustees appointed under
21 subsections 2 and 3 of section 376.143 for benefit of the
22 corporation.

23 7. If, within such period of thirty days, the stockholder
24 and the corporation do not agree upon the value of the shares,
25 the corporation, or the dissenting stockholder if he has complied
26 with this section, may, within sixty days after the expiration of
27 the thirty-day period, petition the circuit court of the county
28 in which the principal office of the corporation is located, to

1 determine the fair cash value of the shares mentioned in such
2 demand as of the day before the vote was taken approving such
3 plan.

4 8. If such petition is not filed within the sixty-day
5 period, the fair cash value of the shares is conclusively deemed
6 to be equal to the amount offered to the dissenting stockholder
7 by the corporation if any such offer has been made or, if not,
8 then an amount equal to that demanded by the dissenting
9 stockholder.

10 9. The petition shall contain a brief statement of the
11 facts and shall show the vote and action objected to and facts
12 entitling such dissenting stockholder to the relief demanded.

13 10. Upon the filing of such petition, the court, on the
14 motion of the petitioner, shall enter an order fixing a date for
15 hearing, and requiring a notice of the filing and prayer of such
16 petition and of the date for hearing to be given to the
17 respondent or defendant in the manner in which a summons is
18 required to be served or substituted service is required to be
19 made in other cases.

20 11. On the day fixed for the hearing of such petition, or
21 any adjournment thereof, the court shall determine from the
22 petition and such evidence as is submitted by either party
23 whether the dissenting stockholder is entitled to be paid the
24 fair cash value of any shares, and the number of such shares, and
25 if the court finds and orders that such stockholder is entitled
26 to be paid the fair cash value of any number of shares, the court
27 shall appoint three appraisers to determine the fair cash value
28 of such number of shares as of the day before the vote objected

1 to was taken, excluding from such fair cash value any
2 appreciation or depreciation in consequence of the mutualization
3 or vote of the corporation, and said court shall further instruct
4 the appraisers respecting their duties in making such
5 determination.

6 12. The appraisers shall forthwith proceed to determine
7 said fair cash value and said appraisers, or a majority of them,
8 shall make a report or award within ten days, unless the court
9 increases said time, and shall file such report in the office of
10 the clerk of the circuit court, whereupon, on the motion of
11 either party, said report shall be submitted to the court and
12 considered on such evidence as the court considers relevant, and
13 if said award is found to be reasonable, and is confirmed and
14 approved by the court, judgment shall be rendered against the
15 corporation for the payment of the amount of the award, with
16 interest at six percent from a date which shall be fixed in such
17 judgment.

18 13. If such appraisers, or a majority of them, fail to make
19 and file an award within ten days, or within such further time as
20 may be fixed by the court, or the award is not confirmed by the
21 court, it shall summarily determine the fair cash value of said
22 number of shares and render judgment therefor.

23 14. Any judgment shall further provide that simultaneously
24 with its payment the certificates evidencing the shares of stock
25 affected shall be surrendered to the corporation and, upon the
26 failure of the holder thereof to surrender such certificates, the
27 judgment shall stand as a cancellation of such certificates.

28 15. The cost of the proceedings, including reasonable

1 compensation to the appraisers to be fixed by the court, shall be
2 assessed or apportioned as the court considers equitable.

3 16. Such a proceeding is considered as a special proceeding
4 and shall be advanced upon the court's docket, and final orders
5 therein may be reviewed, affirmed, modified or reversed as in
6 other civil actions or proceedings.

7 17. Two or more dissenting stockholders may join as
8 plaintiffs or be joined as defendants in any proceeding under
9 this section, and two or more such proceedings may be
10 consolidated.

11 18. A stockholder who so objects in writing and demands in
12 writing payment of the fair cash value of any shares shall not be
13 entitled to vote such shares or to exercise any rights respecting
14 such shares or to receive any dividends or distributions thereon,
15 unless the plan of mutualization is abandoned, or, with the
16 consent of the corporation, the objection and demand are
17 withdrawn; provided that if, prior to such abandonment, dividends
18 are paid in money to stockholders who are of record on or after
19 the day on which the vote was taken authorizing such
20 mutualization, then an amount of money equal to the dividends
21 otherwise payable upon such dissenting shares shall be paid to
22 the holders of record thereof who would, except for their
23 dissent, be entitled to receive such dividends, and each such
24 payment shall be a credit upon the total amount to be paid for
25 such shares by the corporation. All the holders of such
26 dissenting shares of record at the time of any such abandonment,
27 shall thereupon be restored to the status of a stockholder, and
28 any payments made previously on such shares shall be considered

1 as dividends thereon.

2 19. Any stockholder who has assented to the plan or who has
3 been concluded by the vote of the assenting stockholders, and any
4 stockholder who has objected and made demand in writing for the
5 fair cash value of his shares subsequent to which an agreement
6 has been reached fixing such fair cash value, but who fails to
7 surrender his certificates for cancellation upon payment of the
8 amount to which he is entitled, may be ordered to do so by a
9 decree of the circuit court for the county in which the principal
10 office of such corporation is located after notice and hearing in
11 an action instituted by the corporation for that purpose, and
12 such decree may provide that, upon the failure of the stockholder
13 to surrender such certificates for cancellation, the decree shall
14 stand in lieu of such surrender and cancellation.

15 20. At any time before there has been a vote of the
16 policyholders approving a plan of mutualization, the corporation
17 may abandon such plan by the same vote of the directors and of
18 the stockholders as was required for its adoption. Upon such
19 abandonment, the rights of any stockholders to be paid for their
20 stock in accordance with the plan, and the rights of any
21 dissenting stockholders to be paid the fair cash value of their
22 stock, whether or not judgment may have been rendered therefor,
23 shall terminate, and the corporation shall continue to conduct
24 its business as a domestic stock life insurance corporation as
25 though no plan of mutualization had ever been adopted.

26 376.170. All life insurance companies organized under the
27 provisions of sections 376.010 to 376.670 shall deposit with the
28 director [of the insurance department], in addition to other

1 amounts required by law to be deposited by life insurance
2 companies before such companies are permitted to engage in the
3 business of issuing policies of life insurance and annuity bonds,
4 cash or securities of the kind and type in which life insurance
5 companies are required to invest their funds under section
6 376.300, as same now is or as same may be hereafter amended, in
7 an amount sufficient to equal the net value on all policies or
8 annuity bonds hereafter issued by such companies, the amount
9 thereof to be determined by an evaluation made in accord with the
10 provisions of sections 376.010 to 376.670.

11 376.210. Whenever the aggregate market value of the
12 securities deposited by any company shall exceed the net reserve
13 liability of the company on all of its registered policies and
14 annuity bonds, the excess may be returned to the company, or,
15 whenever the liability of such company on such policies shall
16 cease, the director [of the insurance department] shall return
17 the securities deposited.

18 376.220. Should any company depositing under section
19 376.170 become the owner of real estate for its own use and
20 accommodations, or become temporarily seized and possessed of
21 real estate in satisfaction of debt for which such real estate
22 was pledged for security, such company may execute its own note
23 for the value of such real estate, payable to the director, as
24 trustee, and secure the said notes or bonds by duly recorded
25 deeds of trust of said real estate; which notes or bonds thus
26 secured may be deposited with said director as proper security,
27 under and according to the provisions of sections 376.010 to
28 376.670, said value to be subject to the approval of the director

1 [of the insurance department].

2 376.230. Any company shall have the right at any time to
3 change the securities on deposit with the director [of the
4 insurance department] by substituting a like amount of the
5 character required in the first instance and to withdraw any
6 excess of securities; and so long as such company shall remain
7 solvent, and the amount of its deposits as herein required are
8 not impaired, it may collect the interest on the securities
9 deposited as the same accrues.

10 376.240. The securities deposited under the provisions of
11 section 376.170 shall be legally transferred to the director [of
12 the insurance department], and so large an amount thereof as may
13 be necessary to equal, at all times, the net value of the
14 outstanding registered policies and annuity bonds, less such
15 liens not exceeding such value as the company may hold against
16 them, shall be held by him in trust for the purposes of sections
17 376.010 to 376.670, until the obligations of said companies,
18 under said registered policies and annuity bonds shall, to the
19 satisfaction of the said director, be fully liquidated, canceled
20 or annulled.

21 376.290. No existing company organized under any general or
22 special law of this state, and transacting business of the
23 character designated in section 376.010, nor any company
24 organized under sections 376.010 to 376.670, shall commence,
25 continue or carry on business until the company has transferred
26 to and deposited with the director [of the department of
27 insurance], for the security of its policyholders, the sum of six
28 hundred thousand dollars in notes or bonds secured by mortgages

1 or deeds of trust of the description mentioned in section
2 376.280, or bonds or treasury notes of the United States, or
3 bonds of the state of Missouri, or funded bonds of any county or
4 municipal township of this state, and in all cases not to be
5 received at a rate above their par value, nor above their current
6 market value.

7 376.300. 1. All other laws to the contrary
8 notwithstanding, the capital, reserve and surplus of all life
9 insurance companies of whatever kind and character organized
10 pursuant to the laws of this state shall be invested only in the
11 following:

12 (1) Bonds, notes or other evidences of indebtedness,
13 issued, assumed or guaranteed as to principal and interest, by
14 the United States, any state, territory or possession of the
15 United States, the District of Columbia, or of an administration,
16 agency, authority or instrumentality of any of the political
17 units enumerated, and of the Dominion of Canada;

18 (2) Bonds, notes or other evidences of indebtedness issued,
19 assumed or guaranteed as to principal and interest by any foreign
20 country or state not mentioned in subdivision (1) insofar as such
21 bonds, notes or other evidences of indebtedness may be necessary
22 or required in order to do business in such foreign state or
23 country;

24 (3) Bonds, notes or other evidences of indebtedness issued,
25 guaranteed or insured as to principal and interest by a city,
26 county, drainage district, levee district, road district, school
27 district, tax district, town, township, village or other civil
28 administration, agency, authority, instrumentality or subdivision

1 of a city, county, state, territory or possession of the United
2 States or of the District of Columbia, provided such obligations
3 are authorized by law;

4 (4) Loans evidenced by bonds, notes or other evidences of
5 indebtedness guaranteed or insured, but only to the extent
6 guaranteed or insured by the United States, any state, territory
7 or possession of the United States, the District of Columbia, or
8 by any agency, administration, authority or instrumentality of
9 any of the political units enumerated;

10 (5) Bonds, notes or other evidences of indebtedness issued,
11 assumed or guaranteed by a corporation organized under the laws
12 of the United States, any state, territory or possession of the
13 United States, or the District of Columbia, provided such bonds,
14 notes or other evidences of indebtedness shall meet with the
15 requirements of section 375.532, RSMo, and sections 375.1070 to
16 375.1075, RSMo;

17 (6) (a) Notes, equipment trust certificates or obligations
18 which are adequately secured, or other adequately secured
19 instruments evidencing an interest in any equipment leased or
20 sold to a corporation, other than the life insurance company
21 making the investment or its parent or affiliates, which
22 qualifies under subdivision (5) of this subsection for investment
23 in its bonds, notes, or other evidences of indebtedness, or to a
24 common carrier, domiciled within the United States or the
25 Dominion of Canada, with gross revenues exceeding one million
26 dollars in the fiscal year immediately preceding purchase, which
27 provide a right to receive determined rental, purchase, or other
28 fixed obligatory payments for the use or purchase of such

1 equipment and which obligatory payments are adequate to retire
2 the obligations within twenty years from date of issue; or

3 (b) Notes, trust certificates, or other instruments which
4 are adequately secured. Such notes, trust certificates, or other
5 instruments shall be considered adequately secured for the
6 purposes of this paragraph if a corporation or corporations which
7 qualify under subdivision (5) of this subsection for investment
8 in their bonds, notes, or other evidences of indebtedness, are
9 jointly or severally obliged under a binding lease or agreement
10 to make rental, purchase, use, or other payments for the benefit
11 of the life insurance company making the investment which are
12 adequate to retire the instruments according to their terms
13 within twenty years from date of issue;

14 (7) Preferred or guaranteed stocks or shares of any solvent
15 corporation created or existing under the laws of the United
16 States, any state, territory or possession of the United States,
17 or the District of Columbia, if all of the prior obligations
18 including prior preferred stocks, if any, of such corporation, at
19 the date of acquisition, are eligible as investments under any
20 provisions of this section; and if qualified under section
21 375.532, RSMo, and sections 375.1070 to 375.1075, RSMo;

22 (8) Stocks or shares of insured state-chartered building
23 and loan associations, federal savings and loan associations, if
24 such shares are insured by the Federal Savings and Loan Insurance
25 Corporation pursuant to the terms of Title IV of the act of the
26 Congress of the United States, entitled "The National Housing
27 Act" (12 U.S.C.A. Sections 1724 to 1730), as the same presently
28 exists or may subsequently be amended, and federal home loan

1 banks;

2 (9) Loans evidenced by notes or other evidences of
3 indebtedness and secured by first mortgage liens on unencumbered
4 real estate or unencumbered leaseholds having at least
5 twenty-five years of unexpired term, such real estate or
6 leaseholds to be located in the United States, any territory or
7 possession of the United States. Such loans shall not exceed
8 eighty percent of the fair market value of the security of the
9 loan for insurance companies. However, insurance companies may
10 make loans in excess of eighty percent of the fair market value
11 of the security for the loan, but not to exceed ninety-five
12 percent of the fair market value of the security for the loan, if
13 that portion of the total indebtedness in excess of seventy-five
14 percent of the value of the security for the loan is guaranteed
15 or insured by a mortgage insurance company authorized by the
16 director [of insurance] to do business in this state, and
17 provided the mortgage insurance company is not affiliated with
18 the entity making the loan. In addition, an insurance company
19 may not place more than two percent of its admitted assets in
20 loans in which the amount of the loan exceeds ninety percent of
21 the fair market value of the security for the loan. An entity
22 which is restricted by section 104.440, RSMo, in making
23 investments to those authorized life insurance companies may make
24 loans in excess of eighty percent of the fair market value of the
25 security of the loan if that portion of the total indebtedness in
26 excess of eighty percent of the fair market value is insured by a
27 mortgage insurance company authorized by the director [of
28 insurance] to do business in this state. Any life insurance

1 company may sell any real estate acquired by it and take back a
2 purchase money mortgage or deed of trust for the whole or any
3 part of the sale price; and such percentage may be exceeded if
4 and to the extent such excess is guaranteed or insured by the
5 United States, any state, territory or possession of the United
6 States, any city within the United States having a population of
7 one hundred thousand or more or by an administration, agency,
8 authority or instrumentality of any such governmental units; and
9 such percentage shall not exceed one hundred percent if such a
10 loan is made to a corporation which qualifies pursuant to
11 subdivision (5) for investment in its bonds, notes or other
12 evidences of indebtedness, or if the borrower assigns to the
13 lender a lease or leases on the real estate providing rentals
14 payable to the borrower in amounts sufficient to repay such loan
15 with interest in the manner specified by the note or notes
16 evidencing such loan and executed as lessee or lessees by a
17 corporation or corporations, which qualify pursuant to
18 subdivision (5) for investment in its or their bonds, notes or
19 other evidences of indebtedness. No mortgage loan upon a
20 leasehold shall be made or acquired pursuant to this subdivision
21 unless the terms of the mortgage loan shall provide for
22 amortization payments to be made by the borrower on the principal
23 thereof at least once in each year in amounts sufficient to
24 completely amortize the loan within four-fifths of the term of
25 the leasehold which is unexpired at the time the loan is made,
26 but in no event exceeding thirty years. Real estate or a
27 leasehold shall not be deemed to be encumbered by reason of the
28 existence in relation thereto of:

1 (a) Liens inferior to the lien securing the loan made by
2 the life insurance company;

3 (b) Taxes or assessment liens not delinquent;

4 (c) Instruments creating or reserving mineral, oil or
5 timber rights, rights-of-way, common or joint driveways,
6 easements for sewers, walls or utilities;

7 (d) Building restrictions and other restrictive covenants;
8 or

9 (e) An unassigned lease reserving rents or profits to the
10 owner;

11 (10) Shares of stock, bonds, notes or other evidences of
12 indebtedness issued, assumed or guaranteed by an urban
13 redevelopment corporation organized pursuant to the provisions of
14 chapter 353, RSMo, known as the "Urban Redevelopment Corporations
15 Law", or any amendments thereto, or any law enacted in lieu
16 thereof; provided, that one or more such life insurance companies
17 may, with the approval of the director [of the department of
18 insurance], subscribe to and own all of the shares of stock of
19 any such urban redevelopment corporation; and provided further,
20 that the aggregate investment by any such company pursuant to the
21 terms of this subdivision shall not be in excess of five percent
22 of the admitted assets of such company;

23 (11) Land situated in this state and located within an area
24 subject to redevelopment within the meaning of the urban
25 redevelopment corporations law, or any amendments thereto, or any
26 law enacted in lieu thereof, which land is acquired for the
27 purposes specified in such urban redevelopment corporations law,
28 and any such life insurance company may erect apartments,

1 tenements or other dwelling houses, not including hotels, but
2 including accommodations for retail stores, shops, offices and
3 other community services reasonably incident to such projects,
4 and such company may thereafter own, hold, rent, lease, collect
5 or receive income, maintain and manage such land so acquired and
6 the improvements thereon, as real estate necessary and proper for
7 the carrying on of its legitimate business; provided, that any
8 such life insurance company shall have power to own, hold,
9 maintain and manage such land, and all improvements thereon, in
10 accordance with the urban redevelopment corporations law,
11 amendments thereto or any law enacted in lieu thereof, and shall
12 have all the powers, duties, obligations, privileges and
13 immunities, including any tax exemption, credits or relief,
14 granted an urban redevelopment corporation, pursuant to the urban
15 redevelopment corporations law, amendments thereto or any law
16 enacted in lieu thereof, the same as if such insurance company
17 were an urban redevelopment corporation organized pursuant to the
18 provisions of that law; provided, that two or more such life
19 insurance companies may, with the approval of the director [of
20 the department of insurance], enter into agreements whereby the
21 ownership and management and control of a redevelopment project
22 is participated in by each such company; and provided further
23 that the aggregate investment by any such company pursuant to the
24 terms of this subdivision shall not be in excess of five percent
25 of the admitted assets of such company;

26 (12) Investments in property and processes for the
27 development and production of solar or geothermal energy, fossil
28 or synthetic fuels, or gasohol, whether made directly or as a

1 participant in a general partnership, limited partnership or
2 joint venture.

3 2. No such life insurance company shall invest in any of
4 the foregoing securities in excess of the following percentages
5 of the admitted assets of such company, as shown by its last
6 annual statement preceding the date of acquisition, as filed with
7 the director [of the insurance department of the state of
8 Missouri]:

9 (1) Ten percent of its admitted assets in the securities
10 issued by any one corporation or governmental unit falling
11 pursuant to the classification set forth in subdivisions (3),
12 (5), (6), (7) and (8) of subsection 1 of this section;

13 (2) One percent of its admitted assets or ten percent of
14 its capital and surplus, whichever is greater, in any single loan
15 on real estate pursuant to subdivision (9) of subsection 1 of
16 this section;

17 (3) Ten percent of the admitted assets in the total amount
18 of securities described in subdivision (7) of subsection 1 of
19 this section, and no such life insurance company shall own
20 securities described in subdivision (7) of subsection 1 of this
21 section of any one corporation which, in the aggregate,
22 represents more than five percent of the total of all outstanding
23 shares of stock of that corporation;

24 (4) One percent of its admitted assets in the bonds, notes
25 or other evidences of indebtedness of the Dominion of Canada and
26 mentioned in subdivision (1) of subsection 1 of this section;
27 provided, however, that in addition thereto any such life
28 insurance company which has outstanding insurance contracts on

1 lives of persons residing in the Dominion of Canada may invest in
2 bonds, notes or other evidences of indebtedness of the Dominion
3 of Canada and mentioned in subdivision (1) of subsection 1 of
4 this section, to an amount not in excess of the total amount of
5 its reserves and other accrued liabilities under such contracts;

6 (5) Five percent of its admitted assets in the notes or
7 trust certificates secured by any equipment leased or sold to a
8 corporation falling under the classification set forth in
9 subdivision (5) of subsection 1 of this section or to a common
10 carrier domiciled in the Dominion of Canada and mentioned in
11 subdivision (6) of subsection 1 of this section;

12 (6) Three percent of its admitted assets in loans evidenced
13 by notes or other evidences of indebtedness and secured by liens
14 on unencumbered leaseholds having at least twenty-five years of
15 unexpired term and mentioned in subdivision (9) of subsection 1
16 of this section;

17 (7) One percent of its admitted assets, or five percent of
18 that portion of its admitted assets in excess of two hundred
19 fifty million dollars, whichever is greater, in energy-related
20 investments specified in subdivision (12) of subsection 1 of this
21 section.

22 3. The term "corporation", as used in subdivisions (5) and
23 (7) of subsection 1 of this section, shall include private
24 corporations, joint stock associations or business trusts. In
25 applying the earnings tests, provided herein, to any issuing,
26 assuming or guaranteeing corporation, whether or not in legal
27 existence during the whole of the test period, and if such
28 corporation has during the test period acquired the assets of any

1 other corporation or corporations by purchase, merger,
2 consolidation or otherwise, or has been reorganized pursuant to
3 the bankruptcy law, the earnings available for interest and
4 dividends of such other predecessor or constituent corporation or
5 the corporation so reorganized shall be considered as the
6 earnings of the issuing, assuming or guaranteeing corporation.

7 4. Nothing contained in this section shall be construed as
8 repealing or affecting the provisions of sections 375.330,
9 375.340, and 375.355, RSMo.

10 376.305. 1. In addition to the investments permitted by
11 section 376.300, the capital, reserve and surplus of all life
12 insurance companies of whatever kind and character organized or
13 doing business under sections 376.010 to 376.670, may be invested
14 in the common stock of any solvent corporation, organized under
15 the laws of the United States, any state, territory or possession
16 of the United States, or the District of Columbia, or of the
17 Dominion of Canada, or any province of the Dominion of Canada,
18 provided the corporation's net worth as shown on its balance
19 sheet at the end of the last fiscal year preceding purchase shall
20 have been at least ten million dollars, and that such common
21 stocks are registered on a national securities exchange or quoted
22 in established over-the-counter markets, or provided that such
23 corporation is registered and operated as an open-end regulated
24 investment company in accordance with the Investment Company Act
25 of 1940, as amended. Common stocks meeting the preceding
26 qualifications shall be eligible for deposit, as provided under
27 section 376.170.

28 2. No such life insurance company shall invest in excess of

1 ten percent of its admitted assets or an amount in excess of its
2 combined capital and surplus, whichever is the lesser, as shown
3 by its last annual statement preceding the date of acquisition,
4 as filed with the director [of the insurance department of the
5 state of Missouri], in the total amount of such common stocks,
6 nor shall such life insurance company own securities described in
7 subdivision (7) of subsection 1 of section 376.300, and
8 subsection 1 of this section, which, in the aggregate, represent
9 more than five percent of the total of all outstanding shares of
10 stock of the issuing corporation, nor shall any such life
11 insurance company own common stock described in subsection 1 of
12 this section issued by any one corporation which represents more
13 than two percent of the admitted assets of such life insurance
14 company.

15 376.307. 1. Notwithstanding any direct or implied
16 prohibitions in this chapter or chapter 375, RSMo, the capital,
17 reserve and surplus funds of all life insurance companies of
18 whatever kind and character organized or doing business under
19 this chapter or chapter 375, RSMo, may be invested in any
20 investments which do not otherwise qualify under any other
21 provision of this chapter or chapter 375, RSMo, provided,
22 however, the investments authorized by this section are not
23 eligible for deposit with the department of insurance, financial
24 and professional regulation and shall be subject to all the
25 limitations set forth in subsection 2 of this section.

26 2. No such life insurance company shall own such
27 investments in an amount in excess of the following limitations,
28 to be based upon its admitted assets, capital and surplus as

1 shown in its last annual statement filed with the director of the
2 department of insurance, financial and professional regulation of
3 the state of Missouri:

4 (1) The aggregate amount of all such investments under this
5 section shall not exceed the lesser of:

6 (a) Eight percent of its admitted assets; or

7 (b) The amount of its capital and surplus in excess of nine
8 hundred thousand dollars; and

9 (2) The amount of any one such investment under this
10 section shall not exceed one percent of its admitted assets.

11 3. If, subsequent to its acquisition hereunder, any such
12 investment shall become specifically authorized or permitted
13 under any other section contained in chapter 375 or 376, RSMo,
14 any such company may thereafter consider such investment as held
15 under such other applicable section and not under this section.

16 376.311. 1. In addition to the investments permitted by
17 other provisions of the laws, the capital reserve and surplus of
18 all life insurance companies of whatever kind and character,
19 organized or doing business pursuant to this chapter, may be
20 invested in an investment pool meeting the requirements set out
21 below, and any other provision of law relating to investments
22 made by life insurance companies.

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

24 (1) "Business entity", a corporation, limited liability
25 company, association, partnership, joint stock company, joint
26 venture, mutual fund trust, or other similar form of business
27 organization, including such an entity when organized as a
28 not-for-profit entity;

1 (2) "Qualified bank", a national bank, state bank or trust
2 company that at all times is no less than adequately capitalized
3 as determined by the standards adopted by the United States
4 banking regulators and that is either regulated by state banking
5 laws or is a member of the Federal Reserve System.

6 3. (1) Qualified investment pools shall invest only in
7 investments which an insurer may acquire pursuant to this chapter
8 and other provisions of law. The insurer's proportionate
9 interest in these investments may not exceed the applicable
10 limits of this section and other provisions of law.

11 (2) An insurer shall not acquire an investment in an
12 investment pool pursuant to this subsection if, after giving
13 effect to the investment, the aggregate amount of investments in
14 all investment pools then held by the insurer would exceed thirty
15 percent of its assets.

16 (3) For an investment in an investment pool to be qualified
17 pursuant to this chapter, the investment pool shall not:

18 (a) Acquire securities issued, assumed, guaranteed or
19 insured by the insurer or an affiliate of the insurer;

20 (b) Borrow or incur any indebtedness for borrowed money,
21 except for securities lending and reverse repurchase
22 transactions;

23 (c) Lend money or other assets to participants in the pool.

24 (4) For an investment pool to be qualified pursuant to this
25 chapter, the manager of the investment pool shall:

26 (a) Be organized pursuant to the laws of the United States
27 or a state and designated as the pool manager in a pooling
28 agreement;

1 (b) Be the insurer; an affiliated insurer; a business
2 entity affiliated with the insurer; a qualified bank; a business
3 entity registered pursuant to the Investment Advisors Act of 1940
4 (15 U.S.C. Sec. 80a-1 et seq.) as amended; or, in the case of a
5 reciprocal insurer or interinsurance exchange, its
6 attorney-in-fact.

7 (5) The pool manager, or an agent designated by the pool
8 manager, shall compile and maintain detailed accounting records
9 setting forth:

10 (a) The cash receipts and disbursements reflecting each
11 participant's proportionate investment in the investment pool;

12 (b) A complete description of all underlying assets of the
13 investment pool including amount, interest rate, maturity date
14 (if any) and other appropriate designations; and

15 (c) Other records which, on a daily basis, allow third
16 parties to verify each participant's investments in the
17 investment pool.

18 (6) The pool manager shall maintain the assets of the
19 investment pool in one or more custody accounts, in the name of
20 or on behalf of the investment pool, under one or more custody
21 agreements with a qualified bank. Each custody agreement shall:

22 (a) State and recognize the claims and rights of each
23 participant;

24 (b) Acknowledge that the underlying assets of the
25 investment pool are held solely for the benefit of each
26 participant in proportion to the aggregate amount of its
27 investments in the investment pool; and

28 (c) Contain an agreement that the underlying assets of the

1 investment pool shall not be commingled with the general assets
2 of the qualified bank or any other person.

3 (7) The pooling agreement for each investment pool shall be
4 in writing and shall provide that:

5 (a) An insurer and its affiliates shall, at all times, hold
6 one hundred percent of the interests in the investment pool;

7 (b) The underlying assets of the investment pool shall not
8 be commingled with the general assets of the pool manager or any
9 other person;

10 (c) The aggregate amount of each pool participant's
11 interest in the investment pool shall be in proportion to:

12 a. Each participant's undivided interest in the underlying
13 assets of the investment pool; and

14 b. The underlying assets of the investment pool held solely
15 for the benefit of each participant;

16 (d) A participant or, in the event of the participant's
17 insolvency, bankruptcy or receivership, its trustee, receiver,
18 conservator or other successor-in-interest may withdraw all or
19 any portion of its investment from the investment pool under the
20 terms of the pooling agreement;

21 (e) Withdrawals may be made on demand without penalty or
22 other assessment on any business day, but settlement of funds
23 shall occur within a reasonable and customary period thereafter,
24 provided:

25 a. In the case of publicly traded securities, settlement
26 shall not exceed five business days; and

27 b. In the case of all other securities and investments,
28 settlement shall not exceed ten business days.

1 Distributions pursuant to this paragraph shall be calculated in
2 each case net of all then applicable fees and expenses of the
3 investment pool.

4 (8) The pooling agreement shall provide that the pool
5 manager shall distribute to a participant, at the discretion of
6 the pool manager:

7 (a) In cash, the then fair market value of the
8 participant's pro rata share of each underlying asset of the
9 investment pool; or

10 (b) In-kind, a pro rata share of each underlying asset; or

11 (c) In a combination of cash and in-kind distributions, a
12 pro rata share in each underlying asset;

13 (9) The pool manager shall make the records of the
14 investment pool available for inspection by the director.

15 4. The pooling agreement and any other arrangements or
16 agreements relating to an investment pool, and any amendments
17 thereto, shall be submitted to the department [of insurance] for
18 prior approval pursuant to section 382.195, RSMo. Individual
19 financial transactions between the pool and its participants in
20 the ordinary course of the investment pool's operations shall not
21 be subject to the provisions of section 382.195, RSMo.

22 Investment activities of pools and transactions between pools and
23 participants shall be reported annually in the registration
24 statement required by section 382.100, RSMo.

25 376.320. All bonds or other evidences of debt having a
26 fixed term and rate held by any life insurance company,
27 assessment life association or fraternal beneficiary association
28 authorized to do business in this state may, if amply secured and

1 not in default as to principal and interest, be valued as
2 follows: If purchased at par, at the par value; if purchased
3 above or below par, on the basis of the purchase price adjusted
4 so as to bring the value to par at maturity and so as to yield in
5 the meantime the effective rate of interest at which the purchase
6 was made; provided, that the purchase price shall in no case be
7 taken at a higher figure than the actual market value at the time
8 of purchase; and provided further, that the director [of
9 insurance] shall have full discretion in determining the method
10 of calculating values according to the foregoing rule.

11 376.330. Any company organized under the laws of this
12 state, or doing in this state any business mentioned in section
13 376.010, may at any time change the securities in which its
14 capital or any part thereof is invested, whether the same are
15 deposited with the director [of the insurance department] or
16 elsewhere, for any other securities; provided, that the amount or
17 value of the securities required by sections 376.010 to 376.670
18 to be deposited with said director shall in no case be diminished
19 or impaired.

20 376.350. 1. It shall be the duty of the president or vice
21 president and secretary or actuary, or a majority of the
22 directors, of every life assurance company organized pursuant to
23 sections 376.010 to 376.670 or pursuant to the laws of this
24 state, or any such company incorporated by or organized pursuant
25 to the laws of the United States or any other state, and doing
26 business in this state, annually, on the first day of January, or
27 within sixty days thereafter, to prepare under oath, and deposit
28 in the office of the director [of the insurance department], a

1 statement made up for the year ending the thirty-first day of
2 December next preceding, showing:

3 (1) The number of policies issued during the year;

4 (2) The amount of assurance effected thereby;

5 (3) The amount of premiums received during the year;

6 (4) The amount received for interest, and all other
7 receipts during the year, classifying the items;

8 (5) The amount of losses paid during the year;

9 (6) The amount of losses unpaid, giving the reason for such
10 nonpayment;

11 (7) The amount of expenses, classifying the items;

12 (8) The whole number of policies in force, specifying the
13 description;

14 (9) The amount of liabilities or risks thereon, and of all
15 other liabilities;

16 (10) The amount of capital stock and how invested;

17 (11) The amount of assets other than capital, specifying
18 the particular sources from whence they have been derived, and
19 the manner in which they are invested, and what amount is
20 invested in real estate, in stocks, promissory notes and other
21 securities, and what amount is loaned on bonds and mortgages, or
22 deeds of trust, stocks, policies of the company and other
23 securities, specifying the kinds and amounts;

24 (12) The amount of dividend declared to stockholders and
25 policyholders, respectively, and how much remains unpaid; and

26 (13) A statement of any other facts or information
27 concerning the affairs of said company which may be required by
28 the director.

1 2. Notwithstanding any other provision of law to the
2 contrary, information regarding compensation of any employee or
3 officer contained within a statement required to be filed
4 pursuant to this section shall not be subject to disclosure to
5 any person other than employees of the department.

6 376.360. 1. All life insurance companies organized under
7 the laws of this state shall ascertain and distribute annually,
8 and not otherwise, beginning not later than the end of the third
9 policy year, the proportion of any surplus accruing upon every
10 participating policy or contract issued on or after January 1,
11 1946, entitled as herein provided to share in such surplus. Upon
12 the thirty-first day of December of each year, or as soon
13 thereafter as may be practicable, every such company shall well
14 and truly ascertain the surplus earned by it during the year.

15 2. After setting aside from such surplus such sums as may
16 be required for the payment of authorized dividends upon the
17 capital stock, if any, such sums as may properly be held for
18 account of outstanding deferred dividend policies, if any, and
19 such sums as may be deemed advisable for the accumulation of a
20 surplus in an amount not exceeding five hundred thousand dollars,
21 or ten percent of its policy reserves and policy liabilities,
22 whichever shall be greater, every such company shall thereupon
23 apportion the remainder of such surplus earnings, if any, derived
24 from participating policies or contracts, as the board of
25 directors charged with the management of the company's affairs
26 may determine, to all policies or contracts entitled to share
27 therein during the full dividend year adopted by the company for
28 such purpose beginning not later than the following July first.

1 3. Dividends apportioned as aforesaid in the case of a
2 policy or contract, other than an industrial life insurance
3 policy, issued on or after the first day of January, 1946, shall,
4 unless otherwise provided in the policy or contract, be payable
5 upon the anniversary of the policy or contract occurring within
6 the dividend year selected by the company, as aforesaid; and in
7 every case after the first policy or contract year such dividend
8 shall be payable upon the sole condition that the premium
9 payments of the policy or contract year current upon the first
10 day of the dividend year selected by the company, as aforesaid,
11 shall have been completed. Such apportionment in the case of any
12 policy or contract shall not, after the first policy year, be
13 made contingent upon the payment of the whole or any part of the
14 premium for any subsequent year.

15 4. (1) Except as herein provided, the dividend so
16 apportioned in the case of any participating policy issued on or
17 after the first day of January, 1946, shall, at the option of the
18 person entitled to elect such option, be either

19 (a) Payable in cash; or

20 (b) Applicable to the payment of any premium or premiums
21 upon said policy; or

22 (c) Permitted to accumulate to the credit of the policy or
23 contract at such rate of interest as may be allowed by the
24 company, and with such interest shall be payable upon the
25 maturity of the policy or shall be withdrawable in cash on any
26 anniversary of the date of issue thereof; or

27 (d) If so provided in the policy, applicable to any paid-up
28 addition thereto.

1 (2) Unless the insured or owner of the policy notifies the
2 company in writing of his election of one of the foregoing
3 options within the time allowed by the policy, which shall not,
4 in any event, be a period of less than thirty-one days after the
5 dividend apportioned thereto is payable, the effective option
6 shall be that stated in the policy.

7 5. In case of any extended term or reduced paid-up
8 insurance, the dividends so apportioned, if any, shall be
9 applicable as provided in the policy with the approval of the
10 director [of the insurance department]. In the case of an
11 individual participating term policy issued on or after the first
12 day of January, 1946, the dividend so apportioned shall, at the
13 option of the policyholder, be paid or applied pursuant to
14 paragraph (a) or (b) of subdivision (1) of subsection 4 of this
15 section, or, if the policy so provides, pursuant to paragraph (c)
16 of subdivision (1) of subsection 4 of this section. In the case
17 of every individual participating annuity or pure endowment
18 contract the dividend so apportioned shall be applicable, at the
19 election of the holder of such contract, in accordance with the
20 options specified in paragraph (a) or (b) of subdivision (1) of
21 subsection 4 of this section, or, if the contract so provides,
22 paragraph (c) of subdivision (1) of subsection 4 of this section,
23 if such option is applicable to the type of contract in question.
24 In the case of every individual participating accident or health
25 insurance policy, the dividend so apportioned shall be applicable
26 in accordance with the option specified in paragraph (a) of
27 subdivision (1) of subsection 4 of this section. In the case of
28 any participating group insurance policy or of any participating

1 group annuity contract, the dividend so apportioned shall, at the
2 option of the policyholder or holder of the master contract, be
3 applied pursuant to paragraph (a) or (b) of subdivision (1) of
4 subsection 4 [above] of this section. In the case of
5 participating industrial life insurance policies, paragraphs (a),
6 (b), (c) and (d) of subdivision (1) of subsection 4 of this
7 section shall not be applicable, but the dividends apportioned on
8 such policies shall be distributed annually in such manner as may
9 be determined by the company with the approval of the director
10 [of the insurance department].

11 6. No stock or stock and mutual life insurance company
12 organized under the laws of this state shall issue, on or after
13 January 1, 1946, any participating policy or contract which does
14 not by its terms give the right to participate in the divisible
15 surplus earnings of such company as provided herein. No mutual
16 life insurance company organized under the laws of this state
17 shall issue, on or after January 1, 1946, any policy or contract,
18 except as herein provided, which does not by its terms give the
19 right to participate in the divisible surplus earnings of such
20 company as provided herein.

21 7. Both participating and nonparticipating policies or
22 contracts may provide that in addition to any rate of interest
23 guaranteed by the issuing company to be paid on deferred payments
24 of the proceeds thereof, additional interest may be paid thereon
25 at such rate as the company may annually declare; and the
26 inclusion of such provision in any nonparticipating policy shall
27 not be deemed to make the policy participating. With this
28 exception, the inclusion in any policy or contract of any

1 provision to the effect that the owner thereof shall participate
2 in the surplus of the company issuing such policy or contract,
3 shall be deemed to make such policy or contract a participating
4 one, except, that nonparticipating policies, which provide that
5 they may be exchanged for or converted to paid-up participating
6 policies after the completion of premium payments of a given term
7 of years, shall not be deemed to be participating policies until
8 participation begins according to the terms of the policy.

9 8. This section shall not be deemed to require the
10 apportionment or distribution of dividends on any immediate
11 annuity contract, nor on any deferred annuity contract for the
12 period following the period of deferment of annuity payments, in
13 accordance with the provisions of such contract, nor on any
14 policy of accident or health insurance, nor on extended term
15 insurance, or pure endowment or reduced paid-up life or endowment
16 insurance which take effect in the event of default in the
17 payment of a premium on any policy or contract, nor on any
18 paid-up additions purchased by dividends, nor on any contract or
19 agreement of reinsurance.

20 376.370. 1. The director [of the department of insurance]
21 shall annually value, or cause to be valued, the reserve
22 liabilities, herein called "reserves", for all outstanding life
23 insurance policies and annuities and pure endowment contracts of
24 every life insurance company doing business in this state, and
25 may certify the amount of any such reserves, specifying the
26 mortality table or tables, rate or rates of interest and methods,
27 net level premium method or other, used in the calculation of
28 such reserves. In calculating such reserves, he may use group

1 methods and approximate averages for fractions of a year or
2 otherwise. In lieu of the valuation of the reserves herein
3 required of any foreign or alien company, he may accept any
4 valuation made, or caused to be made, by the insurance
5 supervisory official of any state or other jurisdiction when such
6 valuation complies with the minimum standard herein provided and
7 if the official of such state or jurisdiction accepts as
8 sufficient and valid for all legal purposes the certificate of
9 valuation of the director when such certificate states the
10 valuation to have been made in a specified manner according to
11 which the aggregate reserves would be at least as large as if
12 they had been computed in the manner prescribed by the law of
13 that state or jurisdiction.

14 2. Reserves for all policies and contracts issued prior to
15 August 28, 1993, may be calculated, at the option of the company,
16 according to any standards which produce greater aggregate
17 reserves for all such policies and contracts than the minimum
18 reserves required by the laws in effect immediately prior to such
19 date. Reserves for any category of policies, contracts or
20 benefits as established by the director, issued on or after
21 August 28, 1993, may be calculated, at the option of the company,
22 according to any standards which produce greater aggregate
23 reserves for such category than those calculated according to the
24 minimum standard herein provided, but the rate or rates of
25 interest used for policies and contracts, other than annuity and
26 pure endowment contracts, shall not be higher than the
27 corresponding rate or rates of interest used in calculating any
28 nonforfeiture benefits provided therein. Any such company which

1 at any time shall have adopted any standard of valuation
2 producing greater aggregate reserves than those calculated
3 according to the minimum standard herein provided may, with the
4 approval of the director, adopt any lower standard of valuation,
5 but not lower than the minimum herein provided; however, for
6 purposes of this subsection, the holding of additional reserves
7 previously determined by a qualified actuary to be necessary to
8 render the opinion required by subsection 4 of section 376.380
9 shall not be deemed to be the adoption of a higher standard of
10 valuation.

11 376.384. 1. All health carriers shall:

12 (1) Permit nonparticipating health care providers to file a
13 claim for reimbursement for a health care service provided in
14 this state as defined in section 376.1350 for a period of up to
15 one year from the date of service;

16 (2) Permit participating health care providers to file a
17 claim for reimbursement for a health care service provided in
18 this state for a period of up to six months from the date of
19 service, unless the contract between the health carrier and
20 health care provider specifies a different standard;

21 (3) Not request a refund or offset against a claim more
22 than twelve months after a health carrier has paid a claim except
23 in cases of fraud or misrepresentation by the health care
24 provider;

25 (4) Issue within one working day a confirmation of receipt
26 of an electronically filed claim.

27 2. On or after January 1, 2003, all claims for
28 reimbursement for a health care service provided in this shall be

1 submitted in an electronic format consistent with federal
2 administrative simplification standards adopted pursuant to the
3 Health Insurance Portability and Accountability Act of 1996. Any
4 claim submitted by a health care provider after January 1, 2003,
5 in a nonelectronic format shall not be subject to the provisions
6 of section 376.383. Any health carrier shall provide readily
7 accessible electronic filing after this date to health care
8 providers.

9 3. On or after January 1, 2002, the director [of the
10 department of insurance] shall monitor health carrier compliance
11 with the provisions of this section and section 376.383.

12 Examinations, which may be based upon statistical samplings, to
13 determine compliance may be conducted by the department or the
14 director may contract with a qualified private entity.

15 Compliance shall be defined as properly processing and paying
16 ninety-five percent of all claims received in a given calendar
17 year in accordance with the provisions of this section and
18 section 376.383. The director may assess an administrative
19 penalty in addition to the penalties outlined in section 376.383
20 of up to twenty-five dollars per claim for the percentage of
21 claims found to be in noncompliance, but not to exceed an annual
22 aggregate penalty of two hundred fifty thousand dollars, for any
23 health carrier deemed to be not in compliance with this section
24 and section 376.383. Any penalty assessed pursuant to this
25 subsection shall be assessed in addition to penalties provided
26 for pursuant to sections 375.942 and 375.1012, RSMo.

27 4. If the director finds that health carriers are failing
28 to make interest payments to health care professionals authorized

1 by section 376.383, the director is authorized to order such
2 health carriers to remit such interest payments. The director is
3 also authorized to assess a monetary penalty, payable to the
4 state of Missouri, in a sum not to exceed twenty-five percent of
5 the unpaid interest payment against health carriers.

6 5. A health carrier may request a waiver of the
7 requirements of this section and section 376.383 if the basis for
8 the request is an act of God or other good cause as determined by
9 the director.

10 6. The director shall develop a method by which health care
11 providers may submit complaints to the department identifying
12 violations of this section and section 376.383 by a health
13 carrier. The director shall consider such complaints when
14 determining whether to examine a health carrier's compliance.
15 Prior to filing a complaint with the department, health care
16 providers who believe that a health carrier has not paid a claim
17 in accordance with this section and section 376.383 shall first
18 contact the health carrier to determine the status of the claim
19 to ensure that sufficient documentation supporting the claim has
20 been provided and to determine whether the claim is considered to
21 be complete. Complaints to the department regarding the payment
22 of claims by a health carrier should contain information such as:

23 (1) The health care provider's name, address, and daytime
24 phone number;

25 (2) The health carrier's name;

26 (3) The dates of service and the dates the claims were
27 filed with the health carrier;

28 (4) Relevant correspondence between the health care

1 provider and the health carrier, including requests from the
2 health carrier for additional information; and

3 (5) Additional information which the health care provider
4 believes would be of assistance in the department's review.

5 7. On or after January 1, 2003, all claims submitted
6 electronically for reimbursement for a health care service
7 provided in this state shall be submitted in a uniform format
8 utilizing standard medical code sets. The uniform format and the
9 standard medical code sets shall be promulgated by the department
10 [of insurance] through rules consistent with but no more
11 stringent than the federal administrative simplification
12 standards adopted pursuant to the Health Insurance Portability
13 and Accountability Act of 1996.

14 8. The department shall have authority to promulgate rules
15 for the implementation of section 376.383 and this section. Any
16 rule or portion of a rule, as that term is defined in section
17 536.010, RSMo, that is created under the authority delegated in
18 this section shall become effective only if it complies with and
19 is subject to all of the provisions of chapter 536, RSMo, and if
20 applicable, sections 536.028, RSMo. This section and chapter
21 536, RSMo, are nonseverable and if any of the powers vested with
22 the general assembly pursuant to chapter 536, RSMo, to review, to
23 delay the effective date or to disapprove and annul a rule
24 subsequently held unconstitutional, then the grant of rulemaking
25 authority and any rule proposed or adopted after August 28, 2001,
26 shall be invalid and void.

27 376.390. The reserve liability for group insurance written
28 by any life insurance company doing business in this state shall

1 be computed upon such tables and basis as may be approved by the
2 director [of the insurance department].

3 376.397. 1. A group policy delivered or issued for
4 delivery in this state which insures employees or members for
5 hospital, surgical or major medical insurance on an expense
6 incurred or service basis, other than for specific diseases or
7 for accidental injuries only, shall provide that an employee or
8 member whose insurance under the group policy has been terminated
9 shall be entitled to have a converted policy issued to him by the
10 insurer under whose group policy he was insured, without evidence
11 of insurability, subject to the following terms and conditions:

12 (1) A converted policy need not be made available to an
13 employee or member if termination of his insurance under the
14 group policy occurred:

15 (a) Because he failed to make timely payment of any
16 required contribution; or

17 (b) For any other reason, and he had not been continuously
18 covered under the group policy, and for similar benefits under
19 any group policy which it replaced, during the entire three
20 months' period ending with such termination; or

21 (c) Because the group policy terminated or an employer's
22 participation terminated, and the insurance is replaced by
23 similar coverage under another group policy within thirty-one
24 days of the date of termination;

25 (2) Written application and the first premium payment for
26 the converted policy shall be made to the insurer not later than
27 thirty-one days after such termination;

28 (3) The premium for the converted policy shall be

1 determined in accordance with the insurer's table of premium
2 rates applicable to the age and class of risk of each person to
3 be covered under that policy and to the type and amount of
4 insurance provided;

5 (4) The converted policy shall cover the employee or member
6 and his dependents who were covered by the group policy on the
7 date of termination of insurance. At the option of the insurer,
8 a separate converted policy may be issued to cover any dependent;

9 (5) The insurer shall not be required to issue a converted
10 policy covering any person if such person is or could be covered
11 by Medicare. Furthermore, the insurer shall not be required to
12 issue a converted policy covering any person if:

13 (a) Such person is or could be covered for similar benefits
14 by another individual policy; such person is or could be covered
15 for similar benefits under any arrangement of coverage for
16 individuals in a group, whether insured or uninsured; or similar
17 benefits are provided for or available to such person, by reason
18 of any state or federal law; and

19 (b) The benefits under sources of the kind referred to in
20 paragraph (a) [above] of this subdivision for such person, or
21 benefits provided or available under sources of the kind referred
22 to in paragraph (a) [above] of this subdivision for such person,
23 together with the converted policy's benefits would result in
24 overinsurance according to the insurer's standards for
25 overinsurance;

26 (6) A converted policy may provide that the insurer may at
27 any time request information of any person covered thereunder as
28 to whether he is covered for the similar benefits described in

1 paragraph (a) of subdivision (5) [above] of this subsection or is
2 or could be covered for the similar benefits described in
3 paragraph (a) of subdivision (5) [above] of this subsection. The
4 converted policy may provide that as of any premium due date the
5 insurer may refuse to renew the policy or the coverage of any
6 insured person for the following reasons only:

7 (a) Either those similar benefits for which such person is
8 or could be covered, together with the converted policy's
9 benefits, would result in overinsurance according to the
10 insurer's standards for overinsurance, or the policyholder of the
11 converted policy fails to provide the requested information;

12 (b) Fraud or material misrepresentation in applying for any
13 benefits under the converted policy;

14 (c) Eligibility of the insured person for coverage under
15 Medicare or under any other state or federal law providing for
16 benefits similar to those provided by the converted policy;

17 (d) Other reasons approved by the director [of the
18 department of insurance];

19 (7) An insurer shall not be required to issue a converted
20 policy providing benefits in excess of the hospital, surgical or
21 major medical insurance under the group policy from which
22 conversion is made;

23 (8) The converted policy shall not exclude, as a
24 preexisting condition, any condition covered by the group policy;
25 provided, however, that the converted policy may provide for a
26 reduction of its hospital, surgical or medical benefits by the
27 amount of any such benefits payable under the group policy after
28 the individual's insurance terminates thereunder. The converted

1 policy may also provide that during the first policy year the
2 benefits payable under the converted policy, together with the
3 benefits payable under the group policy, shall not exceed those
4 that would have been payable had the individual's insurance under
5 the group policy remained in force and effect;

6 (9) Subject to the provisions and conditions of sections
7 376.395 to 376.404, if the group insurance policy from which
8 conversion is made insures the employee or member for basic
9 hospital or surgical expense insurance, the employee or member
10 shall be entitled to obtain a converted policy providing, at his
11 option, coverage on an expense incurred basis under any of the
12 following plans:

13 (a) Plan A, which shall include:

14 a. Hospital room and board daily expense benefits in a
15 maximum dollar amount approximating the average semiprivate rate
16 charged in the largest major metropolitan area of this state, for
17 a maximum duration of seventy days;

18 b. Miscellaneous hospital expense benefits up to a maximum
19 amount of ten times the hospital room and board daily expense
20 benefits; and

21 c. Surgical expense benefits according to a surgical
22 procedures schedule consistent with those customarily offered by
23 the insurer under group or individual health insurance policies
24 and providing a maximum benefit of eight hundred dollars;

25 (b) Plan B, which shall be the same as plan A, except that
26 the maximum hospital room and board daily expense benefit is
27 seventy-five percent of the corresponding maximum under
28 subparagraph a of plan A, and the surgical schedule maximum is

1 six hundred dollars;

2 (c) Plan C, which shall be the same as plan A, except that
3 the maximum hospital room and board daily expense benefit is
4 fifty percent of the corresponding maximum under subparagraph a
5 of plan A, and the surgical schedule maximum is four hundred
6 dollars. The maximum dollar amount for plan A's maximum hospital
7 room and board daily expense benefit shall be determined by the
8 director [of the department of insurance] and may be redetermined
9 by him from time to time as to converted policies issued
10 subsequent to such redetermination. Such redetermination shall
11 not be made more often than once every three years. Such plan A
12 maximum, and the corresponding maximums in plans B and C, shall
13 be rounded to the nearest ten dollar multiple; provided that,
14 rounding may be to the next higher or lower multiple of ten
15 dollars if otherwise exactly midway between two multiples;

16 (10) Subject to the provisions and conditions of sections
17 376.395 to 376.404, if the group policy from which conversion is
18 made insures the employee or member for major medical expense
19 insurance, the employee or member shall be entitled to obtain a
20 converted policy providing catastrophic or major medical coverage
21 under a plan meeting the following requirements:

22 (a) A maximum benefit at least equal to, at the option of
23 the insurer, either:

24 a. A maximum payment per covered person for all covered
25 medical expenses incurred during that person's lifetime, equal to
26 the smaller of the maximum benefit provided under the group
27 policy or two hundred fifty thousand dollars;

28 b. A maximum payment for each unrelated injury or sickness,

1 equal to the smaller of the maximum benefit provided under the
2 group policy or two hundred fifty thousand dollars;

3 (b) Payment of benefits at the rate of eighty percent of
4 covered medical expenses which are in excess of the deductible,
5 until twenty percent of such expenses in a benefit period reaches
6 one thousand dollars, after which benefits will be paid at the
7 rate of one hundred percent during the remainder of such benefit
8 period. Payment of benefits for outpatient treatment of mental
9 illness, if provided in the converted policy, may be at a lesser
10 rate, but not less than fifty percent;

11 (c) A deductible for each benefit period which, at the
12 option of the insurer, shall be the sum of the benefits
13 deductible plus one hundred dollars, or the corresponding
14 deductible in the group policy. The term "benefits deductible",
15 as used herein, means the value of any benefits provided on an
16 expense incurred basis which are provided with respect to covered
17 medical expenses by any other group or individual hospital,
18 surgical or medical insurance policy or medical practice or other
19 prepayment plan, or any other plan or program, whether insured or
20 uninsured, or by reason of any state or federal law and if,
21 pursuant to subdivision (11) herein, the converted policy
22 provides both basic hospital or surgical coverage and major
23 medical coverage, the value of such basic benefits. If the
24 maximum benefit is determined under subparagraph b of paragraph
25 (a) of this subdivision, the insurer may require that the
26 deductible be satisfied during a period of not less than three
27 months if the deductible is one hundred dollars or less, and not
28 less than six months if the deductible exceeds one hundred

1 dollars;

2 (d) The benefit period shall be each calendar year when the
3 maximum benefit is determined under subparagraph a of paragraph
4 (a) of this subdivision or twenty-four months when the maximum
5 benefit is determined under subparagraph b of paragraph (a) of
6 this subdivision;

7 (e) The term "covered medical expenses", as used in this
8 subdivision, shall include at least, in the case of hospital room
9 and board charges, the lesser of the dollar amount set out in
10 plan A under subdivision (9) and the average semiprivate room and
11 board rate for the hospital in which the individual is confined,
12 and at least twice such amount for charges in an intensive care
13 unit. Any surgical procedures schedule shall be consistent with
14 those customarily offered by the insurer under group or
15 individual health insurance policies and must provide at least a
16 one thousand two hundred dollar maximum benefit;

17 (11) At the option of the insurer, benefit plans set forth
18 in subdivisions (9) and (10) of this section may be provided
19 under one policy or, in lieu of the benefit plans set forth in
20 subdivisions (9) and (10) of this section, the insurer may
21 provide a policy for comprehensive medical expense benefits
22 without first dollar coverage. Such policy shall conform to the
23 requirements of subdivision (10) of this section; provided,
24 however, that an insurer electing to provide such a policy shall
25 make available a low deductible option, not to exceed one hundred
26 dollars, a high deductible option between five hundred dollars
27 and one thousand dollars, and a third deductible option midway
28 between the high and low deductible options. Alternatively, such

1 a policy may provide for deductible options equal to the greater
2 of the benefits deductible and the amount specified in the
3 preceding sentence.

4 2. (1) The insurer may, at its option, offer alternative
5 plans for converted policies from group policies in addition to
6 those required by sections 376.395 to 376.404. Furthermore, if
7 any insurer customarily offers individual policies on a service
8 basis, that insurer may, in lieu of converted policies on an
9 expense incurred basis, make available converted policies on a
10 service basis which, in the opinion of the director [of the
11 department of insurance], satisfy the intent of sections 376.395
12 to 376.404.

13 (2) Nothing in sections 376.395 to 376.404 shall preclude a
14 health service corporation from limiting its conversion offerings
15 to one of the plans offered by the insurer that is consistent
16 with group policies customarily offered by the health service
17 corporation. The employee or member under the group insurance
18 policy from which conversion is made shall be entitled to obtain
19 one such converted policy.

20 3. Notification of the conversion privilege shall be
21 included in each certificate of coverage.

22 4. All converted policies shall become effective on the day
23 immediately following the date of termination of insurance under
24 a group policy.

25 376.405. 1. No insurance company licensed to transact
26 business in this state shall deliver or issue for delivery in
27 this state any policy of group accident or group health
28 insurance, or group accident and health insurance, including

1 insurance against hospital, medical or surgical expenses,
2 covering a group in this state, unless such policy form shall
3 have been approved by the director [of the department of
4 insurance of the state of Missouri].

5 2. The director [of insurance] shall have authority to make
6 such reasonable rules and regulations concerning the filing and
7 submission of such policy forms as are necessary, proper or
8 advisable. Such rules and regulations shall provide, among other
9 things, that if a policy form is disapproved, the reasons
10 therefor shall be stated in writing; that a hearing shall be
11 granted upon such disapproval, if so requested; and that the
12 failure of the director of insurance to take action approving or
13 disapproving a submitted policy form within a stipulated time,
14 not to exceed sixty days from the date of filing, shall be deemed
15 an approval thereof until such time as the director [of
16 insurance] shall notify the submitting company, in writing, of
17 his disapproval thereof.

18 3. The director [of insurance] shall approve only those
19 policy forms which are in compliance with the insurance laws of
20 this state and which contain such words, phraseology, conditions
21 and provisions which are specific, certain and unambiguous and
22 reasonably adequate to meet needed requirements for the
23 protection of those insured. The disapproval of any policy form
24 shall be based upon the requirements of the laws of this state or
25 of any regulation lawfully promulgated thereunder.

26 4. The director [of insurance] may, by order or bulletin,
27 exempt from the approval requirements of this section for so long
28 as he deems proper any insurance policy, document, or form or

1 type thereof, as specified in such order or bulletin, to which,
2 in his opinion, this section may not practicably be applied, or
3 the approval of which is, in his opinion, not desirable or
4 necessary for the protection of the public.

5 376.410. Except as provided in subdivision (6) of this
6 section, all companies organized under the laws of this state,
7 and engaged in writing policies of accident or health insurance,
8 or combination policies of accident and health insurance, and all
9 other companies transacting such kinds of business in this state,
10 shall maintain reserves thereon in accordance with the following
11 requirements:

12 (1) On all such policies actually written there shall be
13 maintained an unearned gross premium reserve which reserve may be
14 computed on a pro rata basis or such reserve may be computed at
15 not less than fifty percent of the gross premiums in force;

16 (2) On all such policies written on a noncancellable plan
17 and under the terms of which the company is obligated to renew or
18 continue for a stated period, or to a stated age or for life,
19 there shall be maintained active life reserves and reserves for
20 losses in amounts not less than such minimum standards which the
21 director [of insurance] shall determine and prescribe after
22 giving proper consideration to the terms and conditions of the
23 policies involved;

24 (3) On all such policies other than those written on a
25 noncancellable plan there shall be maintained reserves for losses
26 in amounts not less than the minimum standards which the director
27 [of insurance] shall determine and prescribe after giving proper
28 consideration to the terms and conditions of the policies

1 involved;

2 (4) In the calculation of reserves required to be
3 maintained under this section, proper credit shall be allowed for
4 reinsurance in other companies licensed to do business in this
5 state;

6 (5) In addition to the minimum reserves mentioned above the
7 director [of insurance] may also require such companies to
8 maintain reserves for extraordinary losses in amounts not less
9 than such minimum standards which the director [of insurance]
10 shall determine and prescribe after giving proper consideration
11 to the terms and conditions of the policies involved;

12 (6) This section shall not be applicable to total and
13 permanent disability benefits, or to accidental death benefits,
14 contained in or supplementary to life insurance policies or other
15 contracts and for which benefits the standard of valuation is
16 prescribed by section 376.380.

17 376.423. 1. Beginning January 1, 1993, any consultant
18 retained by any insurance company, health services corporation
19 and any self-insured group arrangement to the extent not
20 preempted by federal law, to review claims, under any policy of
21 accident and sickness insurance or membership contract, denied in
22 whole or in part for services rendered by a chiropractor shall:

23 (1) Be licensed and practicing as a chiropractor in the
24 state of Missouri, and, if the claim is made from a metropolitan
25 statistical area in Missouri as that term is defined by the
26 United States Bureau of the Census, then he shall be practicing
27 as a chiropractor in any such metropolitan statistical area in
28 Missouri; or be licensed and practicing as a chiropractor in the

1 state in which the claim is reviewed;

2 (2) Obtain a certificate from the board of chiropractic
3 examiners, which shall indicate that the licensee has complied
4 with the provisions of this section and has met the minimum
5 standards contained in this section. The application for a
6 certificate shall be on a form provided by the board;

7 (3) Provide to the board of chiropractic examiners, in
8 addition to the other information required to be provided on the
9 application, certification that the licensee has either:

10 (a) Successfully completed at least one hundred hours of
11 postgraduate training in insurance claims consulting, which
12 training was presented by a college of chiropractic having status
13 with the council on chiropractic education; or

14 (b) Successfully completed at least one hundred hours
15 training in insurance claims consulting in the course of study
16 approved by the board of chiropractic examiners; and

17 (4) Have received at least one-half of his earned income
18 from the clinical practice of chiropractic. The term "clinical
19 practice of chiropractic" shall not include the review of claims
20 regulated by this section nor any of the paperwork which is or
21 becomes part of the review nor any of the income from examining a
22 person whose claim is being reviewed.

23 2. The compensation of such consultant shall not be based
24 on a percentage of the amount by which a claim is reduced for
25 payment.

26 3. Upon receipt of a complaint from the insured or the
27 chiropractor alleging an adverse chiropractic review
28 determination, the director [of the department of insurance]

1 shall investigate to determine whether the insurance company or
2 health services corporation has engaged in an unfair claims
3 settlement practice under the provisions of subdivision (10) of
4 section 375.936, RSMo, or a violation of this section. The
5 [department of insurance] director shall promulgate rules to
6 enforce the provisions of this subsection.

7 4. Any licensee who shall advertise or announce to the
8 public in any communication or solicitation that he engages in or
9 provides insurance claims consulting in any aspect without having
10 first complied with this section shall be deemed to have engaged
11 in false, misleading or deceptive advertising.

12 5. It shall be unlawful for any person who is licensed
13 under the provisions of chapter 331, RSMo, to accept employment
14 as a consultant to review health care claims for services
15 rendered by any chiropractor unless he meets the qualifications
16 and conditions of subsection 1 of this section. The provisions
17 of this subsection shall be enforced by the board of chiropractic
18 examiners, which administers the provisions of chapter 331, RSMo.
19 Violations of this section shall constitute grounds for
20 disciplinary action pursuant to section 331.060, RSMo.

21 6. The board of chiropractic examiners may by rule
22 establish and enforce the conditions under which it will issue
23 certificates of compliance.

24 7. The board of chiropractic examiners is authorized,
25 pursuant to section 331.070, RSMo, to set fees to cover the cost
26 and expense of administering this section.

27 376.426. No policy of group health insurance shall be
28 delivered in this state unless it contains in substance the

1 following provisions, or provisions which in the opinion of the
2 director [of insurance] are more favorable to the persons insured
3 or at least as favorable to the persons insured and more
4 favorable to the policyholder; except that: Provisions in
5 subdivisions (5), (7), (12), (15), and (16) of this section shall
6 not apply to policies insuring debtors; standard provisions
7 required for individual health insurance policies shall not apply
8 to group health insurance policies; and if any provision of this
9 section is in whole or in part inapplicable to or inconsistent
10 with the coverage provided by a particular form of policy, the
11 insurer, with the approval of the director, shall omit from such
12 policy any inapplicable provision or part of a provision, and
13 shall modify any inconsistent provision or part of the provision
14 in such manner as to make the provision as contained in the
15 policy consistent with the coverage provided by the policy:

16 (1) A provision that the policyholder is entitled to a
17 grace period of thirty-one days for the payment of any premium
18 due except the first, during which grace period the policy shall
19 continue in force, unless the policyholder shall have given the
20 insurer written notice of discontinuance in advance of the date
21 of discontinuance and in accordance with the terms of the policy.
22 The policy may provide that the policyholder shall be liable to
23 the insurer for the payment of a pro rata premium for the time
24 the policy was in force during such grace period;

25 (2) A provision that the validity of the policy shall not
26 be contested, except for nonpayment of premiums, after it has
27 been in force for two years from its date of issue, and that no
28 statement made by any person covered under the policy relating to

1 insurability shall be used in contesting the validity of the
2 insurance with respect to which such statement was made after
3 such insurance has been in force prior to the contest for a
4 period of two years during such person's lifetime nor unless it
5 is contained in a written instrument signed by the person making
6 such statement; except that, no such provision shall preclude the
7 assertion at any time of defenses based upon the person's
8 ineligibility for coverage under the policy or upon other
9 provisions in the policy;

10 (3) A provision that a copy of the application, if any, of
11 the policyholder shall be attached to the policy when issued,
12 that all statements made by the policyholder or by the persons
13 insured shall be deemed representations and not warranties and
14 that no statement made by any person insured shall be used in any
15 contest unless a copy of the instrument containing the statement
16 is or has been furnished to such person or, in the event of the
17 death or incapacity of the insured person, to the individual's
18 beneficiary or personal representative;

19 (4) A provision setting forth the conditions, if any, under
20 which the insurer reserves the right to require a person eligible
21 for insurance to furnish evidence of individual insurability
22 satisfactory to the insurer as a condition to part or all of the
23 individual's coverage;

24 (5) A provision specifying the additional exclusions or
25 limitations, if any, applicable under the policy with respect to
26 a disease or physical condition of a person, not otherwise
27 excluded from the person's coverage by name or specific
28 description effective on the date of the person's loss, which

1 existed prior to the effective date of the person's coverage
2 under the policy. Any such exclusion or limitation may only
3 apply to a disease or physical condition for which medical advice
4 or treatment was received by the person during the twelve months
5 prior to the effective date of the person's coverage. In no
6 event shall such exclusion or limitation apply to loss incurred
7 or disability commencing after the earlier of:

8 (a) The end of a continuous period of twelve months
9 commencing on or after the effective date of the person's
10 coverage during all of which the person has received no medical
11 advice or treatment in connection with such disease or physical
12 condition; or

13 (b) The end of the two-year period commencing on the
14 effective date of the person's coverage;

15 (6) If the premiums or benefits vary by age, there shall be
16 a provision specifying an equitable adjustment of premiums or of
17 benefits, or both, to be made in the event the age of the covered
18 person has been misstated, such provision to contain a clear
19 statement of the method of adjustment to be used;

20 (7) A provision that the insurer shall issue to the
21 policyholder, for delivery to each person insured, a certificate
22 setting forth a statement as to the insurance protection to which
23 that person is entitled, to whom the insurance benefits are
24 payable, and a statement as to any family member's or dependent's
25 coverage;

26 (8) A provision that written notice of claim must be given
27 to the insurer within twenty days after the occurrence or
28 commencement of any loss covered by the policy. Failure to give

1 notice within such time shall not invalidate nor reduce any claim
2 if it shall be shown not to have been reasonably possible to give
3 such notice and that notice was given as soon as was reasonably
4 possible;

5 (9) A provision that the insurer shall furnish to the
6 person making claim, or to the policyholder for delivery to such
7 person, such forms as are usually furnished by it for filing
8 proof of loss. If such forms are not furnished before the
9 expiration of fifteen days after the insurer receives notice of
10 any claim under the policy, the person making such claim shall be
11 deemed to have complied with the requirements of the policy as to
12 proof of loss upon submitting, within the time fixed in the
13 policy for filing proof of loss, written proof covering the
14 occurrence, character, and extent of the loss for which claim is
15 made;

16 (10) A provision that in the case of claim for loss of time
17 for disability, written proof of such loss must be furnished to
18 the insurer within ninety days after the commencement of the
19 period for which the insurer is liable, and that subsequent
20 written proofs of the continuance of such disability must be
21 furnished to the insurer at such intervals as the insurer may
22 reasonably require, and that in the case of claim for any other
23 loss, written proof of such loss must be furnished to the insurer
24 within ninety days after the date of such loss. Failure to
25 furnish such proof within such time shall not invalidate nor
26 reduce any claim if it was not reasonably possible to furnish
27 such proof within such time, provided such proof is furnished as
28 soon as reasonably possible and in no event, except in the

1 absence of legal capacity of the claimant, later than one year
2 from the time proof is otherwise required;

3 (11) A provision that all benefits payable under the policy
4 other than benefits for loss of time shall be payable not more
5 than thirty days after receipt of proof and that, subject to due
6 proof of loss, all accrued benefits payable under the policy for
7 loss of time shall be paid not less frequently than monthly
8 during the continuance of the period for which the insurer is
9 liable, and that any balance remaining unpaid at the termination
10 of such period shall be paid as soon as possible after receipt of
11 such proof;

12 (12) A provision that benefits for accidental loss of life
13 of a person insured shall be payable to the beneficiary
14 designated by the person insured or, if the policy contains
15 conditions pertaining to family status, the beneficiary may be
16 the family member specified by the policy terms. In either case,
17 payment of these benefits is subject to the provisions of the
18 policy in the event no such designated or specified beneficiary
19 is living at the death of the person insured. All other benefits
20 of the policy shall be payable to the person insured. The policy
21 may also provide that if any benefit is payable to the estate of
22 a person, or to a person who is a minor or otherwise not
23 competent to give a valid release, the insurer may pay such
24 benefit, up to an amount not exceeding two thousand dollars, to
25 any relative by blood or connection by marriage of such person
26 who is deemed by the insurer to be equitably entitled thereto;

27 (13) A provision that the insurer shall have the right and
28 opportunity, at the insurer's own expense, to examine the person

1 of the individual for whom claim is made when and so often as it
2 may reasonably require during the pendency of the claim under the
3 policy and also the right and opportunity, at the insurer's own
4 expense, to make an autopsy in case of death where it is not
5 prohibited by law;

6 (14) A provision that no action at law or in equity shall
7 be brought to recover on the policy prior to the expiration of
8 sixty days after proof of loss has been filed in accordance with
9 the requirements of the policy and that no such action shall be
10 brought at all unless brought within three years from the
11 expiration of the time within which proof of loss is required by
12 the policy;

13 (15) A provision specifying the conditions under which the
14 policy may be terminated. Such provision shall state that except
15 for nonpayment of the required premium or the failure to meet
16 continued underwriting standards, the insurer may not terminate
17 the policy prior to the first anniversary date of the effective
18 date of the policy as specified therein, and a notice of any
19 intention to terminate the policy by the insurer must be given to
20 the policyholder at least thirty-one days prior to the effective
21 date of the termination. Any termination by the insurer shall be
22 without prejudice to any expenses originating prior to the
23 effective date of termination. An expense will be considered
24 incurred on the date the medical care or supply is received;

25 (16) A provision stating that if a policy provides that
26 coverage of a dependent child terminates upon attainment of the
27 limiting age for dependent children specified in the policy, such
28 policy, so long as it remains in force, shall be deemed to

1 provide that attainment of such limiting age does not operate to
2 terminate the hospital and medical coverage of such child while
3 the child is and continues to be both incapable of
4 self-sustaining employment by reason of mental or physical
5 handicap and chiefly dependent upon the policyholder for support
6 and maintenance. Proof of such incapacity and dependency must be
7 furnished to the insurer by the policyholder at least thirty-one
8 days before the child's attainment of the limiting age. The
9 insurer may require at reasonable intervals during the two years
10 following the child's attainment of the limiting age subsequent
11 proof of the child's incapacity and dependency. After such
12 two-year period, the insurer may require subsequent proof not
13 more than once each year. This subdivision shall apply only to
14 policies delivered or issued for delivery in this state on or
15 after one hundred twenty days after September 28, 1985;

16 (17) In the case of a policy insuring debtors, a provision
17 that the insurer shall furnish to the policyholder for delivery
18 to each debtor insured under the policy a certificate of
19 insurance describing the coverage and specifying that the
20 benefits payable shall first be applied to reduce or extinguish
21 the indebtedness.

22 376.442. The [department of insurance] director is
23 authorized to promulgate rules and regulations necessary to the
24 administration or enforcement of the provisions of sections
25 376.431 to 376.442, pursuant to section 376.982 and chapter 536,
26 RSMo.

27 376.480. Whenever any life insurance company incorporated
28 under the laws of this state assumes the risks, in whole or in

1 part, of any life insurance company incorporated under the laws
2 of any other state or the Dominion of Canada or any province
3 thereof a deposit of any part of its capital stock, surplus,
4 legal reserve or other funds on the policies so assumed, the
5 director [of the insurance department] is hereby authorized, in
6 his discretion, to receive from such official such deposit
7 pertaining to the policies so assumed or the capital stock,
8 surplus, legal reserve or other funds assigned by such foreign
9 company to such domestic company, and during the time that any
10 such official of any other state or the Dominion of Canada or any
11 province thereof retains or holds possession and custody of such
12 deposit after their assignment to such domestic company, such
13 director may treat such deposits so held by the officials of such
14 other state or the Dominion of Canada or any province thereof the
15 same as if they had been received by and were in the custody of
16 such director, and may, in his discretion, register the policies
17 so assumed and may or may not, during such time, require such
18 domestic company to make or maintain with such insurance
19 department any additional deposit on account thereof; provided,
20 that when any of the capital stock, surplus, legal reserve or
21 other funds of any such foreign company is legally invested in
22 securities not authorized by the laws of this state, such
23 securities shall be sold and disposed of within five years as the
24 director may direct, and such domestic company shall not hold
25 such securities or carry same as part of its capital stock,
26 surplus, legal reserve or other funds for a longer period unless
27 it shall procure a certificate from such director that its
28 interests will suffer materially by the forced sale thereof.

1 376.510. Any life insurance company or association which
2 may violate any of the provisions of section 376.500 or which may
3 permit any of its agents or representatives in this state to
4 violate said provisions, shall have its certificate of authority,
5 or license to transact business in Missouri, revoked by the
6 [state] director [of insurance], and shall be, for a period of
7 five years, barred from the further transaction of business in
8 this state; and any agent, solicitor or representative in this
9 state of any such insurance company or association, who shall
10 violate any of the provisions of section 376.500, shall be deemed
11 guilty of a misdemeanor, and on conviction thereof, in any court
12 of competent jurisdiction in this state, shall be fined not less
13 than fifty nor more than five hundred dollars for each such
14 offense, or imprisoned in the county or city jail, for not less
15 than thirty days nor more than six months, or by both such fine
16 and imprisonment.

17 376.600. Any life insurance company which may violate any
18 of the provisions of section 376.590, or which may permit any of
19 its agents or representatives in this state to violate said
20 provisions, shall have its certificate of authority or license to
21 transact business in Missouri revoked by the [state] director [of
22 insurance], and shall be for a period of five years barred from
23 the further transaction of business in this state; and any agent,
24 solicitor or representative in this state of any such insurance
25 company who shall violate any of the provisions of said section
26 shall be deemed guilty of a misdemeanor, and, on conviction
27 thereof, in any court of competent jurisdiction in this state,
28 shall be fined not less than fifty nor more than five hundred

1 dollars for each such offense or imprisoned in the county or city
2 jail for not less than ten days nor more than six months, or by
3 both such fine and imprisonment.

4 376.670. 1. In the case of policies issued on or after the
5 operative date of this section, as defined in subsection 14, no
6 policy of life insurance, except as stated in subsection 13,
7 shall be delivered or issued for delivery in this state unless it
8 shall contain in substance the following provisions, or
9 corresponding provisions which in the opinion of the director [of
10 the department of insurance] are at least as favorable to the
11 defaulting or surrendering policyholder as are the minimum
12 requirements specified in this section and are essentially in
13 compliance with subsection 12a of this section:

14 (1) That, in the event of default in any premium payment,
15 the company will grant, upon proper request not later than sixty
16 days after the due date of the premium in default, a paid-up
17 nonforfeiture benefit on a plan stipulated in the policy,
18 effective as of such due date, of such amount as may be herein
19 specified. In lieu of such stipulated paid-up nonforfeiture
20 benefit, the company may substitute, upon proper request not
21 later than sixty days after the due date of the premium in
22 default, an actuarially equivalent alternative paid-up
23 nonforfeiture benefit which provides a greater amount or longer
24 period of death benefits or, if applicable, a greater amount or
25 earlier payment of endowment benefits;

26 (2) That, upon surrender of the policy within sixty days
27 after the due date of any premium payment in default after
28 premiums have been paid for at least three full years in the case

1 of ordinary insurance or five full years in the case of
2 industrial insurance, the company will pay, in lieu of any
3 paid-up nonforfeiture benefit, a cash surrender value of such
4 amount as may be herein specified;

5 (3) That a specified paid-up nonforfeiture benefit shall
6 become effective as specified in the policy unless the person
7 entitled to make such election elects another available option
8 not later than sixty days after the due date of the premium in
9 default;

10 (4) That, if the policy shall have become paid up by
11 completion of all premium payments or if it is continued under
12 any paid-up nonforfeiture benefit which became effective on or
13 after the third policy anniversary in the case of ordinary
14 insurance or the fifth policy anniversary in the case of
15 industrial insurance, the company will pay, upon surrender of the
16 policy within thirty days after any policy anniversary, a cash
17 surrender value of such amount as may be herein specified;

18 (5) In the case of policies which cause, on a basis
19 guaranteed in the policy, unscheduled changes in benefits or
20 premiums, or which provide an option for changes in benefits or
21 premiums other than a change to a new policy, a statement of the
22 mortality table, interest rate, and method used in calculating
23 cash surrender values and the paid-up nonforfeiture benefits
24 available under the policy. In the case of all other policies, a
25 statement of the mortality table and interest rate used in
26 calculating the cash surrender values and the paid-up
27 nonforfeiture benefits available under the policy, together with
28 a table showing the cash surrender value, if any, and paid-up

1 nonforfeiture benefit, if any, available under the policy on each
2 policy anniversary either during the first twenty policy years or
3 during the term of the policy, whichever is shorter, such values
4 and benefits to be calculated upon the assumption that there are
5 no dividends or paid-up additions credited to the policy and that
6 there is no indebtedness to the company on the policy;

7 (6) A statement that the cash surrender values and the
8 paid-up nonforfeiture benefits available under the policy are not
9 less than the minimum values and benefits required by or pursuant
10 to the insurance law of the state in which the policy is
11 delivered; an explanation of the manner in which the cash
12 surrender values and the paid-up nonforfeiture benefits are
13 altered by the existence of any paid-up additions credited to the
14 policy or any indebtedness to the company on the policy; if a
15 detailed statement of the method of computation of the values and
16 benefits shown in the policy is not stated therein, a statement
17 that such method of computation has been filed with the insurance
18 supervisory official of the state in which the policy is
19 delivered; and a statement of the method to be used in
20 calculating the cash surrender value and paid-up nonforfeiture
21 benefit available under the policy on any policy anniversary
22 beyond the last anniversary for which such values and benefits
23 are consecutively shown in the policy.

24 2. Any of the foregoing provisions or portions thereof not
25 applicable by reason of the plan of insurance may, to the extent
26 inapplicable, be omitted from the policy.

27 3. The company shall reserve the right to defer the payment
28 of any cash surrender value for a period of six months after

1 demand therefor with surrender of the policy.

2 4. (1) Any cash surrender value available under the policy
3 in the event of default in a premium payment due on any policy
4 anniversary, whether or not required by subsection 1, shall be an
5 amount not less than the excess, if any, of the present value, on
6 such anniversary, of the future guaranteed benefits which would
7 have been provided for by the policy if there had been no
8 default, including any existing paid-up additions, over the sum
9 of the then present value of the adjusted premiums as defined in
10 subsections 6, 7, 8, 8a, 9, 10, 10a, and 10b corresponding to
11 premiums which would have fallen due on and after such
12 anniversary, and the amount of any indebtedness to the company on
13 the policy.

14 (2) For any policy issued on or after the operative date of
15 subsection 10b of this section which provides supplemental life
16 insurance or annuity benefits at the option of the insured for an
17 identifiable additional premium by rider or supplemental policy
18 provision, the cash surrender value referred to in subdivision
19 (1) of this subsection shall be an amount not less than the sum
20 of the cash surrender value for an otherwise similar policy
21 issued at the same age without such rider or supplemental policy
22 provision and the cash surrender value for a policy which
23 provides only the benefits otherwise provided by such rider or
24 supplemental policy provision.

25 (3) For any family policy issued on or after the operative
26 date of subsection 10b of this section which defines a primary
27 insured and provides term insurance on the life of the spouse of
28 the primary insured expiring before the spouse's age seventy-one,

1 the cash surrender value referred to in subdivision (1) of this
2 subsection shall be an amount not less than the sum of the cash
3 surrender value for an otherwise similar policy issued at the
4 same age without such term insurance on the life of the spouse
5 and the cash surrender value for a policy which provides only the
6 benefits otherwise provided by such term insurance on the life of
7 the spouse.

8 (4) Any cash surrender value available within thirty days
9 after any policy anniversary under any policy paid up by
10 completion of all premium payments or any policy continued under
11 any paid-up nonforfeiture benefit, whether or not required by
12 subsection 1, shall be an amount not less than the present value,
13 on such anniversary, of the future guaranteed benefits provided
14 for the policy, including any existing paid-up additions,
15 decreased by any indebtedness to the company on the policy.

16 5. Any paid-up nonforfeiture benefit available under the
17 policy in the event of default in a premium payment due on any
18 policy anniversary shall be such that its present value as of
19 such anniversary shall be at least equal to the cash surrender
20 value then provided for by the policy or, if none is provided
21 for, that cash surrender value which would have been required by
22 this section in the absence of the condition that premiums shall
23 have been paid for at least a specified period.

24 6. This subsection and subsections 7, 8, 8a, and 9 of this
25 section shall not apply to policies issued on or after the
26 operative date of subsection 10b of this section. Except as
27 provided in subsection 8a, the adjusted premiums for any policy
28 shall be calculated on an annual basis and shall be such uniform

1 percentage of the respective premiums specified in the policy for
2 each policy year, excluding any extra premiums charged because of
3 impairments or special hazards, that the present value, at the
4 date of issue of the policy, of all such adjusted premiums shall
5 be equal to the sum of:

6 (1) The then present value of the future guaranteed
7 benefits provided for by the policy;

8 (2) Two percent of the amount of insurance, if the
9 insurance be uniform in amount, or of the equivalent uniform
10 amount, as herein defined, if the amount of insurance varies with
11 duration of the policy;

12 (3) Forty percent of the adjusted premium for the first
13 policy year;

14 (4) Twenty-five percent of either the adjusted premiums for
15 the first policy year or the adjusted premium for a whole life
16 policy of the same uniform or equivalent uniform amount with
17 uniform premiums for the whole of life issued at the same age for
18 the same amount of insurance, whichever is less.

19 7. Provided, however, that in applying the percentages
20 specified in subdivisions (3) and (4) of subsection 6, no
21 adjusted premium shall be deemed to exceed four percent of the
22 amount of insurance or uniform amount equivalent thereto. The
23 date of issue of a policy for the purpose of subsections 6, 7, 8,
24 8a and 9 shall be the date as of which the rated age of the
25 insured is determined.

26 8. In the case of a policy providing an amount of insurance
27 varying with duration of the policy, the equivalent uniform
28 amount thereof for the purpose of subsections 6, 7, 8, 8a and 9

1 shall be deemed to be the uniform amount of insurance provided by
2 an otherwise similar policy, containing the same endowment
3 benefit or benefits, if any, issued at the same age and for the
4 same term, the amount of which does not vary with duration and
5 the benefits under which have the same present value at the date
6 of issue as the benefits under the policy; provided, however,
7 that in the case of a policy providing a varying amount of
8 insurance issued on the life of a child under age ten, the
9 equivalent uniform amount may be computed as though the amount of
10 insurance provided by the policy prior to the attainment of age
11 ten were the amount provided by such policy at age ten.

12 8a. The adjusted premiums for any policy providing term
13 insurance benefits by rider or supplemental policy provision
14 shall be equal to (a) the adjusted premiums for an otherwise
15 similar policy issued at the same age without such term insurance
16 benefits, increased, during the period for which premiums for
17 such term insurance benefits are payable, by (b) the adjusted
18 premiums for such term insurance, the foregoing items (a) and (b)
19 being calculated separately and as specified in subsections 6, 7
20 and 8 except that, for the purposes of subdivisions (2), (3) and
21 (4) of subsection 6, the amount of insurance or equivalent
22 uniform amount of insurance used in the calculation of the
23 adjusted premiums referred to in (b) shall be equal to the excess
24 of the corresponding amount determined for the entire policy over
25 the amount used in the calculation of the adjusted premiums in
26 (a).

27 9. Except as otherwise provided in subsections 10 and 10a,
28 all adjusted premiums and present values referred to in this

1 section shall, for all policies of ordinary insurance, be
2 calculated on the basis of the Commissioners 1941 Standard
3 Ordinary Mortality Table, provided that for any category of
4 ordinary insurance issued on and after the effective date of this
5 amendment on female risks, adjusted premiums and present values
6 may be calculated according to an age not more than three years
7 younger than the actual age of the insured and such calculations
8 for all policies of industrial insurance shall be made on the
9 basis of the 1941 Standard Industrial Mortality Table. All
10 calculations shall be made on the basis of the rate of interest,
11 not exceeding three and one-half percent per annum, specified in
12 the policy for calculating cash surrender values and paid-up
13 nonforfeiture benefits; provided, however, that in calculating
14 the present value of any paid-up term insurance with accompanying
15 pure endowment, if any, offered as a nonforfeiture benefit, the
16 rates of mortality assumed may be not more than one hundred and
17 thirty percent of the rates of mortality according to such
18 applicable table; provided, further, that for insurance issued on
19 a substandard basis, the calculation of any such adjusted
20 premiums and present values may be based on such other table of
21 mortality as may be specified by the company and approved by the
22 director.

23 10. This subsection shall not apply to ordinary policies
24 issued on or after the operative date of subsection 10b. In the
25 case of ordinary policies issued on or after the operative date
26 provided in this subsection, all adjusted premiums and present
27 values referred to in this section shall be calculated on the
28 basis of the Commissioners 1958 Standard Ordinary Mortality Table

1 and the rate of interest specified in the policy for calculating
2 cash surrender values and paid-up nonforfeiture benefits,
3 provided that such rate of interest shall not exceed three and
4 one-half percent per annum, except that a rate of interest not
5 exceeding four percent per annum may be used for policies issued
6 on or after September 28, 1975, and prior to September 28, 1979,
7 and a rate of interest not exceeding five and one-half percent
8 per annum may be used for policies issued on or after September
9 28, 1979, and provided that for any category of ordinary
10 insurance issued on female risks, adjusted premiums and present
11 values may be calculated according to an age not more than six
12 years younger than the actual age of the insured; provided,
13 however, that in calculating the present value of any paid-up
14 term insurance with accompanying pure endowment, if any, offered
15 as a nonforfeiture benefit, the rates of mortality assumed may be
16 not more than those shown in the Commissioners 1958 Extended Term
17 Insurance Table; provided, further, that for insurance issued on
18 a substandard basis, the calculation of any such adjusted
19 premiums and present values may be based on such other table of
20 mortality as may be specified by the company and approved by the
21 director. After the date when this subsection becomes effective,
22 any company may file with the director a written notice of its
23 election to comply with the provisions of this subsection after a
24 specified date before January 1, 1966. After the filing of such
25 notice, then upon such specified date, which shall be the
26 operative date of this subsection for such company, this
27 subsection shall become operative with respect to the ordinary
28 policies thereafter issued by such company. If a company makes

1 no such election, the operative date of this subsection for such
2 company shall be January 1, 1966.

3 10a. This subsection shall not apply to industrial policies
4 issued on or after the operative date of subsection 10b. In the
5 case of industrial policies issued on or after the operative date
6 of this subsection as defined herein, all adjusted premiums and
7 present values referred to in this section shall be calculated on
8 the basis of the Commissioners 1961 Standard Industrial Mortality
9 Table and the rate of interest specified in the policy for
10 calculating cash surrender values and paid-up nonforfeiture
11 benefits, provided that such rate of interest shall not exceed
12 three and one-half percent per annum, except that a rate of
13 interest not exceeding four percent per annum may be used for
14 policies issued on or after September 28, 1975, and prior to
15 September 28, 1979, and a rate of interest not exceeding five and
16 one-half percent per annum may be used for policies issued on or
17 after September 28, 1979; provided, however, that in calculating
18 the present value of any paid-up term insurance with accompanying
19 pure endowment, if any, offered as a nonforfeiture benefit, the
20 rates of mortality assumed may be not more than those shown in
21 the Commissioners 1961 Industrial Extended Term Insurance Table;
22 provided, further, that for insurance issued on a substandard
23 basis, the calculation of any such adjusted premiums and present
24 values may be based on such other table of mortality as may be
25 specified by the company and approved by the director. After the
26 date when this subsection becomes effective, any company may file
27 with the director a written notice of its election to comply with
28 the provisions of this subsection after a specified date before

1 January 1, 1968. After the filing of such notice, then upon such
2 specified date, which shall be the operative date of this
3 subsection for such company, this subsection shall become
4 operative with respect to the industrial policies thereafter
5 issued by such company. If a company makes no such election, the
6 operative date of this subsection for such company shall be
7 January 1, 1968.

8 10b. (1) This subsection shall apply to all policies
9 issued on or after the operative date of this subsection as
10 defined herein. Except as provided in subdivision (7) of this
11 subsection, the adjusted premiums for any policy shall be
12 calculated on an annual basis and shall be such uniform
13 percentage of the respective premiums specified in the policy for
14 each policy year, excluding amounts payable as extra premiums to
15 cover impairments or special hazards and also excluding any
16 uniform annual contract charge or policy fee specified in the
17 policy in a statement of the method to be used in calculating the
18 cash surrender values and paid-up nonforfeiture benefits, that
19 the present value, at the date of issue of the policy, of all
20 adjusted premiums shall be equal to the sum of:

21 (a) The then present value of the future guaranteed
22 benefits provided for by the policy;

23 (b) One percent of either the amount of insurance, if the
24 insurance be uniform in amount, or the average amount of
25 insurance at the beginning of each of the first ten policy years;
26 and

27 (c) One hundred twenty-five percent of the nonforfeiture
28 net level premium as hereinafter defined.

1 In applying the percentage specified in paragraph (c) above, no
2 nonforfeiture net level premium shall be deemed to exceed four
3 percent of either the amount of insurance, if the insurance be
4 uniform in amount, or the average amount of insurance at the
5 beginning of each of the first ten policy years. The date of
6 issue of a policy for the purpose of this subsection shall be the
7 date as of which the rated age of the insured is determined.

8 (2) The nonforfeiture net level premium shall be equal to
9 the present value, at the date of issue of the policy, of the
10 guaranteed benefits provided for by the policy divided by the
11 present value, at the date of issue of the policy, of an annuity
12 of one per annum payable on the date of issue of the policy and
13 on each anniversary of such policy on which a premium falls due.

14 (3) In the case of policies which cause, on a basis
15 guaranteed in the policy, unscheduled changes in benefits or
16 premiums, or which provide an option for changes in benefits or
17 premiums other than a change to a new policy, the adjusted
18 premiums and present values shall initially be calculated on the
19 assumption that future benefits and premiums do not change from
20 those stipulated at the date of issue of the policy. At the time
21 of any such change in the benefits or premiums the future
22 adjusted premiums, nonforfeiture net level premiums and present
23 values shall be recalculated on the assumption that future
24 benefits and premiums do not change from those stipulated by the
25 policy immediately after the change.

26 (4) Except as otherwise provided in subdivision (7) of this
27 subsection, the recalculated future adjusted premiums for any
28 such policy shall be such uniform percentage of the respective

1 future premiums specified in the policy for each policy year,
2 excluding amounts payable as extra premiums to cover impairments
3 and special hazards, and also excluding any uniform annual
4 contract charge or policy fee specified in the policy in a
5 statement of the method to be used in calculating the cash
6 surrender values and paid-up nonforfeiture benefits, that the
7 present value, at the time of change to the newly defined
8 benefits or premiums, of all such future adjusted premiums shall
9 be equal to the excess of (A) the sum of the then present value
10 of the then future guaranteed benefits provided for by the policy
11 and the additional expense allowance, if any, over (B) the then
12 cash surrender value, if any, or present value of any paid-up
13 nonforfeiture benefit under the policy.

14 (5) The additional expense allowance, at the time of the
15 change to the newly defined benefits or premiums, shall be the
16 sum of:

17 (a) One percent of the excess, if positive, of the average
18 amount of insurance at the beginning of each of the first ten
19 policy years subsequent to the change over the average amount of
20 insurance prior to the change at the beginning of each of the
21 first ten policy years subsequent to the time of the most recent
22 previous change, or, if there has been no previous change, the
23 date of issue of the policy; and

24 (b) One hundred twenty-five percent of the increase, if
25 positive, in the nonforfeiture net level premium.

26 (6) The recalculated nonforfeiture net level premium shall
27 be equal to the result obtained by dividing (a) by (b) where:

28 (a) Equals the sum of:

1 a. The nonforfeiture net level premium applicable prior to
2 the change times the present value of an annuity of one per annum
3 payable on each anniversary of the policy on or subsequent to the
4 date of the change on which a premium would have fallen due had
5 the change not occurred; and

6 b. The present value of the increase in future guaranteed
7 benefits provided for by the policy; and

8 (b) Equals the present value of an annuity of one per annum
9 payable on each anniversary of the policy on or subsequent to the
10 date of change on which a premium falls due.

11 (7) Notwithstanding any other provisions of this subsection
12 to the contrary, in the case of a policy issued on a substandard
13 basis which provides reduced graded amounts of insurance so that
14 in each policy year such policy has the same tabular mortality
15 cost as an otherwise similar policy issued on the standard basis
16 which provides higher uniform amounts of insurance, adjusted
17 premiums and present values for such substandard policy may be
18 calculated as if it were issued to provide such higher uniform
19 amounts of insurance on the standard basis.

20 (8) All adjusted premiums and present values referred to in
21 this section shall for all policies of ordinary insurance be
22 calculated on the basis of the Commissioners 1980 Standard
23 Ordinary Mortality Table or, at the election of the company for
24 any one or more specified plans of life insurance, the
25 Commissioners 1980 Standard Ordinary Mortality Table with
26 Ten-Year Select Mortality Factors. All adjusted premiums and
27 present values referred to in this section shall for all policies
28 of industrial insurance be calculated on the basis of the

1 Commissioners 1961 Standard Industrial Mortality Table. All
2 adjusted premiums and present values referred to in this section
3 shall for all policies issued in a particular calendar year be
4 calculated on the basis of a rate of interest not exceeding the
5 nonforfeiture interest rate as defined in this subsection for
6 policies issued in that calendar year.

7 (9) Except as provided in subdivision (8) of this
8 subsection:

9 (a) At the option of the company, calculations for all
10 policies issued in a particular calendar year may be made on the
11 basis of a rate of interest not exceeding the nonforfeiture
12 interest rate, as defined in this subsection, for policies issued
13 in the immediately preceding calendar year;

14 (b) Under any paid-up nonforfeiture benefit, including any
15 paid-up dividend additions, any cash surrender value available,
16 whether or not required by subsection 1 of this section, shall be
17 calculated on the basis of the mortality table and rate of
18 interest used in determining the amount of such paid-up
19 nonforfeiture benefit and paid-up dividend additions, if any;

20 (c) A company may calculate the amount of any guaranteed
21 paid-up nonforfeiture benefit including any paid-up additions
22 under the policy on the basis of an interest rate no lower than
23 that specified in the policy for calculating cash surrender
24 values;

25 (d) In calculating the present value of any paid-up term
26 insurance with accompanying pure endowment, if any, offered as a
27 nonforfeiture benefit, the rates of mortality assumed may be not
28 more than those shown in the Commissioners 1980 Extended Term

1 Insurance Table for policies of ordinary insurance and not more
2 than the Commissioners 1961 Industrial Extended Term Insurance
3 Table for policies of industrial insurance;

4 (e) For insurance issued on a substandard basis, the
5 calculation of any such adjusted premiums and present values may
6 be based on appropriate modifications of the tables listed in
7 subdivision (d) of this subsection;

8 (f) Any ordinary mortality tables, adopted after 1980 by
9 the National Association of Insurance Commissioners, that are
10 approved by regulation promulgated by the director for use in
11 determining the minimum nonforfeiture standard may be substituted
12 for the Commissioners 1980 Standard Ordinary Mortality Table with
13 or without Ten-Year Select Mortality Factors or for the
14 Commissioners 1980 Extended Term Insurance Table;

15 (g) Any industrial mortality tables, adopted after 1980 by
16 the National Association of Insurance Commissioners, that are
17 approved by regulation promulgated by the director for use in
18 determining the minimum nonforfeiture standard may be substituted
19 for the Commissioners 1961 Standard Industrial Mortality Table or
20 for the Commissioners 1961 Industrial Extended Term Insurance
21 Table;

22 (10) The nonforfeiture interest rate per annum for any
23 policy issued in a particular calendar year shall be equal to one
24 hundred twenty-five percent of the calendar year statutory
25 valuation interest rate for such policy as defined in section
26 376.380 rounded to the nearer one-quarter of one percent;

27 (11) Notwithstanding any other provision of law to the
28 contrary, any refiling of nonforfeiture values or their methods

1 of computation for any previously approved policy form which
2 involves only a change in the interest rate or mortality table
3 used to compute nonforfeiture values shall not require refiling
4 of any other provisions of that policy form;

5 (12) After the effective date of this subsection, any
6 company may file with the director a written notice of its
7 election to comply with the provisions of this subsection after a
8 specified date before January 1, 1989, which shall be the
9 operative date of this subsection for such company. If a company
10 makes no such election, the operative date of this subsection for
11 such company shall be January 1, 1989.

12 10c. In the case of any plan of life insurance which
13 provides for future premium determination, the amounts of which
14 are to be determined by the insurance company based on then
15 estimates of future experience, or in the case of any plan of
16 life insurance which is of such a nature that minimum values
17 cannot be determined by the methods described in subsections 1 to
18 10b of this section, then:

19 (1) The director must be satisfied that the benefits
20 provided under the plan are substantially as favorable to
21 policyholders and insureds as the minimum benefits otherwise
22 required by subsections 1 to 10b of this section;

23 (2) The director must be satisfied that the benefits and
24 the pattern of premiums of that plan are not such as to mislead
25 prospective policyholders or insureds;

26 (3) The cash surrender values and paid-up nonforfeiture
27 benefits provided by the plan must not be less than the minimum
28 values and benefits required for the plan computed by a method

1 consistent with the principles of this section, as determined by
2 regulations promulgated by the director.

3 11. Any cash surrender value and any paid-up nonforfeiture
4 benefit, available under the policy in the event of default in a
5 premium payment due at any time other than on the policy
6 anniversary, shall be calculated with allowance for the lapse of
7 time and the payment of fractional premiums beyond the last
8 preceding policy anniversary. All values referred to in
9 subsections 4, 5, 6, 7, 8, 8a, 9, 10, 10a and 10b of this section
10 may be calculated upon the assumption that any death benefit is
11 payable at the end of the policy year of death. The net value of
12 any paid-up additions, other than paid-up term additions, shall
13 be not less than the amounts used to provide such additions.

14 12. Notwithstanding the provisions of subsection 4 of this
15 section, additional benefits payable:

16 (1) In the event of death or dismemberment by accident or
17 accidental means;

18 (2) In the event of total and permanent disability;

19 (3) As reversionary annuity or deferred reversionary
20 annuity benefits;

21 (4) As term insurance benefits provided by a rider or
22 supplemental policy provision to which, if issued as a separate
23 policy, this section would not apply;

24 (5) As term insurance on the life of a child or on the
25 lives of children provided in a policy on the life of a parent of
26 the child, if such term insurance expires before the child's age
27 is twenty-six, is uniform in amount after the child's age is one,
28 and has not become paid up by reason of the death of a parent of

1 the child; and

2 (6) As other policy benefits additional to life insurance
3 and endowment benefits, and premiums for all such additional
4 benefits; shall be disregarded in ascertaining cash surrender
5 values and nonforfeiture benefits required by this section, and
6 no such additional benefits shall be required to be included in
7 any paid-up nonforfeiture benefits.

8 12a. (1) This subsection, in addition to all other
9 applicable subsections of this section, shall apply to all
10 policies issued on or after January 1, 1986. Any cash surrender
11 value available under the policy in the event of default in a
12 premium payment due on any policy anniversary shall be in an
13 amount which does not differ by more than two-tenths of one
14 percent of either the amount of insurance, if the insurance be
15 uniform in amount, or the average amount of insurance at the
16 beginning of each of the first ten policy years, from the sum of
17 the greater of zero and the basic cash value hereinafter
18 specified and the present value of any existing paid-up additions
19 less the amount of any indebtedness to the company under the
20 policy.

21 (2) The basic cash value shall be equal to the present
22 value, on such anniversary, of the future guaranteed benefits
23 which would have been provided for by the policy, excluding any
24 existing paid-up additions and before deduction of any
25 indebtedness to the company, if there had been no default, less
26 the then present value of the nonforfeiture factors, as defined
27 in subdivision (3) of this subsection, corresponding to premiums
28 which would have fallen due on and after such anniversary. The

1 effects on the basic cash value of supplemental life insurance or
2 annuity benefits or of family coverage, as described in
3 subsection 4 of this section or in subsections 6, 7, 8, 8a and 9
4 of this section, whichever is applicable, shall be the same as
5 are the effects specified in subsection 4 of this section or in
6 subsections 6, 7, 8, 8a and 9 of this section, whichever is
7 applicable on the cash surrender values defined in that
8 subsection.

9 (3) The nonforfeiture factor for each policy year shall be
10 an amount equal to a percentage of the adjusted premium for the
11 policy year, as defined in subsections 6, 7, 8, 8a and 9 of this
12 section or in subsection 10b of this section, whichever is
13 applicable. Except as is required by subdivision (4) of this
14 subsection, such percentage:

15 (a) Must be the same percentage for each policy year
16 between the second policy anniversary and the later of the fifth
17 policy anniversary or the first policy anniversary at which there
18 is available under the policy a cash surrender value in an
19 amount, before including any paid-up additions and before
20 deducting any indebtedness, of at least two-tenths of one percent
21 of either the amount of insurance, if the insurance be uniform in
22 amount, or the average amount of insurance at the beginning of
23 each of the first ten policy years; and

24 (b) Must be such that no percentage after the later of the
25 two policy anniversaries specified in paragraph (a) of this
26 subdivision may apply to fewer than five consecutive policy
27 years.

28 No basic cash value may be less than the value which would be

1 obtained if the adjusted premiums for the policy, as defined in
2 subsections 6, 7, 8, 8a and 9 of this section or in subsection
3 10b of this section, whichever is applicable, were substituted
4 for the nonforfeiture factors in the calculation of the basic
5 cash value.

6 (4) All adjusted premiums and present values referred to in
7 this subsection shall for a particular policy be calculated on
8 the same mortality and interest bases as are used in
9 demonstrating the policy's compliance with the other subsections
10 of this section. The cash surrender values referred to in this
11 subsection shall include any endowment benefits provided for by
12 the policy.

13 (5) Any cash surrender value available other than in the
14 event of default in a premium payment due on a policy
15 anniversary, and the amount of any paid-up nonforfeiture benefit
16 available under the policy in the event of default in a premium
17 payment shall be determined in manners consistent with the
18 manners specified for determining the analogous minimum amounts
19 in subsections 3, 4, 5, 10b and 11 of this section. The amounts
20 of any cash surrender values and of any paid-up nonforfeiture
21 benefits granted in connection with additional benefits such as
22 those listed as subdivisions (1) to (6) in subsection 12 of this
23 section shall conform with the principles of this subsection.

24 13. (1) This section shall not apply to any of the
25 following:

- 26 (a) Reinsurance;
- 27 (b) Group insurance;
- 28 (c) Pure endowments;

1 (d) Annuities or reversionary annuity contracts;

2 (e) Term policies of uniform amounts, which provide no
3 guaranteed nonforfeiture or endowment benefits, or renewals
4 thereof of twenty years or less expiring before age seventy-one,
5 for which uniform premiums are payable during the entire term of
6 the policy;

7 (f) Term policies of decreasing amounts, which provide no
8 guaranteed nonforfeiture or endowment benefits, on which each
9 adjusted premium calculated as specified in subsections 6, 7, 8,
10 8a, 9, 10, 10a, and 10b of this section is less than the adjusted
11 premium so calculated on a term policy of uniform amount, or
12 renewal thereof, which provides no guaranteed nonforfeiture or
13 endowment benefits, issued at the same age and for the same
14 initial amount of insurance, and for a term of twenty years or
15 less expiring before age seventy-one, for which uniform premiums
16 are payable during the entire term of the policy;

17 (g) Policies, which provide no guaranteed nonforfeiture or
18 endowment benefits, for which no cash surrender value, if any, or
19 present value of any paid-up nonforfeiture benefit, at the
20 beginning of any policy year, calculated as specified in
21 subsections 4 to 10b of this section, exceeds two and one-half
22 percent of the amount of insurance at the beginning of the same
23 policy year;

24 (h) Policies which shall be delivered outside this state
25 through an agent or other representative of the company issuing
26 the policies.

27 (2) For purposes of determining the applicability of this
28 section, the expiration date for a joint term life insurance

1 policy shall be the age at expiry of the oldest life.

2 14. After the effective date of this section, any company
3 may file with the director a written notice of its election to
4 comply with the provisions of this section after a specified date
5 before January 1, 1948. After the filing of such notice, then
6 upon such specified date, which shall be the operative date for
7 such company, this section shall become operative with respect to
8 the policies thereafter issued by such company. If a company
9 makes no such election, the operative date of this section for
10 such company shall be January 1, 1948.

11 376.672. The director [of the department of insurance]
12 shall establish by regulation the terms and conditions of policy
13 loan interest rate provisions for all policies issued or
14 delivered by a life insurance company in this state after August
15 13, 1982. Such regulations shall include provisions for an
16 adjustable maximum interest rate based on the monthly average of
17 the Moody's Corporate Bond Yield Average--Monthly Average
18 Corporates, as published by Moody's Investors Service, Inc., the
19 frequency at which the rate is to be determined and appropriate
20 notifications to policyholders. No other provision of law shall
21 apply to policy loan interest rates unless made specifically
22 applicable to such rates. This section shall also apply to loan
23 interest rate provisions for certificates issued or delivered by
24 fraternal benefit societies in this state, and for purposes of
25 this section the word "policy" includes such certificates.

26 376.675. 1. No policy of life insurance or contract of
27 annuity shall be delivered or issued for delivery to any person
28 in this state unless the policy or contract shall have been filed

1 with and approved by the director [of insurance].

2 2. The director [of insurance] shall have authority to make
3 reasonable rules and regulations concerning the procedure for the
4 filing and submission of policy or contract forms as are
5 necessary, proper or advisable. The director shall approve or
6 disapprove a policy or contract form within forty-five days after
7 the filing and submission thereof. The failure of the director
8 [of insurance] to take action approving or disapproving a
9 submitted policy or contract form within the stipulated time
10 shall be deemed an approval thereof until such time as the
11 director [of insurance] shall notify the submitting company of
12 his disapproval thereof.

13 3. The director [of insurance] shall approve only those
14 forms which are in compliance with the insurance laws of this
15 state and which contain such words, phraseology, conditions and
16 provisions [with] which are specific, certain and unambiguous and
17 reasonably adequate to meet needed requirements for the
18 protection of those insured. If any policy or contract form is
19 disapproved, the reasons therefor shall be based upon the
20 requirements of the laws of this state or of any regulation
21 lawfully promulgated thereunder, and shall be stated in writing
22 and a notification thereof shall be sent to the submitting
23 company. The director shall accord a hearing upon a disapproval,
24 if so requested. The disapproval of any policy or contract form
25 by the director shall be subject to judicial review as provided
26 in chapter 536, RSMo.

27 4. The director [of insurance] may, by order or bulletin,
28 exempt from the approval requirements of this section for so long

1 as he deems proper any insurance policy, document, or form or
2 type thereof, as specified in such order or bulletin, to which,
3 in his opinion, this section may not practicably be applied, or
4 the approval of which is, in his opinion, not desirable or
5 necessary for the protection of the public.

6 376.679. Any domestic life insurer or reinsurer may also
7 reinsure, by itself, or together with other insurance companies,
8 subject to any limitations, approval or rules promulgated by the
9 director [of the department of insurance], any risk arising from,
10 related to, or incident to the manufacture, ownership or
11 operation of aircraft.

12 376.693. Group life insurance offered to a resident of this
13 state under a group life insurance policy issued to a group other
14 than one described in section 376.691 shall be subject to the
15 following requirements:

16 (1) No such group life insurance policy shall be delivered
17 in this state unless the director [of the department of
18 insurance] finds that:

19 (a) The issuance of such group policy is not contrary to
20 the best interest of the public;

21 (b) The issuance of the group policy would be actuarially
22 sound;

23 (c) The issuance of the group policy would result in
24 economies of acquisition or administration; and

25 (d) The benefits are reasonable in relation to the premiums
26 charged;

27 (2) No such group life insurance coverage may be offered in
28 this state by an insurer under a policy issued in another state

1 unless this state, or another state having requirements
2 substantially similar to those contained in subdivision (1) of
3 this section, has made a determination that such requirements
4 have been met;

5 (3) The premium for the policy shall be paid either from
6 the policyholder's funds or from funds contributed by the covered
7 persons, or from both;

8 (4) An insurer may exclude or limit coverage on any person
9 as to whom evidence of individual insurability is not
10 satisfactory to the insurer.

11 376.697. No policy of group life insurance shall be
12 delivered in this state unless it contains in substance the
13 following provisions, or similar provisions which, in the opinion
14 of the director [of the department of insurance], are more
15 favorable to the persons insured or are at least as favorable to
16 the persons insured and more favorable to the policyholder;
17 provided, however, that the provisions in subdivisions (6) to
18 (11) of this section shall not apply to policies insuring the
19 lives of debtors, that the standard provisions required for
20 individual life insurance policies shall not apply to group life
21 insurance policies, and that if the group life insurance policy
22 is on a plan of insurance other than the term plan, it shall
23 contain a nonforfeiture provision which, in the opinion of the
24 director [of the department of insurance], is equitable to the
25 insured persons and to the policyholder. Nothing contained
26 herein shall be construed to require that group life insurance
27 policies contain the same nonforfeiture provisions as are
28 required for individual life insurance policies:

1 (1) A provision stating that the policyholder is entitled
2 to a grace period of thirty-one days for the payment of any
3 premium due except the first, during which grace period the death
4 benefit coverage shall continue in force, unless the policyholder
5 shall have given the insurer written notice of discontinuance in
6 advance of the date of discontinuance and in accordance with the
7 terms of the policy. The policy may provide that the
8 policyholder shall be liable to the insurer for the payment of a
9 pro rata premium for the time the policy was in force during such
10 a grace period;

11 (2) A provision stating that the validity of the policy
12 shall not be contested except for nonpayment of premiums and
13 fraudulent misstatements made by the applicant in the application
14 for such policy after the policy has been in force for two years
15 from its date of issue, and that no statement made by any person
16 insured under the policy relating to his insurability shall be
17 used in contesting the validity of the insurance with respect to
18 which such statement was made after such insurance has been in
19 force during such person's lifetime for a period of two years
20 prior to the contest unless it is contained in a written
21 instrument signed by such person. Nothing in this subdivision
22 shall preclude the assertion at any time of defenses based upon
23 provisions in the policy which relate to eligibility for
24 coverage;

25 (3) A provision stating that a copy of the application, if
26 any, of the policyholder shall be attached to the policy when
27 issued, that all statements made by the policyholder or by the
28 persons insured shall be deemed representations and not

1 warranties, and that no statement made by any person insured
2 shall be used in any contest unless a copy of the instrument
3 containing the statement is or has been furnished to such person
4 or, in the event of death or incapacity of the insured person, to
5 his beneficiary or personal representative;

6 (4) A provision setting forth the conditions, if any, under
7 which the insurer reserves the right to require a person eligible
8 for insurance to furnish evidence of individual insurability
9 satisfactory to the insurer as a condition to part or all of his
10 coverage;

11 (5) A provision specifying an equitable adjustment of
12 premiums or of benefits, or both, to be made in the event that
13 the age of a person insured has been misstated, which provision
14 shall contain a clear statement of the method of adjustment to be
15 made;

16 (6) A provision stating that any sum becoming due by reason
17 of the death of the person insured shall be payable to the
18 beneficiary designated by the person insured; except, that where
19 the policy contains conditions pertaining to family status, if
20 there is no designated beneficiary, the beneficiary as to all or
21 any part of the benefit sum may, subject to the provisions of the
22 policy, be the family member specified under the policy who is
23 living at the death of the person insured. The rights of such
24 family member shall be subject to any right reserved by the
25 insurer in the policy and set forth in the certificate to pay, at
26 its option, a part of such sum, not exceeding two thousand
27 dollars, to any person appearing to the insurer to be equitably
28 entitled thereto by reason of having incurred funeral or other

1 expenses incident to the last illness or death of the person
2 insured;

3 (7) A provision stating that the insurer will issue to the
4 policyholder for delivery to each person insured a certificate
5 specifying the insurance protection to which he is entitled, to
6 whom the insurance benefits are payable, any dependent's coverage
7 included in such certificate, and the rights and conditions set
8 forth in subdivisions (8), (9), (10), and (11), of this section;

9 (8) A provision stating that if the insurance, or any
10 portion of it, on a person covered under the policy, or on any
11 dependent of such person, ceases because of termination of
12 employment or of membership in any class eligible for coverage
13 under the policy, such person shall be entitled to have issued to
14 him by the insurer, without evidence of insurability, an
15 individual policy of life insurance, without disability or other
16 supplementary benefits; provided, that application for the
17 individual policy shall be made, and the first premium paid to
18 the insurer, within thirty-one days after such termination; and,
19 provided further, that:

20 (a) The individual policy shall, at the option of such
21 person, be on any one of the forms then customarily issued by the
22 insurer at the age and for the amount applied for, except that
23 the group policy may exclude the option to elect term insurance;

24 (b) The individual policy shall be in an amount which does
25 not exceed the life insurance which ceases because of such
26 termination, less the amount of any life insurance for which such
27 person becomes eligible under the same or any other group policy
28 within thirty-one days after such termination; provided, that any

1 amount of insurance which shall have matured on or before the
2 date of such termination as an endowment payable to the person
3 insured, whether in one sum, in installments, or in the form of
4 an annuity, shall not, for the purposes of this paragraph, be
5 included in the amount which is considered to cease because of
6 such termination; and

7 (c) The premium on the individual policy shall be at the
8 insurer's then customary rate applicable to the form and amount
9 of the individual policy, to the class of risk to which such
10 person then belongs, and to the individual age attained on the
11 effective date of the individual policy;

12 Subject to the same conditions set forth in paragraphs (a), (b),
13 and (c) of this subdivision the conversion privilege shall be
14 available to a surviving dependent, if any, at the death of the
15 employee or member, with respect to the coverage under the group
16 policy which terminates by reason of such death; and to the
17 dependent of the employee or member upon termination of coverage
18 of the dependent, while the employee or member remains under the
19 group policy, by reason of the dependent ceasing to be a
20 qualified family member under the group policy;

21 (9) A provision stating that if the group policy terminates
22 or is amended so as to terminate the insurance of any class of
23 insured persons, every person insured thereunder at the date of
24 such termination whose insurance terminates, including the
25 insured dependent of a covered person, and who has been so
26 insured for at least five years prior to such termination date
27 shall be entitled to have issued by the insurer an individual
28 policy of life insurance, subject to the same conditions and

1 limitations as are provided under subdivision (8) of this
2 section; except, that the group policy may provide that the
3 amount of such individual policy shall not exceed the amount of
4 the person's life insurance protection ceasing because of the
5 termination or amendment of the group policy, less the amount of
6 any life insurance for which he is or becomes eligible under a
7 group policy issued or reinstated by the same or another insurer
8 within thirty-one days after such termination, or ten thousand
9 dollars, whichever is smaller;

10 (10) A provision specifying that if a person insured under
11 the group policy, or the insured dependent of a covered person,
12 dies during the period within which the individual would have
13 been entitled to have an individual policy issued in accordance
14 with subdivision (8) or (9) of this section and before such an
15 individual policy shall have become effective, the amount of life
16 insurance which he would have been entitled to have issued under
17 such individual policy shall be payable as a claim under the
18 group policy, whether or not application for the individual
19 policy or the payment of the first premium therefor has been
20 made;

21 (11) Where active employment is a condition of insurance, a
22 provision stating that an insured may continue coverage during
23 the insured's total disability by timely payment to the
24 policyholder of that portion, if any, of the premium that would
25 have been required from the insured had total disability not
26 incurred. The continuation shall be on a premium paying basis
27 for a period of six months from the date on which the total
28 disability started, but shall not extend beyond the approval by

1 the insurer of continuation of the coverage under any disability
2 provision which the group insurance policy may contain or the
3 discontinuance of the group insurance policy, whichever occurs
4 earlier;

5 (12) In the case of a policy insuring the lives of debtors,
6 a provision stating that the insurer will furnish to the
7 policyholder for delivery to each debtor insured under the policy
8 a certificate of insurance describing the coverage and specifying
9 that the death benefit shall first be applied to reduce or
10 extinguish the indebtedness.

11 376.704. For the purposes of sections 376.700 to 376.714,
12 the following definitions shall apply:

13 (1) "Buyer's guide", a document which contains, and is
14 limited to, the language contained in section 376.714 or language
15 approved by the director [of the department of insurance];

16 (2) "Cash dividend", the current illustrated dividend which
17 can be applied toward payment of the gross premium;

18 (3) "Equivalent level annual dividend", a calculation made
19 by applying the following steps:

20 (a) Accumulate the annual cash dividends at five percent
21 interest, or other interest rate approved by the director [of the
22 department of insurance], compounded annually to the end of the
23 tenth and twentieth policy years;

24 (b) Divide each accumulation of (a) by an interest factor
25 that converts it into one equivalent level annual amount that, if
26 paid at the beginning of each year, would accrue to the values in
27 (a) over the respective periods stipulated in (a). If the period
28 is ten years, the factor is 13.207 and if the period is twenty

1 years, the factor is 34.719;

2 (c) Divide the results of (b) by the number of thousands of
3 the equivalent level death benefit to arrive at the equivalent
4 level annual dividend;

5 (4) "Equivalent level death benefit", an amount calculated
6 as follows:

7 (a) Accumulate the guaranteed amount payable upon death,
8 regardless of the cause of death, at the beginning of each policy
9 year for ten and twenty years at five percent interest, or other
10 interest rate approved by the director [of the department of
11 insurance], compounded annually to the end of the tenth and
12 twentieth policy years respectively;

13 (b) Divide each accumulation of (a) by an interest factor
14 that converts it into one equivalent level annual amount that, if
15 paid at the beginning of each year, would accrue to the value in
16 (a) over the respective periods stipulated in (a). If the period
17 is ten years, the factor is 13.207 and if the period is twenty
18 years, the factor is 34.719.

19 (5) "Generic name", a short title which is descriptive of
20 the premium and benefit patterns of a policy or a rider;

21 (6) "Life insurance cost indexes":

22 (a) "Life insurance surrender cost index", a calculation
23 made by applying the following steps:

24 a. Determine the guaranteed cash surrender value, if any,
25 available at the end of the tenth and twentieth policy years;

26 b. For participating policies, add the terminal dividend
27 payable upon surrender, if any, to the accumulation of the annual
28 cash dividends at five percent interest, or other interest rate

1 approved by the director [of the department of insurance],
2 compounded annually to the end of the period selected and add
3 this sum to the amount determined in step a;

4 c. Divide the result of step b. (step a. for
5 guaranteed-cost policies) by an interest factor that converts it
6 into an equivalent level annual amount that, if paid at the
7 beginning of each year, would accrue to the value in step b.
8 (step a. for guaranteed-cost policies) over the respective
9 periods stipulated in step a. If the period is ten years, the
10 factor is 13.207 and if the period is twenty years, the factor is
11 34.719;

12 d. Determine the equivalent level premium by accumulating
13 each annual premium payable for the basic policy or rider at five
14 percent interest, or other interest rate approved by the director
15 [of the department of insurance], compounded annually to the end
16 of the period stipulated in step a. and dividing the result by
17 the respective factors stated in step c. (This amount is the
18 annual premium payable for a level premium plan.);

19 e. Subtract the result of step c. from step d.;

20 f. Divide the result of step e. by the number of thousands
21 of the equivalent level death benefit to arrive at the life
22 insurance surrender cost index;

23 (b) "Life insurance net payment cost index", a calculation
24 made in the same manner as the comparable life insurance cost
25 index except that the cash surrender value and any terminal
26 dividend are set at zero;

27 (7) "Policy summary", for the purposes of sections 376.700
28 to 376.714, policy summary means a written statement describing

1 the elements of the policy including but not limited to:

2 (a) A prominently placed title as follows: STATEMENT OF
3 POLICY COST AND BENEFIT INFORMATION;

4 (b) The name and address of the insurance agent, or, if no
5 agent is involved, a statement of the procedure to be followed in
6 order to receive responses to inquiries regarding the policy
7 summary;

8 (c) The full name and home office or administrative office
9 address of the company in which the life insurance policy is to
10 be or has been written;

11 (d) The generic name of the basic policy and each rider;

12 (e) The following amounts, where applicable, for the first
13 five policy years and representative policy years thereafter
14 sufficient to clearly illustrate the premium and benefit
15 patterns, including, but not necessarily limited to, the years
16 for which life insurance cost indexes are displayed and at least
17 one age from sixty through sixty-five or maturity whichever is
18 earlier:

19 a. The annual premium for the basic policy;

20 b. The annual premium for each optional rider;

21 c. Guaranteed amount payable upon death, at the beginning
22 of the policy year regardless of the cause of death other than
23 suicide, or other specifically enumerated exclusions, which is
24 provided by the basic policy and each optional rider, with
25 benefits provided under the basic policy and each rider shown
26 separately;

27 d. Total guaranteed cash surrender values at the end of the
28 year with values shown separately for the basic policy and each

1 rider;

2 e. Cash dividends payable at the end of the year with
3 values shown separately for the basic policy and each rider
4 (Dividends need not be displayed beyond the twentieth policy
5 year.);

6 f. Guaranteed endowment amounts payable under the policy
7 which are not included under guaranteed cash surrender values
8 above;

9 (f) The effective policy loan annual percentage interest
10 rate, if the policy contains this provision, specifying whether
11 this rate is applied in advance or in arrears. If the policy
12 loan interest rate is variable, the policy summary includes the
13 maximum annual percentage rate;

14 (g) Life insurance cost indexes for ten and twenty years
15 but in no case beyond the premium paying period. Separate
16 indexes are displayed for the basic policy and for each optional
17 term life insurance rider. Such indexes need not be included for
18 optional riders which are limited to benefits such as accidental
19 death benefits, disability waiver of premium, preliminary term
20 life insurance coverage of less than twelve months and guaranteed
21 insurability benefits nor for basic policies or optional riders
22 covering more than one life;

23 (h) The equivalent level annual dividend, in the case of
24 participating policies and participating optional term life
25 insurance riders, under the same circumstances and for the same
26 durations at which life insurance cost indexes are displayed;

27 (i) A policy summary which includes dividends shall also
28 include a statement that dividends are based on the company's

1 current dividend scale and are not guaranteed, in addition to a
2 statement in close proximity to the equivalent level annual
3 dividend as follows: An explanation of the intended use of the
4 equivalent level annual dividend is included in the life
5 insurance buyer's guide;

6 (j) A statement in close proximity to the life insurance
7 cost indexes as follows: An explanation of the intended use of
8 these indexes is provided in the life insurance buyer's guide;

9 (k) The date on which the policy summary is prepared. The
10 policy summary must consist of a separate document. All
11 information required to be disclosed must be set out in such a
12 manner as to not minimize or render any portion thereof obscure.
13 Any amounts which remain level for two or more years of the
14 policy may be represented by a single number if it is clearly
15 indicated what amounts are applicable for each policy year.
16 Amounts in item (e) of this section shall be listed in total, not
17 on a per thousand nor per unit basis. If more than one insured
18 is covered under one policy or rider, guaranteed death benefits
19 shall be displayed separately for each insured or for each class
20 of insureds if death benefits do not differ within the class.
21 Zero amounts shall be displayed as zero and shall not be
22 displayed as a blank space.

23 376.718. As used in sections 376.715 to 376.758, the
24 following terms shall mean:

25 (1) "Account", any of the four accounts created under
26 section 376.720;

27 (2) "Annuity or annuity contract", any annuity contract or
28 group annuity certificate which is issued to and owned by an

1 individual. This definition of "annuity or annuity contract"
2 does not include any form of unallocated annuity contract;

3 (3) "Association", the Missouri life and health insurance
4 guaranty association created under section 376.720;

5 (4) "Contractual obligation", any obligation under a policy
6 or contract or certificate under a group policy or contract, or
7 portion thereof for which coverage is provided under the
8 provisions of section 376.717;

9 (5) "Covered policy", any policy or contract within the
10 scope of sections 376.715 to 376.758 under the provisions of
11 section 376.717;

12 (6) "Director", the director of the department of
13 insurance, financial and professional regulation of this state;

14 (7) "Impaired insurer", a member insurer which, after
15 August 13, 1988, is not an insolvent insurer, and is deemed by
16 the director to be potentially unable to fulfill its contractual
17 obligations, or is placed under an order of rehabilitation or
18 conservation by a court of competent jurisdiction;

19 (8) "Insolvent insurer", a member insurer which, after
20 August 13, 1988, is placed under an order of liquidation by a
21 court of competent jurisdiction with a finding of insolvency;

22 (9) "Member insurer", any insurer or health services
23 corporation licensed or which holds a certificate of authority to
24 transact in this state any kind of insurance for which coverage
25 is provided under section 376.717, and includes any insurer whose
26 license or certificate of authority in this state may have been
27 suspended, revoked, not renewed or voluntarily withdrawn, but
28 does not include:

1 (a) A health maintenance organization;
2 (b) A fraternal benefit society;
3 (c) A mandatory state pooling plan;
4 (d) A mutual assessment company or any entity that operates
5 on an assessment basis;
6 (e) An insurance exchange; or
7 (f) Any entity similar to any of the entities listed in
8 paragraphs (a) to (e) of this subdivision;
9 (10) "Moody's Corporate Bond Yield Average", the monthly
10 average corporates as published by Moody's Investors Service,
11 Inc., or any successor thereto;
12 (11) "Person", any individual, corporation, partnership,
13 association or voluntary organization;
14 (12) "Premiums", amounts received on covered policies or
15 contracts, less premiums, considerations and deposits returned
16 thereon, and less dividends and experience credits thereon. The
17 term does not include any amounts received for any policies or
18 contracts or for the portions of any policies or contracts for
19 which coverage is not provided under subsection 3 of section
20 376.717, except that assessable premium shall not be reduced on
21 account of subdivision (3) of subsection 3 of section 376.717
22 relating to interest limitations and subdivision (2) of
23 subsection 4 of section 376.717 relating to limitations with
24 respect to any one life and any one contract holder;
25 (13) "Resident", any person who resides in this state at
26 the time a member insurer is determined to be an impaired or
27 insolvent insurer and to whom a contractual obligation is owed.
28 A person may be a resident of only one state, which in the case

1 of a person other than a natural person shall be its principal
2 place of business;

3 (14) "Supplemental contract", any agreement entered into
4 for the distribution of policy or contract proceeds;

5 (15) "Unallocated annuity contract", any annuity contract
6 or group annuity certificate which is not issued to and owned by
7 an individual, except to the extent of any annuity guaranteed to
8 an individual by an insurer under such contract or certificate.

9 376.756. 1. Within one hundred eighty days of August 13,
10 1988, the association shall prepare a summary document describing
11 the general purposes and current limitations of the act and
12 complying with subsection 2 of this section. This document
13 should be submitted to the director for approval. Sixty days
14 after receiving such approval, no insurer may deliver a policy or
15 contract described in subsection 2 of section 376.717 to a policy
16 or contract holder unless the document is delivered to the policy
17 or contract holder prior to or at the time of delivery of the
18 policy or contract except if subsection 3 of this section
19 applies. The document should also be available upon request by a
20 policyholder. The distribution, delivery, or contents or
21 interpretation of this document shall not mean that either the
22 policy or the contract or the holder thereof would be covered in
23 the event of the impairment or insolvency of a member insurer.
24 The description document shall be revised by the association as
25 amendments to the act may require. Failure to receive this
26 document does not give the policyholder, contract holder,
27 certificate holder, or insured any greater rights than those
28 stated in sections 376.715 to 376.758.

1 2. The document prepared under subsection 1 of this section
2 shall contain a clear and conspicuous disclaimer on its face.
3 The director shall promulgate a rule establishing the form and
4 content of the disclaimer. The disclaimer shall:

5 (1) State the name and address of the life and health
6 insurance guaranty association and [insurance] the department of
7 insurance, financial and professional regulation;

8 (2) Prominently warn the policy or contract holder that the
9 Missouri life and health insurance guaranty association may not
10 cover the policy or, if coverage is available, it will be subject
11 to substantial limitations, exclusions and conditioned on
12 continued residence in the state;

13 (3) State that the insurer and its agents are prohibited by
14 law from using the existence of the life and health insurance
15 guaranty association for the purpose of sales, solicitation or
16 inducement to purchase any form of insurance;

17 (4) Emphasize that the policy or contract holder should not
18 rely on coverage under the Missouri life and health insurance
19 guaranty association when selecting an insurer;

20 (5) Provide other information as directed by the director.

21 3. No insurer or agent may deliver a policy or contract
22 described in subsection 2 of section 376.717 and excluded under
23 subsection 3 of section 376.717 from coverage under the
24 provisions of sections 376.715 to 376.758 unless the insurer or
25 agent, prior to or at the time of delivery, gives the policy or
26 contract holder a separate written notice which clearly and
27 conspicuously discloses that the policy or contract is not
28 covered by the Missouri life and health insurance guaranty

1 association. The director shall by rule specify the form and
2 content of the notice.

3 376.773. 1. The word "insurer" as used in sections 376.770
4 to 376.800 shall mean any insurance company issuing or writing
5 any policy of accident and sickness insurance which is subject to
6 the provisions of sections 376.770 to 376.800.

7 2. The term "policy of accident and sickness insurance" as
8 used in sections 376.770 to 376.800 includes any policy or
9 contract of insurance against loss resulting from sickness or
10 from bodily injury or death by accident, or both, issued or
11 written by any insurance company authorized under the laws of the
12 state of Missouri to transact such insurance in this state or
13 issued by any insurance company to a resident of the state of
14 Missouri.

15 3. The term "director [of insurance]" as used in sections
16 376.770 to 376.800 shall mean the director of the department of
17 insurance, financial and professional regulation.

18 376.775. 1. No policy of accident and sickness insurance
19 shall be delivered or issued for delivery to any person in this
20 state unless:

21 (1) The entire money and other considerations therefor are
22 expressed therein; and

23 (2) The time at which the insurance takes effect and
24 terminates is expressed therein, except that if the policy is
25 delivered subject to the condition that it shall take effect when
26 the first premium is accepted by the insurer, the time at which
27 the insurance takes effect and terminates may be expressed in the
28 insurer's executed premium receipt which shall by reference be

1 made a part of the policy; and

2 (3) It purports to insure only one person, except that a
3 policy may insure, originally or by subsequent amendment, upon
4 the application of an adult member of a family who shall be
5 deemed to be the policyholder, any two or more eligible members
6 of that family, including husband, wife, dependent children or
7 any children under a specified age which shall not exceed
8 nineteen years and any other person dependent upon the
9 policyholder; and

10 (4) The style, arrangement and overall appearance of the
11 policy give no undue prominence to any portion of the text, and
12 unless every printed portion of the text of the policy and of any
13 endorsements or attached papers is plainly printed in lightfaced
14 type of a style in general use, the size of which shall be
15 uniform and not less than ten-point with a lowercase unspaced
16 alphabet length not less than one hundred and twenty-point (the
17 "text" shall include all printed matter except the name and
18 address of the insurer, name or title of the policy, the brief
19 description, if any, and captions and subcaptions); and

20 (5) The exceptions and reductions of indemnity are set
21 forth in the policy and, except those which are set forth in
22 section 376.777, are printed, at the insurer's option, either
23 included with the benefit provision to which they apply, or under
24 an appropriate caption such as "EXCEPTIONS", or "EXCEPTIONS AND
25 REDUCTIONS", provided that if an exception or reduction
26 specifically applies only to a particular benefit of the policy,
27 a statement of such exception or reduction shall be included with
28 the benefit provision to which it applies; and

1 (6) Each such form, including riders and endorsements,
2 shall be identified by a form number in the lower left-hand
3 corner of the first page thereof; and

4 (7) It contains no provision purporting to make any portion
5 of the charter, rules, constitution, or bylaws of the insurer a
6 part of the policy unless such portion is set forth in full in
7 the policy, except in the case of the incorporation of, or
8 reference to, a statement of rates or classification of risks, or
9 short-rate table filed with the director [of insurance].

10 2. If any policy is issued by an insurer domiciled in this
11 state for delivery to a person residing in another state, and if
12 the official having responsibility for the administration of the
13 insurance laws of such other state shall have advised the
14 director [of insurance] that any such policy is not subject to
15 approval or disapproval by such official, the director [of
16 insurance] may by ruling require that such policy meet the
17 standards set forth in subsection 1 of this section and in
18 section 376.777.

19 376.777. 1. Required provisions. Except as provided in
20 subsection 3 of this section each such policy delivered or issued
21 for delivery to any person in this state shall contain the
22 provisions specified in this subsection in the words in which the
23 same appear in this section; provided, however, that the insurer
24 may, at its option, substitute for one or more of such provisions
25 corresponding provisions of different wording approved by the
26 director [of insurance] which are in each instance not less
27 favorable in any respect to the insured or the beneficiary. Such
28 provisions shall be preceded individually by the caption

1 appearing in this subsection or, at the option of the insurer, by
2 such appropriate individual or group captions or subcaptions as
3 the director [of insurance] may approve.

4 (1) A provision as follows:

5 "ENTIRE CONTRACT; CHANGES:

6 This policy, including the endorsements and the attached papers,
7 if any, constitutes the entire contract of insurance. No change
8 in this policy shall be valid until approved by an executive
9 officer of the insurer and unless such approval be endorsed
10 hereon or attached hereto. No agent has authority to change this
11 policy or to waive any of its provisions".

12 (When under the provisions of subdivision (2) of subsection
13 1 of section 376.775 the effective and termination dates are
14 stated in the premium receipt, the insurer shall insert in the
15 first sentence of the foregoing policy provision immediately
16 following the comma after the word "any", the following words:
17 "and the insurer's official premium receipt when executed").

18 (2) A provision as follows:

19 "TIME LIMIT ON CERTAIN DEFENSES:

20 (a) After two years from the date of issue of this policy
21 no misstatements, except fraudulent misstatements, made by the
22 applicant in the application for such policy shall be used to
23 void the policy or to deny a claim for loss incurred or
24 disability (as defined in the policy) commencing after the
25 expiration of such two-year period".

26 (The foregoing policy provision shall not be so construed as
27 to affect any legal requirements for avoidance of a policy or
28 denial of a claim during such initial two-year period, nor to

1 limit the application of subdivisions (1), (2), (3), (4) and (5)
2 of subsection 2 of this section in the event of misstatement with
3 respect to age or occupation or other insurance.)

4 (A policy which the insured has the right to continue in
5 force subject to its terms by the timely payment of premium (1)
6 until at least age fifty or, (2) in the case of a policy issued
7 after age forty-four, for at least five years from its date of
8 issue, may contain in lieu of the foregoing the following
9 provision (from which the clause in parentheses may be omitted at
10 the insurer's option) under the caption "UNCONTESTABLE":

11 "After this policy has been in force for a period of three years
12 during the lifetime of the insured (excluding any period during
13 which the insured is disabled), it shall become uncontestable as
14 to the statements contained in the application).

15 (b) No claim for loss incurred or disability (as defined in
16 the policy) commencing after two years from the date of issue of
17 this policy shall be reduced or denied on the ground that a
18 disease or physical condition not excluded from coverage by name
19 or specific description effective on the date of loss had existed
20 prior to the effective date of coverage of this policy."

21 (3) A provision as follows: "GRACE PERIOD: A grace period
22 of . . . (insert a number not less than "7" for weekly premium
23 policies, "10" for monthly premium policies and "31" for all
24 other policies) days will be granted for the payment of each
25 premium falling due after the first premium, during which grace
26 period the policy shall continue in force."

27 (A policy which contains a cancellation provision may add,
28 at the end of the above provision, subject to the right of the

1 insurer to cancel in accordance with the cancellation provision
2 hereof. A policy in which the insurer reserves the right to
3 refuse any renewal shall have, at the beginning of the above
4 provision, "Unless not less than five days prior to the premium
5 due date the insurer has delivered to the insured or has mailed
6 to his last address as shown by the records of the insurer
7 written notice of its intention not to renew this policy beyond
8 the period for which the premium has been accepted").

9 (4) A provision as follows:

10 "REINSTATEMENT:

11 If any renewal premium be not paid within the time granted
12 the insured for payment, a subsequent acceptance of premium by
13 the insurer or by any agent duly authorized by the insurer to
14 accept such premium, without requiring in connection therewith an
15 application for reinstatement, shall reinstate the policy;
16 provided, however, that if the insurer or such agent requires an
17 application for reinstatement and issues a conditional receipt
18 for the premium tendered, the policy will be reinstated upon
19 approval of such application by the insurer, or, lacking such
20 approval, upon the forty-fifth day following the date of such
21 conditional receipt unless the insurer has previously notified
22 the insured in writing of its disapproval of such application.
23 The reinstated policy shall cover only loss resulting from such
24 accidental injury as may be sustained after the date of
25 reinstatement and loss due to such sickness as may begin more
26 than ten days after such date. In all other respects the insured
27 and insurer shall have the same rights thereunder as they had
28 under the policy immediately before the due date of the defaulted

1 premium, subject to any provisions endorsed hereon or attached
2 hereto in connection with the reinstatement. Any premium
3 accepted in connection with a reinstatement shall be applied to a
4 period for which premium has not been previously paid, but not to
5 any period more than sixty days prior to the date of
6 reinstatement".

7 (The last sentence of the above provision may be omitted
8 from any policy which the insured has the right to continue in
9 force subject to its terms by the timely payment of premiums (1)
10 until at least age fifty or, (2) in the case of a policy issued
11 after age forty-four, for at least five years from its date of
12 issue.)

13 (5) A provision as follows:

14 "NOTICE OF CLAIM:

15 Written notice of claim must be given to the insurer within
16 twenty days after the occurrence or commencement of any loss
17 covered by the policy, or as soon thereafter as is reasonably
18 possible. Notice given by or on behalf of the insured or the
19 beneficiary to the insured at (insert the location of
20 such office as the insurer may designate for the purpose), or to
21 any authorized agent of the insurer, with information sufficient
22 to identify the insured, shall be deemed notice to the insurer".

23 (In a policy providing a loss-of-time benefit which may be
24 payable for at least two years, an insurer may at its option
25 insert the following between the first and second sentences of
26 the above provision: "Subject to the qualifications set forth
27 below, if the insured suffers loss of time on account of
28 disability for which indemnity may be payable for at least two

1 years, he shall, at least once in every six months after having
2 given notice of claim, give to the insurer notice of continuance
3 of said disability, except in the event of legal incapacity. The
4 period of six months following any filing of proof by the insured
5 or any payment by the insurer on account of such claim or any
6 denial of liability in whole or in part by the insurer shall be
7 excluded in applying this provision. Delay in the giving of such
8 notice shall not impair the insured's right to any indemnity
9 which would otherwise have accrued during the period of six
10 months preceding the date on which such notice is actually
11 given").

12 (6) A provision as follows:

13 "CLAIM FORMS:

14 The insurer upon receipt of a notice of claim, will furnish
15 to the claimant such forms as are usually furnished by it for
16 filing proofs of loss. If such forms are not furnished within
17 fifteen days after the giving of such notice the claimant shall
18 be deemed to have complied with the requirements of this policy
19 as to proof of loss upon submitting, within the time fixed in the
20 policy for filing proofs of loss, written proof covering the
21 occurrence, the character and the extent of the loss for which
22 claim is made".

23 (7) A provision as follows:

24 "PROOFS OF LOSS:

25 Written proof of loss must be furnished to the insurer at
26 its said office in case of claim for loss for which this policy
27 provides any periodic payment contingent upon continuing loss
28 within ninety days after the termination of the period for which

1 the insurer is liable and in case of claim for any other loss
2 within ninety days after the date of such loss. Failure to
3 furnish such proof within the time required shall not invalidate
4 nor reduce any claim if it was not reasonably possible to give
5 proof within such time, provided such proof is furnished as soon
6 as reasonably possible and in no event, except in the absence of
7 legal capacity, later than one year from the time proof is
8 otherwise required".

9 (8) A provision as follows:

10 "TIME OF PAYMENT OF CLAIMS:

11 Indemnities payable under this policy for any loss other
12 than loss for which this policy provides any periodic payment
13 will be paid immediately upon receipt of due written proof of
14 such loss. Subject to due written proof of loss, all accrued
15 indemnities for loss for which this policy provides periodic
16 payment will be paid (insert period for payment which
17 must not be less frequently than monthly) and any balance
18 remaining unpaid upon the termination of liability will be paid
19 immediately upon receipt of due written proof".

20 (9) A provision as follows:

21 "PAYMENT OF CLAIMS:

22 Indemnity for loss of life will be payable in accordance
23 with the beneficiary designation and the provisions respecting
24 such payment which may be prescribed herein and effective at the
25 time of payment. If no such designation or provision is then
26 effective, such indemnity shall be payable to the estate of the
27 insured. Any other accrued indemnities unpaid at the insured's
28 death may, at the option of the insurer, be paid either to such

1 beneficiary or to such estate. All other indemnities will be
2 payable to the insured".

3 (The following provisions, or either of them, may be
4 included with the foregoing provision at the option of the
5 insurer:

6 "If any indemnity of this policy shall be payable to the estate
7 of the insured, or to an insured or beneficiary who is a minor or
8 otherwise not competent to give a valid release, the insurer may
9 pay such indemnity, up to an amount not exceeding \$..... (insert
10 an amount which shall not exceed one thousand dollars), to any
11 relative by blood or connection by marriage of the insured or
12 beneficiary who is deemed by the insurer to be equitably entitled
13 thereto. Any payment made by the insurer in good faith pursuant
14 to this provision shall fully discharge the insurer to the extent
15 of such payment. Subject to any written direction of the insured
16 in the application or otherwise all or a portion of any
17 indemnities provided by this policy on account of hospital,
18 nursing, medical, or surgical services may, at the insurer's
19 option and unless the insured requests otherwise in writing not
20 later than the time of filing proofs of such loss, be paid
21 directly to the hospital or person rendering such services; but
22 it is not required that the service be rendered by a particular
23 hospital or person").

24 (10) A provision as follows:

25 "PHYSICAL EXAMINATIONS AND AUTOPSY:

26 The insurer at its own expense shall have the right and
27 opportunity to examine the person of the insured when and as
28 often as it may reasonably require during the pendency of a claim

1 hereunder and to make an autopsy in case of death where it is not
2 forbidden by law".

3 (11) A provision as follows:

4 "LEGAL ACTIONS:

5 No action at law or in equity shall be brought to recover on
6 this policy prior to the expiration of sixty days after written
7 proof of loss has been furnished in accordance with the
8 requirements of this policy. No such action shall be brought
9 after the expiration of three years after the time written proof
10 of loss is required to be furnished".

11 (12) A provision as follows:

12 "CHANGE OF BENEFICIARY:

13 Unless the insured makes an irrevocable designation of
14 beneficiary, the right to change of beneficiary is reserved to
15 the insured and the consent of the beneficiary or beneficiaries
16 shall not be requisite to surrender or assignment of this policy
17 or to change of beneficiary or beneficiaries, or to any other
18 changes in this policy".

19 (The first clause of this provision, relating to the
20 irrevocable designation of beneficiary, may be omitted at the
21 insurer's option).

22 2. Other provisions. Except as provided in subsection 3 of
23 this section, no such policy delivered or issued for delivery to
24 any person in this state shall contain provisions respecting the
25 matters set forth below unless such provisions are in the words
26 in which the same appear in this section; provided, however, that
27 the insurer may, at its option, use in lieu of any such provision
28 a corresponding provision of different wording approved by the

1 director [of insurance] which is not less favorable in any
2 respect to the insured or the beneficiary. Any such provision
3 contained in the policy shall be preceded individually by the
4 appropriate caption appearing in this subsection or, at the
5 option of the insurer, by such appropriate individual or group
6 captions or subcaptions as the director [of insurance] may
7 approve.

8 (1) A provision as follows:

9 "CHANGE OF OCCUPATION:

10 If the insured [be] is injured or contract sickness after
11 having changed his occupation to one classified by the insurer as
12 more hazardous than that stated in this policy or while doing for
13 compensation anything pertaining to an occupation so classified,
14 the insurer will pay only such portion of the indemnities
15 provided in this policy as the premium paid would have purchased
16 at the rates and within the limits fixed by the insurer for such
17 more hazardous occupation. If the insured changes his occupation
18 to one classified by the insurer as less hazardous than that
19 stated in this policy, the insurer, upon receipt of proof of such
20 change of occupation, will reduce the premium rate accordingly,
21 and will return the excess pro rata unearned premium from the
22 date of change of occupation or from the policy anniversary date
23 immediately preceding receipt of such proof, whichever is the
24 more recent. In applying this provision, the classification of
25 occupational risk and the premium rates shall be such as have
26 been last filed by the insurer prior to the occurrence of the
27 loss for which the insurer is liable or prior to date of proof of
28 change in occupation with the state official having supervision

1 of insurance in the state where the insured resided at the time
2 this policy was issued; but if such filing was not required, then
3 the classification of occupational risk and the premium rates
4 shall be those last made effective by the insurer in such state
5 prior to the occurrence of the loss or prior to the date of proof
6 of change in occupation".

7 (2) A provision as follows:

8 "MISSTATEMENT OF AGE:

9 If the age of the insured has been misstated, all amounts
10 payable under this policy shall be such as the premium paid would
11 have purchased at the correct age".

12 (3) A provision as follows:

13 "OTHER INSURANCE IN THIS INSURER:

14 If an accident or sickness or accident and sickness policy
15 or policies previously issued by the insurer to the insured be in
16 force concurrently herewith, making the aggregate indemnity for
17 (insert type of coverage or coverages) in excess of
18 \$..... (insert maximum limit of indemnity or indemnities) the
19 excess insurance shall be void and all premiums paid for such
20 excess shall be returned to the insured or to his estate, or in
21 lieu thereof.

22 Insurance effective at any one time on the insured under a like
23 policy or policies in this insurer is limited to the one such
24 policy elected by the insured, his beneficiary or his estate, as
25 the case may be, and the insurer will return all premiums paid
26 for all other such policies".

27 (4) A provision as follows:

28 "INSURANCE WITH OTHER INSURERS:

1 If there be other valid coverage, not with this insurer,
2 providing benefits for the same loss on a provision of service
3 basis or on an expense incurred basis and of which this insurer
4 has not been given written notice prior to the occurrence or
5 commencement of loss, the only liability under any expense
6 incurred coverage of this policy shall be for such proportion of
7 the loss as the amount which would otherwise have been payable
8 hereunder plus the total of the like amounts under all such other
9 valid coverages for the same loss of which this insurer had
10 notice bears to the total like amounts under all valid coverages
11 for such loss, and for the return of such portion of the premiums
12 paid as shall exceed the pro rata portion for the amount so
13 determined. For the purpose of applying this provision when
14 other coverage is on a provision of service basis, the "like
15 amount" of such other coverage shall be taken as the amount which
16 the services rendered would have cost in the absence of such
17 coverage".

18 (If the foregoing policy provision is included in a policy
19 which also contains the next following policy provision there
20 shall be added to the caption of the foregoing provision the
21 phrase--"EXPENSE INCURRED BENEFITS". The insurer may, at its
22 option, include in this provision a definition of "other valid
23 coverage", approved as to form by the director [of insurance],
24 which definition shall be limited in subject matter to coverage
25 provided by organizations subject to regulation by insurance law
26 or by insurance authorities of this or any other state of the
27 United States or any province of Canada, and by hospital or
28 medical service organizations, and to any other coverage the

1 inclusion of which may be approved by the director [of
2 insurance]. In the absence of such definition such term shall
3 not include group insurance, automobile medical payments
4 insurance, or coverage provided by hospital or medical service
5 organizations or by union welfare plans or employer or employees
6 benefit organizations. For the purpose of applying the foregoing
7 policy provision with respect to any insured, any amount of
8 benefit provided for such insured pursuant to any compulsory
9 benefit statute (including any workers' compensation or
10 employer's liability statute whether provided by a governmental
11 agency or otherwise shall in all cases be deemed to be "other
12 valid coverage" of which the insurer has had notice. In applying
13 the foregoing policy provision no third party liability coverage
14 shall be included as "other valid coverage").

15 (5) A provision as follows:

16 "INSURANCE WITH OTHER INSURERS:

17 If there be other valid coverage, not with this insurer,
18 providing benefits for the same loss on other than an expense
19 incurred basis and of which this insurer has not been given
20 written notice prior to the occurrence or commencement of loss,
21 the only liability for such benefits under this policy shall be
22 for such proportion of the indemnities otherwise provided
23 hereunder for such loss as the like indemnities of which the
24 insurer had notice (including the indemnities under this policy)
25 bear to the total amount of all like indemnities for such loss,
26 and for the return of such portion of the premium paid as shall
27 exceed the pro rata portion for the indemnities thus determined".

28 (If the foregoing policy provision is included in a policy

1 which also contains the next preceding policy provision there
2 shall be added to the caption of the foregoing provision the
3 phrase--"OTHER BENEFITS". The insurer may, at its option,
4 include in this provision a definition of "other valid coverage",
5 approved as to form by the director [of insurance] which
6 definition shall be limited in subject matter to coverage
7 provided by organizations subject to regulation by insurance law
8 or by insurance authorities of this or any other state of the
9 United States or any province of Canada, and to any other
10 coverage the inclusion of which may be approved by the director
11 [of insurance]. In the absence of such definition such term
12 shall not include group insurance, or benefits provided by union
13 welfare plans or by employer or employee benefit organizations.
14 For the purpose of applying the foregoing policy provision with
15 respect to any insured, any amount of benefit provided for such
16 insured pursuant to any compulsory benefit statute (including any
17 workers' compensation or employer's liability statute) whether
18 provided by a governmental agency or otherwise shall in all cases
19 be deemed to be "other valid coverage", of which the insurer has
20 had notice. In applying the foregoing policy provision no third
21 party liability coverage shall be included as "other valid
22 coverage").

23 (6) A provision as follows:

24 "RELATION OF EARNINGS TO INSURANCE:

25 If the total monthly amount of loss of time benefits
26 promised for the same loss under all valid loss of time coverage
27 upon the insured, whether payable on a weekly or monthly basis,
28 shall exceed the monthly earnings of the insured at the time

1 disability commenced or his average monthly earnings for the
2 period of two years immediately preceding a disability for which
3 claim is made, whichever is the greater, the insurer will be
4 liable only for such proportionate amount of such benefits under
5 this policy as the amount of such monthly earnings or such
6 average monthly earnings of the insured bears to the total amount
7 of monthly benefits for the same loss under all such coverage
8 upon the insured at the time such disability commences and for
9 the return of such part of the premiums paid during such two
10 years as shall exceed the pro rata amount of the premiums for the
11 benefits actually paid hereunder; but this shall not operate to
12 reduce the total monthly amount of benefits payable under all
13 such coverage upon the insured below the sum of two hundred
14 dollars or the sum of the monthly benefits specified in such
15 coverages, whichever is the lesser, nor shall it operate to
16 reduce benefits other than those payable for loss of time".

17 (The foregoing policy provision may be inserted only in a
18 policy which the insured has the right to continue in force
19 subject to its terms by the timely payment of premiums (1) until
20 at least age fifty or, (2) in the case of a policy issued after
21 age forty-four, for at least five years from this date of issue.
22 The insurer may, at its option, include in this provision a
23 definition of "valid loss of time coverage", approved as to form
24 by the director [of insurance], which definition shall be limited
25 in subject matter to coverage provided by governmental agencies
26 or by organizations subject to regulation by insurance law or by
27 insurance authorities of this or any other state of the United
28 States or any province of Canada, or to any other coverage the

1 inclusion of which may be approved by the director [of insurance]
2 or any combination of such coverages. In the absence of such
3 definition such term shall not include any coverage provided for
4 such insured pursuant to any compulsory benefit statute
5 (including any workers' compensation or employer's liability
6 statute), or benefits provided by union welfare plans or by
7 employer or employee benefit organizations).

8 (7) A provision as follows:

9 "UNPAID PREMIUM:

10 Upon the payment of a claim under this policy, any premium
11 then due and unpaid or covered by any note or written order may
12 be deducted therefrom".

13 (8) A provision as follows:

14 "CANCELLATION:

15 The insurer may cancel this policy at any time by written
16 notice delivered to the insured, or mailed to his last address as
17 shown by the records of the insurer, stating when, not less than
18 five days thereafter, such cancellation shall be effective; and
19 after the policy has been continued beyond its original term the
20 insured may cancel this policy at any time by written notice
21 delivered or mailed to the insurer, effective upon receipt or on
22 such later date as may be specified in such notice. In the event
23 of cancellation, the insurer will return promptly the unearned
24 portion of any premium paid. If the insured cancels, the earned
25 premium shall be computed by the use of the short-rate table last
26 filed with the state official having supervision of insurance in
27 the state where the insured resided when the policy was issued.
28 If the insurer cancels, the earned premium shall be computed pro

1 rata. Cancellation shall be without prejudice to any claim
2 originating prior to the effective date of cancellation".

3 (9) A provision as follows:

4 "CONFORMITY WITH STATE STATUTES:

5 Any provision of this policy which, on its effective date,
6 is in conflict with the statutes of the state in which the
7 insured resides on such date is hereby amended to conform to the
8 minimum requirements of such statutes".

9 (10) A provision as follows:

10 "ILLEGAL OCCUPATION:

11 The insurer shall not be liable for any loss to which a
12 contributing cause was the insured's commission of or attempt to
13 commit a felony or to which a contributing cause was the
14 insured's being engaged in an illegal occupation".

15 (11) A provision as follows:

16 "INTOXICANTS AND NARCOTICS:

17 The insurer shall not be liable for any loss sustained or
18 contracted in consequence of the insured's being intoxicated or
19 under the influence of any narcotic unless administered on the
20 advice of a physician".

21 3. Inapplicable or inconsistent provisions. If any
22 provision of this section is in whole or in part inapplicable to
23 or inconsistent with the coverage provided by a particular form
24 of policy the insurer, with the approval of the director [of
25 insurance], shall omit from such policy an inapplicable provision
26 or part of a provision, and shall modify any inconsistent
27 provision or part of the provision, in such manner as to make the
28 provision as contained in the policy consistent with the coverage

1 provided by the policy.

2 4. Order of certain policy provisions. The provisions
3 which are the subject of subsections 1 and 2 of this section, or
4 any corresponding provisions which are used in lieu thereof in
5 accordance with such subsections, shall be printed in the
6 consecutive order of the provisions in such subsections or, at
7 the option of the insurer, any such provision may appear as a
8 unit in any part of the policy, with other provisions to which it
9 may be logically related, provided the resulting policy shall not
10 be in whole or in part unintelligible, uncertain, ambiguous,
11 abstruse, or likely to mislead a person to whom the policy is
12 offered, delivered or issued.

13 5. Third party ownership. The word "insured" as used in
14 sections 376.770 to 376.800, shall not be construed as preventing
15 a person other than the insured with a proper insurable interest
16 from making application for and owning a policy covering the
17 insured or from being entitled under such a policy to any
18 indemnities, benefits and rights provided therein.

19 6. Requirements of other jurisdictions.

20 (1) Any policy of a foreign or alien insurer, when
21 delivered or issued for delivery to any person in this state, may
22 contain any provision which is not less favorable to the insured
23 or the beneficiary than the provisions of sections 376.770 to
24 376.800 and which is prescribed or required by the law of the
25 state under which the insurer is organized.

26 (2) Any policy of a domestic insurer may, when issued for
27 delivery in any other state or country, contain any provision
28 permitted or required by the laws of such other state or country.

1 7. Approval of policies.

2 (1) No policy subject to sections 376.770 to 376.800 shall
3 be delivered or issued for delivery to any person in this state
4 unless such policy, including any rider, endorsement or other
5 provisions, supplementary thereto, shall have been approved by
6 the director [of insurance].

7 (2) The director [of insurance] shall have authority to
8 make such reasonable rules and regulations concerning the filing
9 and submission of policies as are necessary, proper or advisable.
10 Such rules and regulations shall provide, among other things,
11 that if a policy form is disapproved, the reasons therefor shall
12 be stated in writing; that a hearing shall be granted upon such
13 disapproval, if so requested; and that the failure of the
14 director [of insurance] to take action approving or disapproving
15 a submitted policy form within a stipulated time, not to exceed
16 sixty days from the date of filing, shall be deemed an approval
17 thereof until such time as the director [of insurance] shall
18 notify the submitting company, in writing, of his disapproval
19 thereof.

20 (3) The director [of insurance] shall approve only those
21 policies which are in compliance with the insurance laws of this
22 state and which contain such words, phraseology, conditions and
23 provisions which are specific, certain and unambiguous and
24 reasonably adequate to meet needed requirements for the
25 protection of those insured. The disapproval of any policy form
26 shall be based upon the requirements of the laws of this state or
27 of any regulation lawfully promulgated thereunder.

28 (4) The director [of insurance] may, by order or bulletin,

1 exempt from the approval requirements of this section for so long
2 as he deems proper any insurance policy, document, or form or
3 type thereof, as specified in such order or bulletin, to which,
4 in his opinion, this section may not practicably be applied, or
5 the approval of which is, in his opinion, not desirable or
6 necessary for the protection of the public.

7 376.779. 1. All health plans or policies that are
8 individually underwritten or provide for such coverage for
9 specific individuals and the members of their families, which
10 provide for hospital treatment, shall provide coverage, while
11 confined in a hospital or in a residential or nonresidential
12 facility certified by the department of mental health, for
13 treatment of alcoholism on the same basis as coverage for any
14 other illness, except that coverage may be limited to thirty days
15 in any policy or contract benefit period. All Missouri
16 individual contracts issued on or after January 1, 2005, shall be
17 subject to this section. Coverage required by this section shall
18 be included in the policy or contract and payment provided as for
19 other coverage in the same policy or contract notwithstanding any
20 construction or relationship of interdependent contracts or plans
21 affecting coverage and payment of reimbursement prerequisites
22 under the policy or contract.

23 2. Insurers, corporations or groups providing coverage may
24 approve for payment or reimbursement vendors and programs
25 providing services or treatment required by this section. Any
26 vendor or person offering services or treatment subject to the
27 provisions of this section and seeking approval for payment or
28 reimbursement shall submit to the department of mental health a

1 detailed description of the services or treatment program to be
2 offered. The department of mental health shall make copies of
3 such descriptions available to insurers, corporations or groups
4 providing coverage under the provisions of this section. Each
5 insurer, corporation or group providing coverage shall notify the
6 vendor or person offering service or treatment as to its
7 acceptance or rejection for payment or reimbursement; provided,
8 however, payment or reimbursement shall be made for any service
9 or treatment program certified by the department of mental
10 health. Any notice of rejection shall contain a detailed
11 statement of the reasons for rejection and the steps and
12 procedures necessary for acceptance. Amended descriptions of
13 services or treatment programs to be offered may be filed with
14 the department of mental health. Any vendor or person rejected
15 for approval of payment or reimbursement may modify their
16 description and treatment program and submit copies of the
17 amended description to the department of mental health and to the
18 insurer, corporation or group which rejected the original
19 description.

20 3. The department of mental health may issue rules
21 necessary to carry out the provisions of this section. [No rule
22 or portion of a rule promulgated under the authority of this
23 section shall become effective unless it has been promulgated
24 pursuant to the provisions of section 536.024, RSMo.] Any rule or
25 portion of a rule, as that term is defined in section 536.010,
26 RSMo, that is created under the authority delegated in this
27 section shall become effective only if it complies with and is
28 subject to all of the provisions of chapter 536, RSMo, and, if

1 applicable, section 536.028, RSMo. This section and chapter 536,
2 RSMo, are nonseverable and if any of the powers vested with the
3 general assembly pursuant to chapter 536, RSMo, to review, to
4 delay the effective date, or to disapprove and annul a rule are
5 subsequently held unconstitutional, then the grant of rulemaking
6 authority and any rule proposed or adopted after August 28, 2007,
7 shall be invalid and void.

8 4. All substance abuse treatment programs in Missouri
9 receiving funding from the Missouri department of mental health
10 must be certified by the department.

11 5. This section shall not apply to a supplemental insurance
12 policy, including a life care contract, accident-only policy,
13 specified disease policy, hospital policy providing a fixed daily
14 benefit only, Medicare supplement policy, long-term care policy,
15 hospitalization-surgical care policy, short-term major medical
16 policy of six months or less duration, or any other supplemental
17 policy as determined by the director [of the department of
18 insurance].

19 376.811. 1. Every insurance company and health services
20 corporation doing business in this state shall offer in all
21 health insurance policies benefits or coverage for chemical
22 dependency meeting the following minimum standards:

23 (1) Coverage for outpatient treatment through a
24 nonresidential treatment program, or through partial- or full-day
25 program services, of not less than twenty-six days per policy
26 benefit period;

27 (2) Coverage for residential treatment program of not less
28 than twenty-one days per policy benefit period;

1 (3) Coverage for medical or social setting detoxification
2 of not less than six days per policy benefit period;

3 (4) The coverages set forth in this subsection may be
4 subject to a separate lifetime frequency cap of not less than ten
5 episodes of treatment, except that such separate lifetime
6 frequency cap shall not apply to medical detoxification in a
7 life-threatening situation as determined by the treating
8 physician and subsequently documented within forty-eight hours of
9 treatment to the reasonable satisfaction of the insurance company
10 or health services corporation; and

11 (5) The coverages set forth in this subsection:

12 (a) Shall be subject to the same coinsurance, co-payment
13 and deductible factors as apply to physical illness;

14 (b) May be administered pursuant to a managed care program
15 established by the insurance company or health services
16 corporation; and

17 (c) May deliver covered services through a system of
18 contractual arrangements with one or more providers, hospitals,
19 nonresidential or residential treatment programs, or other mental
20 health service delivery entities certified by the department of
21 mental health, or accredited by a nationally recognized
22 organization, or licensed by the state of Missouri.

23 2. In addition to the coverages set forth in subsection 1
24 of this section, every insurance company, health services
25 corporation and health maintenance organization doing business in
26 this state shall offer in all health insurance policies, benefits
27 or coverages for recognized mental illness, excluding chemical
28 dependency, meeting the following minimum standards:

1 (1) Coverage for outpatient treatment, including treatment
2 through partial- or full-day program services, for mental health
3 services for a recognized mental illness rendered by a licensed
4 professional to the same extent as any other illness;

5 (2) Coverage for residential treatment programs for the
6 therapeutic care and treatment of a recognized mental illness
7 when prescribed by a licensed professional and rendered in a
8 psychiatric residential treatment center licensed by the
9 department of mental health or accredited by the Joint Commission
10 on Accreditation of Hospitals to the same extent as any other
11 illness;

12 (3) Coverage for inpatient hospital treatment for a
13 recognized mental illness to the same extent as for any other
14 illness, not to exceed ninety days per year;

15 (4) The coverages set forth in this subsection shall be
16 subject to the same coinsurance, co-payment, deductible, annual
17 maximum and lifetime maximum factors as apply to physical
18 illness; and

19 (5) The coverages set forth in this subsection may be
20 administered pursuant to a managed care program established by
21 the insurance company, health services corporation or health
22 maintenance organization, and covered services may be delivered
23 through a system of contractual arrangements with one or more
24 providers, community mental health centers, hospitals,
25 nonresidential or residential treatment programs, or other mental
26 health service delivery entities certified by the department of
27 mental health, or accredited by a nationally recognized
28 organization, or licensed by the state of Missouri.

1 3. The offer required by sections 376.810 to 376.814 may be
2 accepted or rejected by the group or individual policyholder or
3 contract holder and, if accepted, shall fully and completely
4 satisfy and substitute for the coverage under section 376.779.
5 Nothing in sections 376.810 to 376.814 shall prohibit an
6 insurance company, health services corporation or health
7 maintenance organization from including all or part of the
8 coverages set forth in sections 376.810 to 376.814 as standard
9 coverage in their policies or contracts issued in this state.

10 4. Every insurance company, health services corporation and
11 health maintenance organization doing business in this state
12 shall offer in all health insurance policies mental health
13 benefits or coverage as part of the policy or as a supplement to
14 the policy. Such mental health benefits or coverage shall
15 include at least two sessions per year to a licensed
16 psychiatrist, licensed psychologist, licensed professional
17 counselor, or licensed clinical social worker acting within the
18 scope of such license and under the following minimum standards:

19 (1) Coverage and benefits in this subsection shall be for
20 the purpose of diagnosis or assessment, but not dependent upon
21 findings; and

22 (2) Coverage and benefits in this subsection shall not be
23 subject to any conditions of preapproval, and shall be deemed
24 reimbursable as long as the provisions of this subsection are
25 satisfied; and

26 (3) Coverage and benefits in this subsection shall be
27 subject to the same coinsurance, co-payment and deductible
28 factors as apply to regular office visits under coverages and

1 benefits for physical illness.

2 5. If the group or individual policyholder or contract
3 holder rejects the offer required by this section, then the
4 coverage shall be governed by the mental health and chemical
5 dependency insurance act as provided in sections 376.825 to
6 376.836.

7 6. This section shall not apply to a supplemental insurance
8 policy, including a life care contract, accident-only policy,
9 specified disease policy, hospital policy providing a fixed daily
10 benefit only, Medicare supplement policy, long-term care policy,
11 hospitalization-surgical care policy, short-term major medical
12 policy of six months or less duration, or any other supplemental
13 policy as determined by the director [of the department of
14 insurance].

15 376.826. For the purposes of sections 376.825 to 376.836
16 the following terms shall mean:

17 (1) "Director", the director of the department of
18 insurance, financial and professional regulation;

19 (2) "Health insurance policy" or "policy", all health
20 insurance policies or contracts that are individually
21 underwritten or provide such coverage for specific individuals
22 and members of their families, which provide for hospital
23 treatments. The term shall also include any individually
24 underwritten coverage issued by a health maintenance
25 organization. The provisions of sections 376.825 to 376.836
26 shall not apply to policies which provide coverage for a
27 specified disease only, other than for mental illness or chemical
28 dependency;

1 (3) "Insurer", an entity licensed by the [department of
2 insurance] director to offer a health insurance policy;

3 (4) "Mental illness", the following disorders contained in
4 the International Classification of Diseases (ICD-9-CM):

5 (a) Schizophrenic disorders and paranoid states (295 and
6 297, except 297.3);

7 (b) Major depression, bipolar disorder, and other affective
8 psychoses (296);

9 (c) Obsessive compulsive disorder, post-traumatic stress
10 disorder and other major anxiety disorders (300.0, 300.21,
11 300.22, 300.23, 300.3 and 309.81);

12 (d) Early childhood psychoses, and other disorders first
13 diagnosed in childhood or adolescence (299.8, 312.8, 313.81 and
14 314);

15 (e) Alcohol and drug abuse (291, 292, 303, 304, and 305,
16 except 305.1); and

17 (f) Anorexia nervosa, bulimia and other severe eating
18 disorders (307.1, 307.51, 307.52 and 307.53);

19 (g) Senile organic psychotic conditions (290);

20 (5) "Rate", "term", or "condition", any lifetime limits,
21 annual payment limits, episodic limits, inpatient or outpatient
22 service limits, and out-of-pocket limits. This definition does
23 not include deductibles, co-payments, or coinsurance prior to
24 reaching any maximum out-of-pocket limit. Any out-of-pocket
25 limit under a policy shall be comprehensive for coverage of
26 mental illness and physical conditions.

27 376.836. 1. The provisions of sections 376.825 to 376.836
28 apply to applications for coverage made on or after January 1,

1 2005, and to health insurance policies issued or renewed on or
2 after such date to residents of this state. Multiyear group
3 policies need not comply until the expiration of their current
4 multiyear term unless the policyholder elects to comply before
5 that time.

6 2. This section shall not apply to a supplemental insurance
7 policy, including a life care contract, accident-only policy,
8 specified disease policy, hospital policy providing a fixed daily
9 benefit only, Medicare supplement policy, long-term care policy,
10 hospitalization-surgical care policy, short-term major medical
11 policy of six months or less duration, or any other supplemental
12 policy as determined by the director [of the department of
13 insurance].

14 3. The provisions of sections 376.825 to 376.836 shall
15 expire on January 1, 2011.

16 376.854. As used in sections 376.850 to 376.890, the
17 following terms mean:

18 (1) "Applicant":

19 (a) In the case of an individual Medicare supplement
20 policy, the person who seeks to contract for insurance benefits;
21 and

22 (b) In the case of a group Medicare supplement policy, the
23 proposed certificate holder;

24 (2) "Certificate", any certificate delivered or issued for
25 delivery in this state under a group Medicare supplement policy;

26 (3) "Certificate form", the form on which the certificate
27 is delivered or issued for delivery by the issuer;

28 (4) "Director", the director of the department of

1 insurance, financial and professional regulation;

2 (5) "Issuer" includes insurance companies, fraternal
3 benefit societies, health care service plans, health maintenance
4 organizations, and any other entity delivering or issuing for
5 delivery in this state Medicare supplement policies or
6 certificates;

7 (6) "Medicare", the Health Insurance for the Aged Act,
8 Title XVIII of the Social Security Amendments of 1965, as then
9 constituted or later amended;

10 (7) "Medicare supplement policy", a group or individual
11 policy of insurance or a subscriber contract, other than a policy
12 issued pursuant to a contract under section 1876 of the federal
13 Social Security Act, 42 U.S.C. section 1395, et seq., or an
14 issued policy under a demonstration project specified in 42
15 U.S.C. section 1395ss(g)(1), which is advertised, marketed or
16 designed primarily as a supplement to reimbursements under
17 Medicare for the hospital, medical or surgical expenses of
18 persons eligible for Medicare;

19 (8) "Policy form", the form on which the policy is
20 delivered or issued for delivery by the issuer.

21 376.960. As used in sections 376.960 to 376.989, the
22 following terms mean:

23 (1) "Benefit plan", the coverages to be offered by the pool
24 to eligible persons pursuant to the provisions of section
25 376.986;

26 (2) "Board", the board of directors of the pool;

27 (3) "Director", the director of the [Missouri] department
28 of insurance, financial and professional regulation;

1 (4) "Department", the [Missouri] department of insurance,
2 financial and professional regulation;

3 (5) "Health insurance", any hospital and medical expense
4 incurred policy, nonprofit health care service for benefits other
5 than through an insurer, nonprofit health care service plan
6 contract, health maintenance organization subscriber contract,
7 preferred provider arrangement or contract, or any other similar
8 contract or agreement for the provisions of health care benefits.
9 The term "health insurance" does not include short-term,
10 accident, fixed indemnity, limited benefit or credit insurance,
11 coverage issued as a supplement to liability insurance, insurance
12 arising out of a workers' compensation or similar law, automobile
13 medical-payment insurance, or insurance under which benefits are
14 payable with or without regard to fault and which is statutorily
15 required to be contained in any liability insurance policy or
16 equivalent self-insurance;

17 (6) "Health maintenance organization", any person which
18 undertakes to provide or arrange for basic and supplemental
19 health care services to enrollees on a prepaid basis, or which
20 meets the requirements of section 1301 of the United States
21 Public Health Service Act;

22 (7) "Hospital", a place devoted primarily to the
23 maintenance and operation of facilities for the diagnosis,
24 treatment or care for not less than twenty-four hours in any week
25 of three or more nonrelated individuals suffering from illness,
26 disease, injury, deformity or other abnormal physical condition;
27 or a place devoted primarily to provide medical or nursing care
28 for three or more nonrelated individuals for not less than

1 twenty-four hours in any week. The term "hospital" does not
2 include convalescent, nursing, shelter or boarding homes, as
3 defined in chapter 198, RSMo;

4 (8) "Insurance arrangement", any plan, program, contract or
5 other arrangement under which one or more employers, unions or
6 other organizations provide to their employees or members, either
7 directly or indirectly through a trust or third party
8 administration, health care services or benefits other than
9 through an insurer;

10 (9) "Insured", any individual resident of this state who is
11 eligible to receive benefits from any insurer or insurance
12 arrangement, as defined in this section;

13 (10) "Insurer", any insurance company authorized to
14 transact health insurance business in this state, any nonprofit
15 health care service plan act, or any health maintenance
16 organization;

17 (11) "Medicare", coverage under both part A and part B of
18 Title XVIII of the Social Security Act, 42 U.S.C. 1395 et seq.,
19 as amended;

20 (12) "Member", all insurers and insurance arrangements
21 participating in the pool;

22 (13) "Physician", physicians and surgeons licensed under
23 chapter 334, RSMo, or by state board of healing arts in the state
24 of Missouri;

25 (14) "Plan of operation", the plan of operation of the
26 pool, including articles, bylaws and operating rules, adopted by
27 the board pursuant to the provisions of sections 376.961, 376.962
28 and 376.964;

1 (15) "Pool", the state health insurance pool created in
2 sections 376.961, 376.962 and 376.964.

3 376.964. The board of directors and administering insurers
4 of the pool shall have the general powers and authority granted
5 under the laws of this state to insurance companies licensed to
6 transact health insurance as defined in section 376.960, and, in
7 addition thereto, the specific authority to:

8 (1) Enter into contracts as are necessary or proper to
9 carry out the provisions and purposes of sections 376.960 to
10 376.989, including the authority, with the approval of the
11 director [of insurance], to enter into contracts with similar
12 pools of other states for the joint performance of common
13 administrative functions, or with persons or other organizations
14 for the performance of administrative functions;

15 (2) Sue or be sued, including taking any legal actions
16 necessary or proper for recovery of any assessments for, on
17 behalf of, or against pool members;

18 (3) Take such legal actions as necessary to avoid the
19 payment of improper claims against the pool or the coverage
20 provided by or through the pool;

21 (4) Establish appropriate rates, rate schedules, rate
22 adjustments, expense allowances, agents' referral fees, claim
23 reserve formulas and any other actuarial function appropriate to
24 the operation of the pool. Rates shall not be unreasonable in
25 relation to the coverage provided, the risk experience and
26 expenses of providing the coverage. Rates and rate schedules may
27 be adjusted for appropriate risk factors such as age and area
28 variation in claim costs and shall take into consideration

1 appropriate risk factors in accordance with established actuarial
2 and underwriting practices;

3 (5) Assess members of the pool in accordance with the
4 provisions of this section, and to make advance interim
5 assessments as may be reasonable and necessary for the
6 organizational and interim operating expenses. Any such interim
7 assessments are to be credited as offsets against any regular
8 assessments due following the close of the fiscal year;

9 (6) Issue policies of insurance in accordance with the
10 requirements of sections 376.960 to 376.989;

11 (7) Appoint, from among members, appropriate legal,
12 actuarial and other committees as necessary to provide technical
13 assistance in the operation of the pool, policy or other contract
14 design, and any other function within the authority of the pool;

15 (8) Establish rules, conditions and procedures for
16 reinsuring risks of pool members desiring to issue pool plan
17 coverages in their own name. Such reinsurance facility shall not
18 subject the pool to any of the capital or surplus requirements,
19 if any, otherwise applicable to reinsurers;

20 (9) Negotiate rates of reimbursement with health care
21 providers on behalf of the association and its members.

22 376.1002. 1. It is unlawful for any multiple employer
23 self-insured health plan to transact business in this state
24 without a certificate of authority issued by the director [of the
25 department of insurance]. Any of the acts described in
26 subsection 2 of section 375.786, RSMo, effected by mail or
27 otherwise, by or on behalf of a multiple employer self-insured
28 health plan, constitutes the transaction of business in this

1 state.

2 2. Any multiple employer self-insured health plan which
3 transacts business in this state without the certificate of
4 authority required by sections 376.1000 to 376.1045 is considered
5 to be an unauthorized insurer within the meaning of section
6 375.786, RSMo, and all remedies and penalties prescribed in
7 section 375.786, RSMo, shall be fully applicable.

8 3. Sections 376.1000 to 376.1045 do not apply to:

9 (1) Any plan or arrangement established or maintained by
10 municipalities, counties, or other political subdivisions of the
11 state pursuant to sections 537.620 to 537.650, RSMo;

12 (2) Any multiple employer self-insured health plan which is
13 not subject to the application of state insurance laws under the
14 provisions of the Employee Retirement Income Security Act of
15 1974, 29 U.S.C. 1001, et seq.; or

16 (3) Any person or entity found by operation of the
17 provisions of section 374.194, RSMo, not to be subject to the
18 jurisdiction of the [department of insurance] director.

19 4. A multiple employer self-insured health plan which was
20 in existence prior to August 28, 1993, and which is associated
21 with or organized or sponsored by a homogenous association exempt
22 from taxation under 26 U.S.C. 501(c)(6) and controlled by a board
23 of directors a majority of whom are members of the association,
24 is exempt from the requirements of sections 376.1000 to 376.1045
25 and the insurance laws of this state. To prove exemption from
26 taxation under 26 U.S.C. 501(c)(6), the association shall provide
27 to the director a certificate issued by the United States
28 Internal Revenue Service demonstrating the association's tax

1 exempt status.

2 376.1005. 1. Application for a certificate of authority
3 shall be made on forms prescribed by the director [of the
4 department of insurance]. No multiple employer self-insured
5 health plan may hold or obtain a certificate of authority unless
6 it had not less than two hundred fifty covered employees during
7 the preceding calendar quarter.

8 2. Not later than March first of each year, every multiple
9 employer self-insured health plan shall pay to the director a
10 license fee equal to two percent of the Missouri claims paid by
11 the plan during the immediately preceding calendar year. All the
12 funds collected by the director shall be deposited in the
13 [Missouri department of] insurance dedicated fund.

14 3. Within forty-five days from the date coverage commences,
15 the plan shall issue to each covered employee a policy, contract,
16 certificate, summary plan description or other evidence of the
17 benefits and coverages provided. This evidence of the benefits
18 and coverages provided shall contain in boldfaced print in a
19 conspicuous location, the following statement: "The benefits and
20 coverages described herein are provided through a trust fund
21 established and funded by a group of employers. The benefits and
22 coverages are not fully insured by an insurer licensed to do
23 business in the state of Missouri and are therefore not protected
24 by the Missouri Life and Health Guaranty Association".

25 376.1012. Funds collected from the participating employers
26 under multiple employer self-insured health plans shall be held
27 in trust subject to the following requirements:

28 (1) A board of trustees elected by participating employers

1 shall serve as fund managers on behalf of participants. Trustees
2 shall be plan participants. No participating employer may be
3 represented by more than one trustee. No trustee may represent
4 more than one employer. A minimum of three and a maximum of
5 seven trustees may be elected. Trustees may not receive
6 remuneration but they may be reimbursed for actual and reasonable
7 expenses incurred in connection with duties as trustee. A
8 trustee may not be an agent, or broker for or an owner, officer
9 or employee of any third-party administrator, insurance agency or
10 insurer utilized by the plan. The trustees shall have the
11 authority to approve applications of association members for
12 participation in the arrangement and to contract with a licensed
13 third-party administrator to administer the day-to-day affairs of
14 the plan;

15 (2) Each trustee shall be bonded in an amount of not less
16 than one hundred fifty thousand dollars by a licensed insurer;

17 (3) Investment of plan funds is subject to the same
18 restrictions which are applicable to insurers pursuant to
19 sections 376.300 to 376.310; provided, however, that no foreign
20 plan shall be exempt under section 376.310 from the investment
21 laws of this state unless such plan is subject to laws in its
22 state of domicile which are substantially similar to sections
23 376.1032 to 376.1045. All investments shall be managed by a bank
24 or other investment entity licensed to operate in Missouri;

25 (4) Trustees, on behalf of the plan, shall file an annual
26 report with the director [of the department of insurance] by
27 March first showing the condition and affairs of the plan as of
28 the preceding thirty-first day of December. The report shall be

1 made on forms prescribed by the director. The report shall
2 summarize the financial condition of the fund, itemize
3 collections from participating employers, detail all fund
4 expenditures and provide any additional information which the
5 director requires. More frequent reports may be required at the
6 discretion of the director.

7 376.1020. Each multiple employer self-insured health plan
8 shall have and maintain its principal place of business in this
9 state or shall appoint the director of the department of
10 insurance, financial and professional regulation as its agent for
11 service of process, and shall thereby make available to the
12 department complete records of its assets, transactions, and
13 affairs with such methods and systems as are customary for, or
14 suitable to, the kind or kinds of business transacted. The
15 director or his representative shall inspect these records at
16 least every three years. The information from these records
17 shall be furnished to the director or his representatives on
18 demand and the original books or records shall be open to
19 examination by the director or his representatives when demanded.
20 Examinations shall be conducted pursuant to sections 374.160,
21 374.162, 374.190, 374.202 to 374.207 and 374.220, RSMo.

22 376.1075. As used in sections 376.1075 to 376.1095, the
23 following terms mean:

24 (1) "Administrator", "third-party administrator" or "TPA",
25 a person who directly or indirectly solicits or effects coverage
26 of, underwrites, collects charges or premiums from, or adjusts or
27 settles claims on residents of this state, or residents of
28 another state from offices in this state, in connection with life

1 or health insurance coverage, annuities, or workers' compensation
2 except any of the following:

3 (a) An employer on behalf of its employees or the employees
4 of one or more subsidiary or affiliated corporations of such
5 employer;

6 (b) A union on behalf of its members;

7 (c) An insurance company which is either licensed in this
8 state pursuant to the requirements of this chapter or chapter
9 379, RSMo;

10 (d) An insurer authorized to do insurance business in
11 another state pursuant to similar laws, with respect to a policy
12 lawfully issued and delivered in a state other than this state,
13 when engaged in transacting the business of insurance as defined
14 by this chapter and chapter 379, RSMo;

15 (e) A health service corporation, health maintenance
16 organization or prepaid dental plan operating pursuant to the
17 requirements of chapter 354, RSMo, when engaged in its duties of
18 providing health care or dental services and indemnifying its
19 members;

20 (f) A life or health agent or broker licensed in this
21 state, whose activities are limited exclusively to the sale of
22 insurance;

23 (g) A creditor on behalf of its debtors with respect to
24 insurance covering a debt between the creditor and its debtors;

25 (h) A trust, its trustees, agents and employees acting
26 thereunder, established in conformity with 29 U.S.C. 186;

27 (i) A trust exempt from taxation under Section 501(a) of
28 the Internal Revenue Code, its trustees, and employees acting

1 thereunder;

2 (j) A custodian, its agents and employees acting pursuant
3 to a custodian account which meets the requirements of Section
4 401(f) of the Internal Revenue Code;

5 (k) A bank, credit union or other financial institution
6 which is subject to supervision or examination by federal or
7 state banking authorities;

8 (l) A credit card issuing company which advances for and
9 collects premiums or charges from its credit card holders who
10 have authorized it to do so, provided such company does not
11 adjust or settle claims;

12 (m) A person who adjusts or settles claims in the normal
13 course of his or her practice or employment as an attorney at
14 law, and who does not collect charges or premiums in connection
15 with life or health insurance coverage or annuities;

16 (n) An adjuster whose activities are limited to adjustment
17 of claims and who is either licensed by this state or working on
18 behalf of a licensed workers' compensation insurer;

19 (o) A person licensed as an insurance agent in this state,
20 whose activities are limited exclusively to the activities of a
21 managing general agent;

22 (2) "Affiliate" or "affiliated", any entity or person who
23 directly or indirectly through one or more intermediaries,
24 controls or is controlled by, or is under common control with, a
25 specified entity or person;

26 (3) "Control", as defined in chapter 382, RSMo;

27 (4) "Director", the director of the department of
28 insurance, financial and professional regulation;

1 (5) "Insurance" or "insurance coverage", any coverage
2 offered or provided by an insurer;

3 (6) "Insurer", any person undertaking to provide life or
4 health insurance coverage, annuities or workers' compensation
5 coverage in this state. For the purposes of sections 376.1075 to
6 376.1095, insurer includes a licensed insurance company, a
7 prepaid hospital or medical care plan, a health maintenance
8 organization, a multiple employer self-insured health plan, a
9 self-insured multiple employer welfare arrangement, or any other
10 person providing a plan of insurance subject to state insurance
11 regulation. Insurer does not include a bona fide employee
12 benefit plan established by an employer or an employee
13 organization, or both, for which the insurance laws of this state
14 are preempted pursuant to the Employee Retirement Income Security
15 Act of 1974;

16 (7) "Underwrites" or "underwriting" means, but is not
17 limited to, the acceptance of employer or individual applications
18 for coverage of individuals in accordance with the written rules
19 of the insurer, the overall planning and coordinating of an
20 insurance program, and the ability to procure bonds and excess
21 insurance.

22 376.1092. 1. No person shall act as, or offer to act as,
23 or hold himself out to be an administrator in this state without
24 a valid certificate of authority as an administrator issued by
25 the director.

26 2. Applicants to be an administrator shall make an
27 application to the director upon a form to be furnished by the
28 director. The application shall include or be accompanied by the

1 following information and documents:

2 (1) All basic organizational documents of the
3 administrator, including, but not limited to, any articles of
4 incorporation, articles of association, partnership agreement,
5 trade name certificate, trust agreement, shareholder agreement
6 and other applicable documents and all amendments to such
7 documents;

8 (2) The bylaws, rules, regulations or similar documents
9 regulating the internal affairs of the administrator;

10 (3) The names, addresses, official positions and
11 professional qualifications of the individuals who are
12 responsible for the conduct of affairs of the administrator,
13 including all members of the board of directors, board of
14 trustees, executive committee or other governing board or
15 committee; the principal officers in the case of a corporation or
16 the partners or members in the case of a partnership or
17 association; shareholders holding directly or indirectly ten
18 percent or more of the voting securities of the administrator;
19 and any other person who exercises control or influence over the
20 affairs of the administrator;

21 (4) Annual financial statements or reports for the two most
22 recent years which prove that the applicant is solvent and such
23 information as the director may require in order to review the
24 current financial condition of the applicant;

25 (5) A statement describing the business plan including
26 information on staffing levels and activities proposed in this
27 state and nationwide. The plan shall provide details setting
28 forth the administrator's capability for providing a sufficient

1 number of experienced and qualified personnel in the areas of
2 claims processing, record keeping and underwriting;

3 (6) If the applicant will be managing the solicitation of
4 new or renewal business, proof that it employs or has contracted
5 with an agent licensed by this state for solicitation and taking
6 of applications. Any applicant which intends to directly solicit
7 insurance contracts or to otherwise act as an insurance agent
8 must provide proof that it has a license as an insurance agent or
9 agency, or as an insurance agent and agency, as applicable, in
10 this state;

11 (7) An application fee of one thousand dollars;

12 (8) Such other pertinent information as may be required by
13 the director.

14 3. The applicant shall make available for inspection by the
15 director copies of all contracts with insurers or other persons
16 using the services of the administrator.

17 4. The director may refuse to issue a certificate of
18 authority if the director determines that the administrator or
19 any individual responsible for the conduct of affairs of the
20 administrator as described in subdivision (3) of subsection 2 of
21 this section is not competent, trustworthy, financially
22 responsible or of good personal and business reputation, has had
23 an insurance or an administrator license denied or revoked for
24 cause by any state or been subject to any form of criminal, civil
25 or administrative action by any federal or state court or agency
26 resulting in some form of discipline or sanction.

27 5. Such certificate shall be renewable annually on the
28 first day of July of each calendar year following the calendar

1 year in which the certificate of registration was originally
2 issued, upon application by the administrator and upon payment of
3 the renewal fee of two hundred fifty dollars, provided that the
4 director [of the department of insurance] is satisfied that none
5 of the facts specified in sections 376.1075 to 376.1095 as
6 grounds for revoking a certificate of registration exist, and any
7 bond required by sections 376.1075 to 376.1095 is in force.
8 Failure to hold such a certificate shall subject the
9 administrator to an administrative penalty of not more than fifty
10 thousand dollars.

11 6. An administrator shall immediately notify the director
12 of any material change in its ownership, control, or other fact
13 or circumstance affecting its qualification for a certificate of
14 authority in this state.

15 7. Every administrator, except as hereinafter provided,
16 shall file with the director a surety bond in the amount and form
17 as prescribed by the director. Such bond shall be obtained from
18 an insurance company licensed or approved to do business in the
19 state of Missouri. Any affiliate or subsidiary of an insurance
20 company licensed in this state shall not be required to file such
21 a bond so long as the director is satisfied with the financial
22 condition of such insurance company.

23 376.1100. 1. Sections 376.1100 to 376.1130 may be known
24 and cited as the "Long-term Care Insurance Act".

25 2. As used in sections 376.1100 to 376.1130, unless the
26 context requires otherwise, the following terms mean:

27 (1) "Applicant":

28 (a) In the case of an individual long-term care insurance

1 policy, the person who seeks to contract for benefits; and

2 (b) In the case of a group long-term care insurance policy,
3 the proposed certificate holder;

4 (2) "Certificate", any certificate issued under a group
5 long-term care insurance policy, which policy has been delivered
6 or issued for delivery in this state;

7 (3) "Director", the director of the department of
8 insurance, financial and professional regulation of this state;

9 (4) "Group long-term care insurance", a long-term care
10 insurance policy which is delivered or issued for delivery in
11 this state and issued to:

12 (a) One or more employers or labor organizations, or to a
13 trust or to the trustees of a fund established by one or more
14 employers or labor organizations, or a combination thereof, for
15 employees or former employees or a combination thereof or for
16 members or former members or a combination thereof, of the labor
17 organization; or

18 (b) Any professional, trade or occupational association for
19 its members or former or retired members, or combination thereof,
20 if such association;

21 a. Is composed of individuals all of whom are or were
22 actively engaged in the same profession, trade or occupation; and

23 b. Has been maintained in good faith for purposes other
24 than obtaining insurance; or

25 (c) An association or a trust or the trustee of a fund
26 established, created or maintained for the benefit of members of
27 one or more associations. Prior to advertising, marketing or
28 offering such policy within this state, the association or

1 associations, or the insurer of the association or associations,
2 shall file evidence with the director that the association or
3 associations have at the outset a minimum of one hundred persons
4 and have been organized and maintained in good faith for purposes
5 other than that of obtaining insurance; have been in active
6 existence for at least one year; and have a constitution and
7 bylaws which provide that:

8 a. The association or associations hold regular meetings
9 not less than annually to further purposes of the members;

10 b. Except for credit unions, the association or
11 associations collect dues or solicit contributions from members;
12 and

13 c. The members have voting privileges and representation on
14 the governing board and committees.

15
16 Thirty days after such filing the association or associations
17 shall be deemed to satisfy such organizational requirements,
18 unless the director makes a finding that the association or
19 associations do not satisfy those organizational requirements;

20 (d) A group other than as described in paragraph (a), (b)
21 or (c) of subdivision (4) of this subsection, subject to a
22 finding by the director that:

23 a. The issuance of the group policy is not contrary to the
24 best interest of the public;

25 b. The issuance of the group policy would result in
26 economies of acquisition or administration; and

27 c. The benefits are reasonable in relation to the premiums
28 charged;

1 (5) "Long-term care insurance", any insurance policy or
2 rider advertised, marketed, offered or designed to provide
3 coverage for not less than twelve consecutive months for each
4 covered person on an expense-incurred, indemnity, prepaid or
5 other basis; for one or more necessary or medically necessary
6 diagnostic, preventive, therapeutic, rehabilitative, maintenance
7 of personal care services, provided in a setting other than an
8 acute care unit of a hospital. Such term includes group and
9 individual annuities and life insurance policies or riders which
10 provide directly or which supplement long-term care insurance.
11 Such term also includes a policy or rider which provides for
12 payment of benefits based upon cognitive impairment or the loss
13 of functional capacity. Long-term care insurance also includes
14 qualified long-term care insurance contracts. Long-term care
15 insurance may be issued by insurers; fraternal benefit societies;
16 health services corporations; prepaid health plans; health
17 maintenance organizations, or any similar organization to the
18 extent they are otherwise authorized to issue life or health
19 insurance. Long-term care insurance shall not include any
20 insurance policy which is offered primarily to provide basic
21 Medicare supplement coverage, basic hospital expense coverage,
22 basic medical-surgical expense coverage, hospital confinement
23 indemnity coverage, major medical expense coverage, disability
24 income or related asset protection coverage, accident only
25 coverage, specified disease or specified accident coverage, or
26 limited benefit health coverage. With respect or regard to life
27 insurance, long-term care insurance does not include life
28 insurance policies that accelerate the death benefit specifically

1 for one or more of the qualifying events of terminal illness,
2 medical conditions requiring extraordinary medical intervention,
3 or permanent institutional confinement, and that provide the
4 option of a lump sum payment for those benefits and neither the
5 benefits nor the eligibility for the benefits is conditioned upon
6 the receipt of long-term care. Notwithstanding any other
7 provision of sections 376.1100 to 376.1130 to the contrary, any
8 product advertised, marketed, or offered as long-term care
9 insurance shall be subject to the provisions of sections 376.1100
10 to 376.1130;

11 (6) "Policy", any policy, subscriber agreement, rider or
12 endorsement delivered or issued for delivery in this state by an
13 insurer; fraternal benefit society; health services corporation;
14 prepaid health plan, health maintenance organization, or any
15 similar organization;

16 (7) "Qualified long-term care insurance contract" or
17 "federally tax-qualified long-term care insurance contract", the
18 portion of a life insurance contract that provides long-term care
19 insurance coverage by rider or as part of the contract that
20 satisfies the requirements of Section 7702B(b) and (e) of the
21 Internal Revenue Code of 1986, as amended. "Qualified long-term
22 care insurance contract" also includes an individual or group
23 insurance contract that meets the requirements of Section
24 7702B(b) of the Internal Revenue Code of 1986, as amended, as
25 follows:

26 (a) The only insurance protection provided under the
27 contract is coverage of qualified long-term care services. A
28 contract shall not fail to satisfy the requirements of this

1 paragraph by reason of payments being made on a per diem or other
2 periodic basis without regard to the expenses incurred during the
3 period to which the payments relate;

4 (b) The contract does not pay or reimburse expenses
5 incurred for services or items to the extent that the expenses
6 are reimbursable under Title XVIII of the Social Security Act, as
7 amended, or would be so reimbursable but for the application of a
8 deductible or coinsurance amount. The requirements of this
9 paragraph do not apply to expenses that are reimbursable under
10 Title XVIII of the Social Security Act only as a secondary payor.
11 A contract shall not fail to satisfy the requirements of this
12 paragraph by reason of payments being made on a per diem or other
13 periodic basis without regard to the expenses incurred during the
14 period to which the payments relate;

15 (c) The contract is guaranteed renewable within the meaning
16 of Section 7702B(b) (1) (C) of the Internal Revenue Code of 1986,
17 as amended;

18 (d) The contract does not provide for a cash surrender
19 value or other money that can be paid, assigned, pledged as
20 collateral for a loan, or borrowed except as provided in
21 paragraph (e) of this subdivision;

22 (e) All refunds of premiums and all policyholder dividends
23 or similar amounts under the contract are to be applied as a
24 reduction in future premiums or to increase future benefits;
25 except that a refund on the event of death of the insured or a
26 complete surrender or cancellation of the contract shall not
27 exceed the aggregate premiums paid under the contract; and

28 (f) The contract meets the consumer protection provisions

1 set forth in Section 7702B(g) of the Internal Revenue Code of
2 1986, as amended.

3 376.1199. 1. Each health carrier or health benefit plan
4 that offers or issues health benefit plans providing
5 obstetrical/gynecological benefits and pharmaceutical coverage,
6 which are delivered, issued for delivery, continued or renewed in
7 this state on or after January 1, 2002, shall:

8 (1) Notwithstanding the provisions of subsection 4 of
9 section 354.618, RSMo, provide enrollees with direct access to
10 the services of a participating obstetrician, participating
11 gynecologist or participating obstetrician/gynecologist of her
12 choice within the provider network for covered services. The
13 services covered by this subdivision shall be limited to those
14 services defined by the published recommendations of the
15 accreditation council for graduate medical education for training
16 an obstetrician, gynecologist or obstetrician/gynecologist,
17 including but not limited to diagnosis, treatment and referral
18 for such services. A health carrier shall not impose additional
19 co-payments, coinsurance or deductibles upon any enrollee who
20 seeks or receives health care services pursuant to this
21 subdivision, unless similar additional co-payments, coinsurance
22 or deductibles are imposed for other types of health care
23 services received within the provider network. Nothing in this
24 subsection shall be construed to require a health carrier to
25 perform, induce, pay for, reimburse, guarantee, arrange, provide
26 any resources for or refer a patient for an abortion, as defined
27 in section 188.015, RSMo, other than a spontaneous abortion or to
28 prevent the death of the female upon whom the abortion is

1 performed, or to supersede or conflict with section 376.805; and

2 (2) Notify enrollees annually of cancer screenings covered
3 by the enrollees' health benefit plan and the current American
4 Cancer Society guidelines for all cancer screenings or notify
5 enrollees at intervals consistent with current American Cancer
6 Society guidelines of cancer screenings which are covered by the
7 enrollees' health benefit plans. The notice shall be delivered
8 by mail unless the enrollee and health carrier have agreed on
9 another method of notification; and

10 (3) Include coverage for services related to diagnosis,
11 treatment and appropriate management of osteoporosis when such
12 services are provided by a person licensed to practice medicine
13 and surgery in this state, for individuals with a condition or
14 medical history for which bone mass measurement is medically
15 indicated for such individual. In determining whether testing or
16 treatment is medically appropriate, due consideration shall be
17 given to peer-reviewed medical literature. A policy, provision,
18 contract, plan or agreement may apply to such services the same
19 deductibles, coinsurance and other limitations as apply to other
20 covered services; and

21 (4) If the health benefit plan also provides coverage for
22 pharmaceutical benefits, provide coverage for contraceptives
23 either at no charge or at the same level of deductible,
24 coinsurance or co-payment as any other covered drug. No such
25 deductible, coinsurance or co-payment shall be greater than any
26 drug on the health benefit plan's formulary. As used in this
27 section, "contraceptive" shall include all prescription drugs and
28 devices approved by the federal Food and Drug Administration for

1 use as a contraceptive, but shall exclude all drugs and devices
2 that are intended to induce an abortion, as defined in section
3 188.015, RSMo, which shall be subject to section 376.805.

4 Nothing in this subdivision shall be construed to exclude
5 coverage for prescription contraceptive drugs or devices ordered
6 by a health care provider with prescriptive authority for reasons
7 other than contraceptive or abortion purposes.

8 2. For the purposes of this section, "health carrier" and
9 "health benefit plan" shall have the same meaning as defined in
10 section 376.1350.

11 3. The provisions of this section shall not apply to a
12 supplemental insurance policy, including a life care contract,
13 accident-only policy, specified disease policy, hospital policy
14 providing a fixed daily benefit only, Medicare supplement policy,
15 long-term care policy, short-term major medical policies of six
16 months or less duration, or any other supplemental policy as
17 determined by the director [of the department of insurance].

18 4. Notwithstanding the provisions of subdivision (4) of
19 subsection 1 of this section to the contrary:

20 (1) Any health carrier may issue to any person or entity
21 purchasing a health benefit plan, a health benefit plan that
22 excludes coverage for contraceptives if the use or provision of
23 such contraceptives is contrary to the moral, ethical or
24 religious beliefs or tenets of such person or entity;

25 (2) Upon request of an enrollee who is a member of a group
26 health benefit plan and who states that the use or provision of
27 contraceptives is contrary to his or her moral, ethical or
28 religious beliefs, any health carrier shall issue to or on behalf

1 of such enrollee a policy form that excludes coverage for
2 contraceptives. Any administrative costs to a group health
3 benefit plan associated with such exclusion of coverage not
4 offset by the decreased costs of providing coverage shall be
5 borne by the group policyholder or group plan holder;

6 (3) Any health carrier which is owned, operated or
7 controlled in substantial part by an entity that is operated
8 pursuant to moral, ethical or religious tenets that are contrary
9 to the use or provision of contraceptives shall be exempt from
10 the provisions of subdivision (4) of subsection 1 of this
11 section.

12
13 For purposes of this subsection, if new premiums are charged for
14 a contract, plan or policy, it shall be determined to be a new
15 contract, plan or policy.

16 5. Except for a health carrier that is exempted from
17 providing coverage for contraceptives pursuant to this section, a
18 health carrier shall allow enrollees in a health benefit plan
19 that excludes coverage for contraceptives pursuant to subsection
20 4 of this section to purchase a health benefit plan that includes
21 coverage for contraceptives.

22 6. Any health benefit plan issued pursuant to subsection 1
23 of this section shall provide clear and conspicuous written
24 notice on the enrollment form or any accompanying materials to
25 the enrollment form and the group health benefit plan contract:

26 (1) Whether coverage for contraceptives is or is not
27 included;

28 (2) That an enrollee who is a member of a group health

1 benefit plan with coverage for contraceptives has the right to
2 exclude coverage for contraceptives if such coverage is contrary
3 to his or her moral, ethical or religious beliefs; and

4 (3) That an enrollee who is a member of a group health
5 benefit plan without coverage for contraceptives has the right to
6 purchase coverage for contraceptives.

7 7. Health carriers shall not disclose to the person or
8 entity who purchased the health benefit plan the names of
9 enrollees who exclude coverage for contraceptives in the health
10 benefit plan or who purchase a health benefit plan that includes
11 coverage for contraceptives. Health carriers and the person or
12 entity who purchased the health benefit plan shall not
13 discriminate against an enrollee because the enrollee excluded
14 coverage for contraceptives in the health benefit plan or
15 purchased a health benefit plan that includes coverage for
16 contraceptives.

17 8. The [departments] department of health and senior
18 services and the department of insurance, financial and
19 professional regulation may promulgate rules necessary to
20 implement the provisions of this section. No rule or portion of
21 a rule promulgated pursuant to this section shall become
22 effective unless it has been promulgated pursuant to chapter 536,
23 RSMo. Any rule or portion of a rule, as that term is defined in
24 section 536.010, RSMo, that is created under the authority
25 delegated in this section shall become effective only if it
26 complies with and is subject to all of the provisions of chapter
27 536, RSMo, and, if applicable, section 536.028, RSMo. This
28 section and chapter 536, RSMo, are nonseverable and if any of the

1 powers vested with the general assembly pursuant to chapter 536,
2 RSMo, to review, to delay the effective date or to disapprove and
3 annul a rule are subsequently held unconstitutional, then the
4 grant of rulemaking authority and any rule proposed or adopted
5 after August 28, 2001, shall be invalid and void.

6 376.1219. 1. Each policy issued by an entity offering
7 individual and group health insurance which provides coverage on
8 an expense-incurred basis, individual and group health service or
9 indemnity type contracts issued by a nonprofit corporation,
10 individual and group service contracts issued by a health
11 maintenance organization, all self-insured group health
12 arrangements to the extent not preempted by federal law, and all
13 health care plans provided by managed health care delivery
14 entities of any type or description, that are delivered, issued
15 for delivery, continued or renewed in this state on or after
16 September 1, 1997, shall provide coverage for formula and low
17 protein modified food products recommended by a physician for the
18 treatment of a patient with phenylketonuria or any inherited
19 disease of amino and organic acids who is covered under the
20 policy, contract, or plan and who is less than six years of age.

21 2. For purposes of this section, "low protein modified food
22 products" means foods that are specifically formulated to have
23 less than one gram of protein per serving and are intended to be
24 used under the direction of a physician for the dietary treatment
25 of any inherited metabolic disease. Low protein modified food
26 products do not include foods that are naturally low in protein.

27 3. The coverage required by this section may be subject to
28 the same deductible for similar health care services provided by

1 the policy, contract, or plan as well as a reasonable coinsurance
2 or co-payment on the part of the insured, which shall not be
3 greater than fifty percent of the cost of the formula and food
4 products, and may be subject to an annual benefit maximum of not
5 less than five thousand dollars per covered child. Nothing in
6 this section shall prohibit a carrier from using individual case
7 management or from contracting with vendors of the formula and
8 food products.

9 4. This section shall not apply to a supplemental insurance
10 policy, including a life care contract, accident-only policy,
11 specified disease policy, hospital policy providing a fixed daily
12 benefit only, Medicare supplement policy, long-term care policy,
13 or any other supplemental policy as determined by the director
14 [of the department of insurance].

15 376.1220. 1. Each policy issued by an entity offering
16 individual and group health insurance which provides coverage on
17 an expense-incurred basis, individual or group health service, or
18 indemnity contracts issued by a nonprofit corporation, individual
19 and group service contracts issued by a health maintenance
20 organization, all self-insured group health arrangements to the
21 extent not preempted by federal law, and all health care plans
22 provided by managed health care delivery entities of any type or
23 description that are delivered, issued for delivery, continued or
24 renewed in this state shall provide coverage for newborn hearing
25 screening, necessary rescreening, audiological assessment and
26 follow-up, and initial amplification.

27 2. The health care service required by this section shall
28 not be subject to any greater deductible or co-payment than other

1 similar health care services provided by the policy, contract or
2 plan.

3 3. This section shall not apply to a supplemental insurance
4 policy, including a life care contract, accident-only policy,
5 specified disease policy, hospital policy providing a fixed daily
6 benefit only, Medicare supplement policy, long-term care policy,
7 short-term major medical policies of six months or less duration,
8 or any other supplemental policy as determined by the director
9 [of the department of insurance].

10 4. Coverage for newborn hearing screening and any necessary
11 rescreening and audiological assessment shall be provided to
12 newborns eligible for medical assistance pursuant to section
13 208.151, RSMo, and the children's health program pursuant to
14 sections 208.631 to 208.660, RSMo, with payment for the newborn
15 hearing screening required in section 191.925, RSMo, and any
16 necessary rescreening, audiological assessment and follow-up, and
17 amplification as described in section 191.928, RSMo.

18 376.1253. 1. Each physician attending any patient with a
19 newly diagnosed cancer shall inform the patient that the patient
20 has the right to a referral for a second opinion by an
21 appropriate board-certified specialist prior to any treatment.
22 If no specialist in that specific cancer diagnosis area is in the
23 provider network, a referral shall be made to a nonnetwork
24 specialist in accordance with this section.

25 2. Each health carrier or health benefit plan, as defined
26 in section 376.1350, that offers or issues health benefit plans
27 which are delivered, issued for delivery, continued or renewed in
28 this state on or after January 1, 2003, shall provide coverage

1 for a second opinion rendered by a specialist in that specific
2 cancer diagnosis area when a patient with a newly diagnosed
3 cancer is referred to such specialist by his or her attending
4 physician. Such coverage shall be subject to the same deductible
5 and coinsurance conditions applied to other specialist referrals
6 and all other terms and conditions applicable to other benefits,
7 including the prior authorization and/or referral authorization
8 requirements as specified in the applicable health insurance
9 policy.

10 3. The provisions of this section shall not apply to a
11 supplemental insurance policy, including a life care contract,
12 accident-only policy, specified disease policy, hospital policy
13 providing a fixed daily benefit only, Medicare supplement policy,
14 long-term care policy, short-term major medical policies of six
15 months' or less duration, or any other supplemental policy as
16 determined by the director [of the department of insurance].

17 376.1275. 1. Each health carrier or health benefit plan
18 that offers or issues health benefit plans which are delivered,
19 issued for delivery, continued, or renewed in this state on or
20 after January 1, 2003, shall include coverage for their members
21 for the cost for human leukocyte antigen testing, also referred
22 to as histocompatibility locus antigen testing, for A, B, and DR
23 antigens for utilization in bone marrow transplantation. The
24 testing must be performed in a facility which is accredited by
25 the American Association of Blood Banks or its successors, and is
26 licensed under the Clinical Laboratory Improvement Act, 42 U.S.C.
27 Section 263a, as amended, and is accredited by the American
28 Association of Blood Banks or its successors, the College of

1 American Pathologists, the American Society for
2 Histocompatibility and Immunogenetics (ASHI) or any other
3 national accrediting body with requirements that are
4 substantially equivalent to or more stringent than those of the
5 College of American Pathologists. At the time of testing, the
6 person being tested must complete and sign an informed consent
7 form which also authorizes the results of the test to be used for
8 participation in the National Marrow Donor Program. The health
9 benefit plan may limit each enrollee to one such testing per
10 lifetime to be reimbursed at a cost of no greater than
11 seventy-five dollars by the health carrier or health benefit
12 plan.

13 2. For the purposes of this section, "health carrier" and
14 "health benefit plan" shall have the same meaning as defined in
15 section 376.1350.

16 3. The health care service required by this section shall
17 not be subject to any greater deductible or co-payment than other
18 similar health care services provided by the health benefit plan.

19 4. The provisions of this section shall not apply to a
20 supplemental insurance policy, including a life care contract,
21 accident-only policy, specified disease policy, hospital policy
22 providing a fixed daily benefit only, Medicare supplement policy,
23 long-term care policy, short-term major medical policies of six
24 months' or less duration, or any other supplemental policy as
25 determined by the director [of the department of insurance].

26 376.1305. 1. A mutual life insurance company proposing to
27 reorganize pursuant to sections 376.1300 to 376.1322 shall form a
28 mutual life insurance holding company, which may hereafter be

1 referred to as a mutual holding company, and shall file an
2 application with the director [of the department of insurance]
3 which shall contain such insurer's plan of reorganization. The
4 director shall review the application, and may retain such
5 consultants as may be reasonably necessary, at the expense of the
6 applicant; conduct an adequate review to assure that
7 policyholders' interests are protected and may conduct a public
8 hearing. The director shall approve the formation of the mutual
9 holding company and the plan of reorganization if the director
10 finds that the plan is fair and equitable to the policyholders.
11 The director may condition such approval on adoption of
12 modifications to the plan if the director finds such
13 modifications are necessary for the protection of the
14 policyholders' interests.

15 2. No mutual life insurance company may reorganize pursuant
16 to sections 376.1300 to 376.1322 unless the reorganization plan
17 is approved by a majority of the policyholders voting in person
18 or by proxy at a special meeting called for that purpose. Any
19 group of at least one hundred policyholders having a right to
20 vote at such special meeting shall be entitled at their own
21 expense to have the secretary of the company mail informational
22 materials to all policyholders provided that such materials and
23 the cost thereof are presented to the secretary at least
24 forty-five days before the special meeting.

25 376.1315. Notwithstanding any provision of this chapter to
26 the contrary, a mutual holding company organized pursuant to
27 section 376.1300 shall be incorporated pursuant to this chapter.
28 The articles of incorporation and any amendments to such articles

1 of the mutual holding company shall be subject to approval of the
2 director [of the department of insurance] and the attorney
3 general in the same manner as those of a mutual life insurance
4 company.

5 376.1322. 1. A mutual holding company is subject to the
6 supervision of the director [of the department of insurance] in
7 the same manner as an insurer subject to the provisions of this
8 chapter and shall automatically be a party to any proceeding
9 pursuant to the Missouri insurers supervision, rehabilitation and
10 liquidation act, sections 375.1150 to 375.1246, RSMo, involving a
11 life insurance company which, as a result of a reorganization
12 pursuant to section 376.1300, is a subsidiary of the mutual
13 holding company or a stock holding company created pursuant to
14 section 376.1307. In any proceeding pursuant to sections
15 375.1150 to 375.1246, RSMo, involving the reorganized life
16 insurance company, the assets of the mutual holding company are
17 deemed to be assets of the estate of the reorganized life
18 insurance company for purposes of satisfying the claims of the
19 reorganized life insurance company's policyholders. A mutual
20 holding company shall not dissolve or liquidate without the
21 approval of the director [of the department of insurance] or as
22 ordered by the court pursuant to sections 375.1150 to 375.1246,
23 RSMo.

24 2. Sections 375.201 to 375.226, RSMo, shall apply to a
25 demutualization of a mutual holding company the same as if such
26 holding company was a mutual life insurance company. This
27 section does not apply to those companies organized under chapter
28 354, RSMo, or chapter 355, RSMo, and does apply only to

1 for-profit mutual life insurance companies.

2 376.1350. For purposes of sections 376.1350 to 376.1390,
3 the following terms mean:

4 (1) "Adverse determination", a determination by a health
5 carrier or its designee utilization review organization that an
6 admission, availability of care, continued stay or other health
7 care service has been reviewed and, based upon the information
8 provided, does not meet the health carrier's requirements for
9 medical necessity, appropriateness, health care setting, level of
10 care or effectiveness, and the payment for the requested service
11 is therefore denied, reduced or terminated;

12 (2) "Ambulatory review", utilization review of health care
13 services performed or provided in an outpatient setting;

14 (3) "Case management", a coordinated set of activities
15 conducted for individual patient management of serious,
16 complicated, protracted or other health conditions;

17 (4) "Certification", a determination by a health carrier or
18 its designee utilization review organization that an admission,
19 availability of care, continued stay or other health care service
20 has been reviewed and, based on the information provided,
21 satisfies the health carrier's requirements for medical
22 necessity, appropriateness, health care setting, level of care
23 and effectiveness;

24 (5) "Clinical peer", a physician or other health care
25 professional who holds a nonrestricted license in a state of the
26 United States and in the same or similar specialty as typically
27 manages the medical condition, procedure or treatment under
28 review;

1 (6) "Clinical review criteria", the written screening
2 procedures, decision abstracts, clinical protocols and practice
3 guidelines used by the health carrier to determine the necessity
4 and appropriateness of health care services;

5 (7) "Concurrent review", utilization review conducted
6 during a patient's hospital stay or course of treatment;

7 (8) "Covered benefit" or "benefit", a health care service
8 that an enrollee is entitled under the terms of a health benefit
9 plan;

10 (9) "Director", the director of the department of
11 insurance, financial and professional regulation;

12 (10) "Discharge planning", the formal process for
13 determining, prior to discharge from a facility, the coordination
14 and management of the care that a patient receives following
15 discharge from a facility;

16 (11) "Drug", any substance prescribed by a licensed health
17 care provider acting within the scope of the provider's license
18 and that is intended for use in the diagnosis, mitigation,
19 treatment or prevention of disease. The term includes only those
20 substances that are approved by the FDA for at least one
21 indication;

22 (12) "Emergency medical condition", the sudden and, at the
23 time, unexpected onset of a health condition that manifests
24 itself by symptoms of sufficient severity that would lead a
25 prudent lay person, possessing an average knowledge of medicine
26 and health, to believe that immediate medical care is required,
27 which may include, but shall not be limited to:

28 (a) Placing the person's health in significant jeopardy;

1 (b) Serious impairment to a bodily function;

2 (c) Serious dysfunction of any bodily organ or part;

3 (d) Inadequately controlled pain; or

4 (e) With respect to a pregnant woman who is having
5 contractions:

6 a. That there is inadequate time to effect a safe transfer
7 to another hospital before delivery; or

8 b. That transfer to another hospital may pose a threat to
9 the health or safety of the woman or unborn child;

10 (13) "Emergency service", a health care item or service
11 furnished or required to evaluate and treat an emergency medical
12 condition, which may include, but shall not be limited to, health
13 care services that are provided in a licensed hospital's
14 emergency facility by an appropriate provider;

15 (14) "Enrollee", a policyholder, subscriber, covered person
16 or other individual participating in a health benefit plan;

17 (15) "FDA", the federal Food and Drug Administration;

18 (16) "Facility", an institution providing health care
19 services or a health care setting, including but not limited to
20 hospitals and other licensed inpatient centers, ambulatory
21 surgical or treatment centers, skilled nursing centers,
22 residential treatment centers, diagnostic, laboratory and imaging
23 centers, and rehabilitation and other therapeutic health
24 settings;

25 (17) "Grievance", a written complaint submitted by or on
26 behalf of an enrollee regarding the:

27 (a) Availability, delivery or quality of health care
28 services, including a complaint regarding an adverse

1 determination made pursuant to utilization review;

2 (b) Claims payment, handling or reimbursement for health
3 care services; or

4 (c) Matters pertaining to the contractual relationship
5 between an enrollee and a health carrier;

6 (18) "Health benefit plan", a policy, contract, certificate
7 or agreement entered into, offered or issued by a health carrier
8 to provide, deliver, arrange for, pay for, or reimburse any of
9 the costs of health care services; except that, health benefit
10 plan shall not include any coverage pursuant to liability
11 insurance policy, workers' compensation insurance policy, or
12 medical payments insurance issued as a supplement to a liability
13 policy;

14 (19) "Health care professional", a physician or other
15 health care practitioner licensed, accredited or certified by the
16 state of Missouri to perform specified health services consistent
17 with state law;

18 (20) "Health care provider" or "provider", a health care
19 professional or a facility;

20 (21) "Health care service", a service for the diagnosis,
21 prevention, treatment, cure or relief of a health condition,
22 illness, injury or disease;

23 (22) "Health carrier", an entity subject to the insurance
24 laws and regulations of this state that contracts or offers to
25 contract to provide, deliver, arrange for, pay for or reimburse
26 any of the costs of health care services, including a sickness
27 and accident insurance company, a health maintenance
28 organization, a nonprofit hospital and health service

1 corporation, or any other entity providing a plan of health
2 insurance, health benefits or health services; except that such
3 plan shall not include any coverage pursuant to a liability
4 insurance policy, workers' compensation insurance policy, or
5 medical payments insurance issued as a supplement to a liability
6 policy;

7 (23) "Health indemnity plan", a health benefit plan that is
8 not a managed care plan;

9 (24) "Managed care plan", a health benefit plan that either
10 requires an enrollee to use, or creates incentives, including
11 financial incentives, for an enrollee to use, health care
12 providers managed, owned, under contract with or employed by the
13 health carrier;

14 (25) "Participating provider", a provider who, under a
15 contract with the health carrier or with its contractor or
16 subcontractor, has agreed to provide health care services to
17 enrollees with an expectation of receiving payment, other than
18 coinsurance, co-payments or deductibles, directly or indirectly
19 from the health carrier;

20 (26) "Peer-reviewed medical literature", a published
21 scientific study in a journal or other publication in which
22 original manuscripts have been published only after having been
23 critically reviewed for scientific accuracy, validity and
24 reliability by unbiased independent experts, and that has been
25 determined by the International Committee of Medical Journal
26 Editors to have met the uniform requirements for manuscripts
27 submitted to biomedical journals or is published in a journal
28 specified by the United States Department of Health and Human

1 Services pursuant to Section 1861(t)(2)(B) of the Social Security
2 Act, as amended, as acceptable peer-reviewed medical literature.
3 Peer-reviewed medical literature shall not include publications
4 or supplements to publications that are sponsored to a
5 significant extent by a pharmaceutical manufacturing company or
6 health carrier;

7 (27) "Person", an individual, a corporation, a partnership,
8 an association, a joint venture, a joint stock company, a trust,
9 an unincorporated organization, any similar entity or any
10 combination of the foregoing;

11 (28) "Prospective review", utilization review conducted
12 prior to an admission or a course of treatment;

13 (29) "Retrospective review", utilization review of medical
14 necessity that is conducted after services have been provided to
15 a patient, but does not include the review of a claim that is
16 limited to an evaluation of reimbursement levels, veracity of
17 documentation, accuracy of coding or adjudication for payment;

18 (30) "Second opinion", an opportunity or requirement to
19 obtain a clinical evaluation by a provider other than the one
20 originally making a recommendation for a proposed health service
21 to assess the clinical necessity and appropriateness of the
22 initial proposed health service;

23 (31) "Stabilize", with respect to an emergency medical
24 condition, that no material deterioration of the condition is
25 likely to result or occur before an individual may be
26 transferred;

27 (32) "Standard reference compendia":

28 (a) The American Hospital Formulary Service-Drug

1 Information; or

2 (b) The United States Pharmacopoeia-Drug Information;

3 (33) "Utilization review", a set of formal techniques
4 designed to monitor the use of, or evaluate the clinical
5 necessity, appropriateness, efficacy, or efficiency of, health
6 care services, procedures, or settings. Techniques may include
7 ambulatory review, prospective review, second opinion,
8 certification, concurrent review, case management, discharge
9 planning or retrospective review. Utilization review shall not
10 include elective requests for clarification of coverage;

11 (34) "Utilization review organization", a utilization
12 review agent as defined in section 374.500, RSMo.

13 376.1361. 1. A utilization review program shall use
14 documented clinical review criteria that are based on sound
15 clinical evidence and are evaluated periodically to assure
16 ongoing efficacy. A health carrier may develop its own clinical
17 review criteria, or it may purchase or license clinical review
18 criteria from qualified vendors. A health carrier shall make
19 available its clinical review criteria upon request by either the
20 director of the department of health and senior services or the
21 director [of the department of insurance].

22 2. Any medical director who administers the utilization
23 review program or oversees the review decisions shall be a
24 qualified health care professional licensed in the state of
25 Missouri. A licensed clinical peer shall evaluate the clinical
26 appropriateness of adverse determinations.

27 3. A health carrier shall issue utilization review
28 decisions in a timely manner pursuant to the requirements of

1 sections 376.1363, 376.1365 and 376.1367. A health carrier shall
2 obtain all information required to make a utilization review
3 decision, including pertinent clinical information. A health
4 carrier shall have a process to ensure that utilization reviewers
5 apply clinical review criteria consistently.

6 4. A health carrier's data systems shall be sufficient to
7 support utilization review program activities and to generate
8 management reports to enable the health carrier to monitor and
9 manage health care services effectively.

10 5. If a health carrier delegates any utilization review
11 activities to a utilization review organization, the health
12 carrier shall maintain adequate oversight, which shall include:

13 (1) A written description of the utilization review
14 organization's activities and responsibilities, including
15 reporting requirements;

16 (2) Evidence of formal approval of the utilization review
17 organization program by the health carrier; and

18 (3) A process by which the health carrier evaluates the
19 performance of the utilization review organization.

20 6. The health carrier shall coordinate the utilization
21 review program with other medical management activities conducted
22 by the carrier, such as quality assurance, credentialing,
23 provider contracting, data reporting, grievance procedures,
24 processes for accessing member satisfaction and risk management.

25 7. A health carrier shall provide enrollees and
26 participating providers with timely access to its review staff by
27 a toll-free number.

28 8. When conducting utilization review, the health carrier

1 shall collect only the information necessary to certify the
2 admission, procedure or treatment, length of stay, frequency and
3 duration of services.

4 9. Compensation to persons providing utilization review
5 services for a health carrier shall not contain direct or
6 indirect incentives for such persons to make medically
7 inappropriate review decisions. Compensation to any such persons
8 may not be directly or indirectly based on the quantity or type
9 of adverse determinations rendered.

10 10. A health carrier shall permit enrollees or a provider
11 on behalf of an enrollee to appeal for the coverage of medically
12 necessary pharmaceutical prescriptions and durable medical
13 equipment as part of the health carriers' utilization review
14 process.

15 11. (1) This subsection shall apply to:

16 (a) Any health benefit plan that is issued, amended,
17 delivered or renewed on or after January 1, 1998, and provides
18 coverage for drugs; or

19 (b) Any person making a determination regarding payment or
20 reimbursement for a prescription drug pursuant to such plan.

21 (2) A health benefit plan that provides coverage for drugs
22 shall provide coverage for any drug prescribed to treat an
23 indication so long as the drug has been approved by the FDA for
24 at least one indication, if the drug is recognized for treatment
25 of the covered indication in one of the standard reference
26 compendia or in substantially accepted peer-reviewed medical
27 literature and deemed medically appropriate.

28 (3) This section shall not be construed to require coverage

1 for a drug when the FDA has determined its use to be
2 contraindicated for treatment of the current indication.

3 (4) A drug use that is covered pursuant to subsection 1 of
4 this section shall not be denied coverage based on a "medical
5 necessity" requirement except for a reason that is unrelated to
6 the legal status of the drug use.

7 (5) Any drug or service furnished in a research trial, if
8 the sponsor of the research trial furnishes such drug or service
9 without charge to any participant in the research trial, shall
10 not be subject to coverage pursuant to subsection 1 of this
11 section.

12 (6) Nothing in this section shall require payment for
13 nonformulary drugs, except that the state may exclude or
14 otherwise restrict coverage of a covered outpatient drug from
15 Medicaid programs as specified in the Social Security Act,
16 Section 1927(d)(1)(B).

17 12. A carrier shall issue a confirmation number to an
18 enrollee when the health carrier, acting through a participating
19 provider or other authorized representative, authorizes the
20 provision of health care services.

21 13. If an authorized representative of a health carrier
22 authorizes the provision of health care services, the health
23 carrier shall not subsequently retract its authorization after
24 the health care services have been provided, or reduce payment
25 for an item or service furnished in reliance on approval, unless:

26 (1) Such authorization is based on a material
27 misrepresentation or omission about the treated person's health
28 condition or the cause of the health condition; or

1 (2) The health benefit plan terminates before the health
2 care services are provided; or

3 (3) The covered person's coverage under the health benefit
4 plan terminates before the health care services are provided.

5 376.1550. 1. Notwithstanding any other provision of law to
6 the contrary, each health carrier that offers or issues health
7 benefit plans which are delivered, issued for delivery,
8 continued, or renewed in this state on or after January 1, 2005,
9 shall provide coverage for a mental health condition, as defined
10 in this section, and shall comply with the following provisions:

11 (1) A health benefit plan shall provide coverage for
12 treatment of a mental health condition and shall not establish
13 any rate, term, or condition that places a greater financial
14 burden on an insured for access to treatment for a mental health
15 condition than for access to treatment for a physical health
16 condition. Any deductible or out-of-pocket limits required by a
17 health carrier or health benefit plan shall be comprehensive for
18 coverage of all health conditions, whether mental or physical;

19 (2) The coverages set forth [is] in this subsection:

20 (a) May be administered pursuant to a managed care program
21 established by the health carrier; and

22 (b) May deliver covered services through a system of
23 contractual arrangements with one or more providers, hospitals,
24 nonresidential or residential treatment programs, or other mental
25 health service delivery entities certified by the department of
26 mental health, or accredited by a nationally recognized
27 organization, or licensed by the state of Missouri;

28 (3) A health benefit plan that does not otherwise provide

1 for management of care under the plan or that does not provide
2 for the same degree of management of care for all health
3 conditions may provide coverage for treatment of mental health
4 conditions through a managed care organization; provided that the
5 managed care organization is in compliance with rules adopted by
6 the [department of insurance] director that assure that the
7 system for delivery of treatment for mental health conditions
8 does not diminish or negate the purpose of this section. The
9 rules adopted by the director shall assure that:

10 (a) Timely and appropriate access to care is available;

11 (b) The quantity, location, and specialty distribution of
12 health care providers is adequate; and

13 (c) Administrative or clinical protocols do not serve to
14 reduce access to medically necessary treatment for any insured;

15 (4) Coverage for treatment for chemical dependency shall
16 comply with sections 376.779, 376.810 to 376.814, and 376.825 to
17 376.836 and for the purposes of this subdivision the term "health
18 insurance policy" as used in sections 376.779, 376.810 to
19 376.814, and 376.825 to 376.836, the term "health insurance
20 policy" shall include group coverage.

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

22 (1) "Chemical dependency", the psychological or
23 physiological dependence upon and abuse of drugs, including
24 alcohol, characterized by drug tolerance or withdrawal and
25 impairment of social or occupational role functioning or both;

26 (2) "Health benefit plan", the same meaning as such term is
27 defined in section 376.1350;

28 (3) "Health carrier", the same meaning as such term is

1 defined in section 376.1350;

2 (4) "Mental health condition", any condition or disorder
3 defined by categories listed in the most recent edition of the
4 Diagnostic and Statistical Manual of Mental Disorders except for
5 chemical dependency;

6 (5) "Managed care organization", any financing mechanism or
7 system that manages care delivery for its members or subscribers,
8 including health maintenance organizations and any other similar
9 health care delivery system or organization;

10 (6) "Rate, term, or condition", any lifetime or annual
11 payment limits, deductibles, co-payments, coinsurance, and other
12 cost-sharing requirements, out-of-pocket limits, visit limits,
13 and any other financial component of a health benefit plan that
14 affects the insured.

15 3. This section shall not apply to a health plan or policy
16 that is individually underwritten or provides such coverage for
17 specific individuals and members of their families pursuant to
18 section 376.779, sections 376.810 to 376.814, and sections
19 376.825 to 376.836, a supplemental insurance policy, including a
20 life care contract, accident-only policy, specified disease
21 policy, hospital policy providing a fixed daily benefit only,
22 Medicare supplement policy, long-term care policy,
23 hospitalization-surgical care policy, short-term major medical
24 policies of six months or less duration, or any other
25 supplemental policy as determined by the director [of the
26 department of insurance].

27 4. Notwithstanding any other provision of law to the
28 contrary, all health insurance policies that cover state

1 employees, including the Missouri consolidated health care plan,
2 shall include coverage for mental illness. Multiyear group
3 policies need not comply until the expiration of their current
4 multiyear term unless the policyholder elects to comply before
5 that time.

6 5. The provisions of this section shall not be violated if
7 the insurer decides to apply different limits or exclude entirely
8 from coverage the following:

9 (1) Marital, family, educational, or training services
10 unless medically necessary and clinically appropriate;

11 (2) Services rendered or billed by a school or halfway
12 house;

13 (3) Care that is custodial in nature;

14 (4) Services and supplies that are not immediately nor
15 clinically appropriate; or

16 (5) Treatments that are considered experimental.

17 6. The director shall grant a policyholder a waiver from
18 the provisions of this section if the policyholder demonstrates
19 to the director by actual experience over any consecutive
20 twenty-four-month period that compliance with this section has
21 increased the cost of the health insurance policy by an amount
22 that results in a two percent increase in premium costs to the
23 policyholder. The director shall promulgate rules establishing a
24 procedure and appropriate standards for making such a
25 demonstration. Any rule or portion of a rule, as that term is
26 defined in section 536.010, RSMo, that is created under the
27 authority delegated in this section shall become effective only
28 if it complies with and is subject to all of the provisions of

1 chapter 536, RSMo, and, if applicable, section 536.028, RSMo.
2 This section and chapter 536, RSMo, are nonseverable and if any
3 of the powers vested with the general assembly pursuant to
4 chapter 536, RSMo, to review, to delay the effective date, or to
5 disapprove and annul a rule are subsequently held
6 unconstitutional, then the grant of rulemaking authority and any
7 rule proposed or adopted after August 28, 2004, shall be invalid
8 and void.

9 377.005. 1. As used in this chapter, unless otherwise
10 clearly indicated by the context, the following words mean:

11 (1) "Department", the department of insurance, financial
12 and professional regulation; and

13 (2) "Director", the director of the department of
14 insurance, financial and professional regulation.

15 377.020. 1. Any number of persons, not less than seven,
16 being citizens of the state of Missouri, may upon application to
17 the circuit court of the county or city in which it is proposed
18 to locate the chief offices or place of business, become a body
19 politic or corporate under the name and style designated in the
20 application, for the purpose of doing a life or casualty, or life
21 and casualty insurance business on the assessment plan; said
22 application shall in all cases be accompanied by the articles of
23 association, or agreements, setting forth specifically the
24 objects and purposes of the proposed corporation, as well as the
25 methods and plans by which its business shall be conducted, and
26 upon a hearing of the same, the court may grant or reject the
27 application as it may deem best.

28 2. If the application is granted it shall be the duty of

1 the applicant to cause a copy of said articles, with a copy of
2 the decree of the court duly certified by the clerk thereof, and
3 by him endorsed on or attached thereto, to be recorded in the
4 office of the recorder of deeds in the county in which said
5 corporation is located and then filed in the office of the
6 secretary of state.

7 3. The secretary of state shall thereupon issue to the
8 applicants aforesaid a certified copy of the said articles, with
9 the several certificates thereon, as filed in his office, which
10 certified copy shall be the charter of incorporation, and
11 thereupon said applicants, their associates and successors, shall
12 be created and be a body politic and corporate by the corporate
13 name as aforesaid, and such charter, together with sections
14 377.010 to 377.190, shall be received in all courts and places as
15 legal evidence of the incorporation of the said association,
16 society or company; provided, that no decree shall be made, and
17 no certificate of incorporation issued as aforesaid until the
18 director [of the insurance department] shall certify that the
19 proposed name of the corporation is not the same and does not
20 resemble the name of any other corporations authorized to do
21 business in this state, to the extent of misleading the public,
22 and further that the society, association or company seeking to
23 be incorporated has secured applications for not less than one
24 hundred thousand dollars insurance by not less than one hundred
25 persons, and that thirty thousand dollars in cash or securities,
26 approved by the director [of insurance] has been deposited with
27 the department [of insurance], which fund shall be held in trust
28 as a beneficiary fund by the said director [of insurance]. The

1 term "casualty insurance" as used in sections 377.010 to 377.190,
2 inclusive, shall be construed to mean only accident, health and
3 hospitalization insurance.

4 4. After September 1, 1953, no insurance company as
5 described herein may be incorporated to do business on the
6 assessment plan under the provisions of sections 377.010 to
7 377.190. This provision, however, shall not be construed as
8 restricting or abridging in any manner the right to do business
9 under the provisions of sections 377.010 to 377.190 of any
10 insurance company now incorporated and licensed to do business in
11 this state under the assessment plan.

12 377.030. 1. On written application by the board of
13 directors, the director [of insurance] shall release to said
14 company from the beneficiary fund the amount herein stated for
15 the purpose of paying policy beneficiaries as provided later
16 herein.

17 2. The board of directors shall certify the names of the
18 beneficiaries and amounts in claims to the director [of
19 insurance] and that the money so released is for no other purpose
20 than to pay the claims so certified.

21 3. However, the amount released from this fund by the said
22 director shall not exceed twelve thousand dollars, which shall be
23 used solely for the purpose of paying beneficiaries.

24 4. Such funds so released shall be replaced on deposit by
25 the company within twelve months in four equal installments, in
26 three, six, nine and twelve months from the date of release. The
27 director [of insurance] at his own discretion may extend time of
28 replacement of said funds, if, in his judgment it is to the best

1 interest of the policyholders.

2 5. This section and section 377.020 shall not apply to
3 companies already incorporated and existing under the laws of the
4 state of Missouri. Nothing in sections 377.010 to 377.190 shall
5 prevent any such company or association from engaging in both
6 life and casualty insurance and placing both a life and casualty
7 clause in the same policy.

8 377.170. 1. Any domestic life or accident insurance
9 corporation, company or association existing or doing business in
10 this state under sections 377.010 to 377.190, providing for
11 insurance on the assessment plan, may, by a majority vote of its
12 directors or trustees, accept the provisions of sections 376.010
13 to 376.670, RSMo, and amend its articles of incorporation and its
14 bylaws to conform to said sections, the same as if it had
15 originally been incorporated thereunder, and shall submit a
16 record of the proceedings of its board of trustees together with
17 the amended articles to the attorney general for his examination
18 and approval of the legal form thereof, and shall file such
19 amended articles in the office of the secretary of state, and a
20 certified copy of the same in the office of the director [of
21 insurance of the state of Missouri], and deposit with said
22 director such securities as may be required of corporations
23 originally incorporated under sections 376.010 to 376.670, RSMo.

24 2. Insurance corporations, companies and associations
25 complying with the provisions of this section shall thereafter
26 enjoy and exercise all of the rights and privileges accorded by
27 law to companies originally incorporated under sections 376.010
28 to 376.670, RSMo.

1 3. Compliance with this section shall in no wise annul,
2 modify or change any of the existing contracts or obligations of
3 the corporation, and any and all such contracts and liabilities
4 shall continue in force and effect the same as if such
5 corporation had not reincorporated under the provisions of this
6 section, but all contracts and policies made subsequent to the
7 compliance with the provisions of this section shall be
8 interpreted and construed under the provisions of sections
9 376.010 to 376.670, RSMo.

10 4. Compliance with the provisions of this section shall in
11 no wise prejudice, impede or impair any pending action,
12 proceeding or rights previously acquired.

13 377.220. 1. The persons mentioned in section 377.210 shall
14 be designated as incorporators, and such persons shall associate
15 themselves by articles of agreement, in writing, duly signed and
16 acknowledged, setting forth:

17 (1) The corporate name of the proposed corporation, which
18 shall not be the name of any corporation heretofore incorporated
19 or doing business in this state for similar purposes, or any such
20 imitation of such name calculated to mislead the public;

21 (2) The name of the city, town or county in which the
22 principal office is located;

23 (3) The amount of the capital stock of the corporation,
24 provided the same be a stock company, which shall not be less
25 than fifty thousand dollars and a surplus of not less than fifty
26 thousand dollars, the number of shares into which the capital
27 stock is divided, and the par value thereof, that the same has
28 been bona fide subscribed, and actually paid up in lawful money

1 of the United States, and is in the custody of the persons named
2 as the first board of directors; the name and place of the
3 several shareholders and the number of shares subscribed by each;

4 (4) The number of the board of directors or managers, which
5 shall be not less than seven, their powers and duties and the
6 names agreed upon for the first year;

7 (5) The number of years the corporation is to continue;

8 (6) A statement that the company is formed for the purpose
9 of carrying on the business of insurance under the provisions of
10 sections 377.200 to 377.460;

11 (7) Any other provision of this section notwithstanding, a
12 stipulated premium life insurance company licensed to do business
13 in this state on October 13, 1963, may renew its license for
14 business specified therein until December 31, 1965, by
15 maintaining in lieu of the capital and surplus requirements an
16 actual capital of at least twenty-five thousand dollars.

17 2. Said articles of agreement shall be submitted to the
18 director [of insurance] and attorney general, and if they are
19 found by these officers to comply with the provisions of sections
20 377.200 to 377.460, they shall approve the same.

21 3. When approved, they shall be filed and recorded in the
22 office of the secretary of state, who shall issue a certificate
23 of incorporation, upon the receipt of which such persons shall be
24 a body corporate and politic, under the statutes of this state.

25 377.230. 1. No such corporation, company or association
26 shall commence the business of life insurance until at least two
27 hundred persons, eligible under the proposed plan of
28 organization, shall have subscribed, in writing, to be insured

1 therein in the aggregate amount of at least two hundred [and]
2 fifty thousand dollars, and shall have each paid, in cash, the
3 amount of one annual stipulated net premium for their age at
4 entry on the amount of insurance severally subscribed for, and
5 which shall be held in trust for the benefit of the members of
6 said corporation or their beneficiaries; nor until the director
7 [of insurance] and attorney general shall have further certified
8 that it has complied with the provisions of sections 377.200 to
9 377.460, and is authorized to transact the business of insurance;
10 provided, however, that every corporation incorporating or
11 reincorporating under the provisions of sections 377.200 to
12 377.460 shall deposit with the director [of insurance] such
13 securities as are required by law to be deposited by insurance
14 companies, the sum of five thousand dollars, before it shall
15 commence business.

16 2. Said five thousand dollars shall be a part of the
17 insurance fund and an asset of the corporation.

18 3. The securities deposited with the [insurance] department
19 pursuant to this section shall be held by the director in trust
20 for the benefit and protection of and as security for the
21 policyholders of such corporation, their legal representatives
22 and beneficiaries.

23 377.260. 1. After the first policy year the mortuary
24 premium, according to the terms of premium payments of each
25 policy, with the loading of the same as provided in section
26 377.250, together with all interest and other accumulations of
27 said fund, except the special loading for limited payment
28 policies, with interest thereon as provided in section 377.270,

1 shall constitute the insurance fund of the corporation, company,
2 or association from which all policy obligations shall be paid,
3 and the amount remaining in said fund not required to provide for
4 death, disability and other policy claims, shall be set aside as
5 an emergency fund, and may be deposited with the [insurance]
6 department.

7 2. If by any reason of excessive mortality, or other cause,
8 the emergency fund as thus constituted shall become exhausted,
9 then the director [of the department of insurance] shall require
10 the officers of such corporation, company or association to
11 notify all policyholders on or before the first of the next
12 succeeding month to pay, within thirty days from the mailing of
13 such notice, an extra premium, sufficient to meet the amount of
14 the maximum policy issued apportioned equitably.

15 3. If any member fails to pay such extra premium within the
16 time named his policy shall be commuted proportionately, and the
17 policy as thus commuted shall be the maximum amount for which the
18 corporation shall be liable under said policy. Said thirty days'
19 notice shall clearly state the proportionate amount due from the
20 insured, and shall contain the further statement that in the
21 event of failure to pay the same within thirty days said policy
22 will be commuted as aforesaid.

23 377.400. No stipulated premium life insurance company or
24 association organized under sections 377.200 to 377.460 shall
25 consolidate with another company or transfer or reinsure its
26 risks with any other company or association or assume or
27 reinstate the whole or any part of the risks of any other company
28 or association, except with the approval of a majority of the

1 policy or stockholders present and voting at a regular or special
2 meeting duly called; provided, however, that any such company may
3 reinsure a fractional part of any single risk, but no such
4 insurance shall in any manner release the company or association
5 from its obligation under contract with the policyholder. All
6 such reinsurance shall be reported annually to the director [of
7 insurance].

8 377.420. When any state, territory or foreign country shall
9 impose any obligations upon any such corporation of this state,
10 or their agents transacting business in such other state,
11 territory or foreign country, the like obligations are hereby
12 imposed upon similar corporations of such other state, territory
13 or foreign country, their agents or representatives transacting
14 business in this state; and such corporation, company,
15 association or society of such other state, territory or foreign
16 country, and its agents and representatives shall pay all
17 licenses, fees or penalties to, and make deposits with the
18 director [of insurance] imposed by the laws of such other state,
19 territory or foreign country upon any corporation of this state
20 doing business therein; and in case of failure to pay the same,
21 the director shall refuse the certificate of authority herein
22 provided for or cancel such certificate, if one shall have been
23 previously issued.

24 377.430. 1. No foreign corporation, company, association
25 or society shall be authorized to transact any business
26 authorized by sections 377.200 to 377.460 within this state,
27 unless it furnish evidence satisfactory to the director [of
28 insurance] that it has a reserve or emergency fund equal in

1 amount to that required by sections 377.200 to 377.460, and the
2 same is held for the benefit of policyholders only, and invested
3 as required by the insurance laws of its home state.

4 2. Neither shall any foreign corporation, company,
5 association or society be authorized to do business in this state
6 under sections 377.200 to 377.460, unless it collects in advance
7 for the benefit of its policyholders a net premium equal to at
8 least that provided for by the terms of sections 377.200 to
9 377.460; provided, that all such foreign corporations shall
10 annually pay a tax on the gross premiums received in this state
11 on account of business done in the state at the rate of one
12 percent per annum, which shall be in lieu of all other taxes as
13 herein otherwise provided; said tax shall be levied and collected
14 as is provided for in the collection of taxes on other insurance
15 companies.

16 378.604. As used in this chapter, the following terms shall
17 mean:

18 (1) "Benefit contract", the agreement for provision of
19 benefits authorized by section 378.616, as that agreement is
20 described in subsection 1 of section 378.619;

21 (2) "Benefit member", an adult member who is designated by
22 the laws or rules of the society to be a benefit member under a
23 benefit contract;

24 (3) "Certificate", the document issued as written evidence
25 of the benefit contract;

26 (4) "Director", the director of the department of
27 insurance, financial and professional regulation;

28 (5) "Laws", the society's articles of incorporation,

1 constitution and bylaws, however designated;

2 (6) "Lodge", subordinate member units of the society, known
3 as camps, courts, councils, branches or by any other designation;

4 (7) "Premiums", premiums, rates, dues or other required
5 contributions by whatever name known, which are payable under the
6 certificate;

7 (8) "Rules", all rules, regulations or resolutions adopted
8 by the supreme governing body or board of directors which are
9 intended to have general application to the members of the
10 society;

11 (9) "Society", a fraternal benefit society, unless
12 otherwise indicated.

13 379.005. 1. As used in this chapter, unless otherwise
14 clearly indicated by the context, the following words mean:

15 (1) "Department", the department of insurance, financial
16 and professional regulation; and

17 (2) "Director", the director of the department of
18 insurance, financial and professional regulation.

19 379.080. 1. (1) The amount of the minimum capital
20 required of a stock company to write the lines of business it
21 proposes to transact or is transacting, or if the company is a
22 mutual company an amount equal to the minimum capital required of
23 a stock company transacting the same classes of business, shall
24 be held in cash or invested in:

25 (a) Treasury notes or bonds of the United States;

26 (b) Bonds of the state of Missouri;

27 (c) Bonds issued by any school district of the state of
28 Missouri;

1 (d) Bonds of any political subdivision of this state;

2 (2) The remainder of the capital, surplus or policyholders'
3 surplus of these companies and their other assets may be
4 invested, to the extent allowed by this or any other provision of
5 law, in:

6 (a) The investments authorized by subdivision (1) of
7 subsection 1 of this section;

8 (b) Loans safely secured by personal property collateral
9 worth, at its cash market value, not less than twenty percent in
10 excess of the amount loaned thereon;

11 (c) Stocks, bonds or evidences of indebtedness issued by
12 corporations organized under the laws of this state, or of the
13 United States or of any other state;

14 (d) Bonds or other obligations issued by multinational
15 development banks in which the United States is a member nation,
16 including the African Development Bank;

17 (e) Bonds of any other state, or of any political
18 subdivision of any other state;

19 (f) Mortgages or deeds of trust on unencumbered real estate
20 in this or any other state worth not less than twenty percent in
21 excess of the amount loaned thereon;

22 (g) If a company is authorized to do business in a foreign
23 country or a possession of the United States or has outstanding
24 insurance or reinsurance contracts on risks located in a foreign
25 country or United States' possession, the company may invest the
26 remainder of its capital and other assets in securities, cash or
27 other investments payable in the currency of the foreign country
28 or possession that are of substantially the same kinds and

1 classes as those eligible for investments under this subsection,
2 provided that such investments are made with the approval of the
3 director. The aggregate amount of the foreign investments and
4 cash shall not exceed the greater of one and one-half times the
5 amount of the company's reserves and other obligations under the
6 contracts or the amount that the company is required by law to
7 invest in the foreign country or possession, and the aggregate
8 amount of foreign investments and cash shall not exceed five
9 percent of the company's admitted assets. All foreign
10 investments shall be reported to the director from time to time
11 as he directs;

12 (h) Loans evidenced by bonds, notes or other evidences of
13 indebtedness guaranteed or insured, but only to the extent
14 guaranteed or insured by the United States, any state, territory
15 or possession of the United States, the District of Columbia, or
16 by any agency, administration, authority or instrumentality of
17 any of the political units enumerated;

18 (i) Shares of insured state-chartered building and loan
19 associations and federal savings and loan associations, if such
20 shares are insured by the Federal Deposit Insurance Corporation;

21 (j) Investments permitted by section 99.550, RSMo;

22 (k) Data processing equipment, automobiles, real estate and
23 put or call options and financial futures contracts to the extent
24 allowed by this section and any other provision of law;

25 (l) Investments in subsidiaries to the extent allowed by
26 section 382.020, RSMo;

27 (m) Any other investments not described herein provided the
28 aggregate amount of such investments shall not exceed eight

1 percent of the admitted assets of the company;

2 (n) Any investments in an investment pool meeting the
3 requirements of section 379.083 and any other provision of law
4 relating to investments made by individual property and casualty
5 companies;

6 (o) Any other investments expressly authorized in writing
7 by the director [of the department of insurance]; and

8 (p) Any investment in a Missouri tax credit certificate or
9 partnership interest which entitles the company to receive
10 Missouri tax credits that may be used as a credit against the
11 gross premium tax.

12 2. Violation of any of the provisions of this section by an
13 insurer is grounds for the suspension or revocation of its
14 certificate of authority by the director.

15 379.083. 1. As used in this section, the following terms
16 mean:

17 (1) "Affiliate", as defined in section 382.010, RSMo;

18 (2) "Business entity", a corporation, limited liability
19 company, association, partnership, joint stock company, joint
20 venture, mutual fund trust, or other similar form of business
21 organization, including such an entity when organized as a
22 not-for-profit entity;

23 (3) "Qualified bank", a national bank, state bank or trust
24 company that at all times is no less than adequately capitalized
25 as determined by the standards adopted by the United States
26 banking regulators and that is either regulated by state banking
27 laws or is a member of the Federal Reserve System.

28 2. An insurer may acquire investments in investment pools

1 that invest only in investments which an insurer may acquire
2 pursuant to sections 379.080, 379.082 and other provisions of
3 law. The insurer's proportionate interest in the amount invested
4 in these investments shall not exceed the applicable limits of
5 sections 379.080, 379.082 and other provisions of law. An
6 insurer and its affiliated insurers may invest in a maximum of
7 three investment pools.

8 3. An investment pool qualified pursuant to this section
9 shall not:

10 (1) Acquire securities issued, assumed, guaranteed or
11 insured by the insurer or an affiliate of the insurer;

12 (2) Borrow or incur an indebtedness for borrowed money,
13 except for transactions that meet the requirements of sections
14 379.080, 379.082 and other provisions of law;

15 (3) Permit the aggregate value of securities then loaned or
16 sold to, purchased from or invested in any one business entity,
17 which in no event will be an affiliated entity of the
18 participant, to exceed ten percent of the total assets of the
19 investment pool; or

20 (4) Lend money or other assets to participants in the pool.

21 4. An insurer shall not acquire an investment in an
22 investment pool pursuant to this section if, as a result of such
23 investment, the aggregate amount of investments then held by the
24 insurer pursuant to this section:

25 (1) In any one investment pool would exceed ten percent of
26 its admitted assets; or

27 (2) In all investment pools would exceed thirty percent of
28 its admitted assets.

1 5. For an investment in an investment pool to be qualified
2 pursuant to this section, the manager of the investment pool
3 shall:

4 (1) Be organized under the laws of the United States or an
5 individual state and be designated as the pool manager in a
6 pooling agreement;

7 (2) Be the insurer, an affiliated insurer, a qualified
8 bank, a business entity registered under the federal Investment
9 Advisors Act of 1940 (15 U.S.C. section 80A-1 et seq.) as
10 amended or, in the case of a reciprocal insurer or interinsurance
11 exchange, its attorney-in-fact;

12 (3) Compile and maintain detailed accounting records
13 setting forth:

14 (a) The cash receipts and disbursements reflecting each
15 participant's proportionate investment in the investment pool;

16 (b) A complete description of all underlying assets of the
17 investment pool, including amount, interest rate, maturity date,
18 if any, and other appropriate designations; and

19 (c) Other records which, on a daily basis, allow third
20 parties to verify each participant's investment in the investment
21 pool; and

22 (4) Maintain the assets of the investment pool in one
23 custody account, in the name of or on behalf of the investment
24 pool, under a custody agreement with a qualified bank. All
25 custodial agreements shall be filed with the department [of
26 insurance] for prior approval. The custody agreement shall:

27 (a) State and recognize the claims and rights of each
28 participant;

1 (b) Acknowledge that the underlying assets of the
2 investment pool are held solely for the benefit of each
3 participant in proportion to the aggregate amount of its
4 investments in the investment pool; and

5 (c) Contain an agreement that the underlying assets of the
6 investment pool shall not be commingled with the general assets
7 of the custodian qualified bank or any other person.

8 6. The pooling agreement for each investment pool shall be
9 in writing and shall provide that:

10 (1) An insurer and its affiliated insurers shall, at all
11 times, hold one hundred percent of the interests in the
12 investment pool;

13 (2) The underlying assets of the investment pool shall not
14 be commingled with the general assets of the pool manager or any
15 other person;

16 (3) In proportion to the aggregate amount of each pool
17 participant's interest in the investment pool:

18 (a) Each participant owns an undivided interest in the
19 underlying assets of the investment pool; and

20 (b) The underlying assets of the investment pool are held
21 solely for the benefit of each participant;

22 (4) A participant or, in the event of the participant's
23 insolvency, bankruptcy or receivership, its trustee, receiver or
24 other successor-in-interest, may withdraw all or any portion of
25 its investment from the pool under the terms of the pooling
26 agreement;

27 (5) Withdrawals may be made upon demand without penalty or
28 other assessment on any business day, but settlement of funds

1 shall occur within a reasonable and customary period thereafter
2 not to exceed five business days. Distributions pursuant to this
3 subdivision shall be calculated in each case net of all then
4 applicable fees and expenses of the pool. The pooling agreement
5 shall provide that the pool manager shall distribute to a
6 participant, at the discretion of the pool manager:

7 (a) In cash, the then fair market value of the
8 participant's pro rata share of each underlying asset of the
9 investment pool;

10 (b) In kind, a pro rata share of each underlying asset; or

11 (c) In a combination of cash and in-kind distributions, a
12 pro rata share in each underlying asset; and

13 (6) The pool manager shall make the records of the
14 investment pool available for inspection by the director [of the
15 department of insurance].

16 7. The investment pool authorized pursuant to this section
17 shall be a business entity.

18 8. The pooling agreement and any other arrangements or
19 agreements relating to an investment pool, and any amendments
20 thereto, shall be submitted to the department [of insurance] for
21 prior approval pursuant to section 382.195, RSMo. Individual
22 financial transactions between the pool and its participants in
23 the ordinary course of the investment pool's operations shall not
24 be subject to the provisions of section 382.195, RSMo.

25 Investment activities of pools and transactions between pools and
26 participants shall be reported annually in the registration
27 statement required by section 382.100, RSMo.

28 379.160. 1. Each fire insurance company doing business in

1 the state of Missouri is hereby required to file the form of
2 policy for use by it in the state of Missouri, covering the
3 responsibilities of the companies as well as the duties of the
4 assured, to be classed and known as the standard fire insurance
5 policy. Said policy form may be approved by the director [of
6 insurance of the state], and no policy shall be issued in this
7 state carrying risks by fire or lightning by any company which
8 does not embrace the form filed and approved of, as herein
9 provided. There may be printed upon such policy the words
10 "Standard Fire Insurance Policy for Missouri" and there may be
11 inserted before and after the word "Missouri" a designation of
12 any state or states or territory in which such form is standard.

13 2. All such policies shall have an address of the company
14 in the United States fully printed thereon, to which, in case of
15 loss, the assured may send notice of such loss, and to which
16 notice shall be given within sixty days after the loss.

17 3. The appearance of an adjuster of any company at the
18 place of fire and loss in which said company is interested by
19 reason of an insurance on such property, shall be considered
20 evidence of notice and to be held as a waiver of the same on the
21 part of the company; provided, that on any policies issued upon
22 property, real or personal, or real and personal, there may be
23 attached a coinsurance clause; and provided further, that when a
24 coinsurance clause is attached to any policy a reduction in rate
25 shall be given therefor, in accordance with coinsurance credits
26 that are now or may hereafter be filed as a part of the public
27 rating record in the office of the director [of insurance in this
28 state], by fire insurance companies, that have been or shall

1 hereafter be approved by the director [of insurance]; provided
2 further, that in all suits brought upon policies of insurance
3 against loss or damage by fire hereafter issued or renewed, the
4 defendant shall not be permitted to deny that the property
5 insured thereby was worth at the time of the issuing of the
6 policy the full amount insured therein on said property covering
7 both real and personal property; and provided further, that
8 nothing in this section shall be construed to repeal or change
9 the provisions of section 379.140.

10 379.343. 1. The director [of insurance] may, at any time
11 he may deem it advisable, examine any insurer writing any class
12 of insurance which is subject to the provisions of section
13 379.017 and sections 379.316 to 379.361, any rating organization
14 licensed under the provisions of section 379.323, any advisory
15 organization referred to in section 379.326, and every group,
16 association, or other organization referred to in section
17 379.328, and he shall at least once every four years make or
18 cause to be made such examination.

19 2. The examination of an insurer may be made during the
20 course of an examination pursuant to provisions of other laws of
21 this state.

22 3. During the course of any examination provided for in
23 this section the officers, managers, agents and employees of the
24 insurer, rating organization, advisory organization, or group,
25 association or other organization may be examined under oath and
26 shall exhibit all books, records, accounts, documents, or
27 agreements governing its method of operation as may be requested
28 by the director.

1 4. The reasonable cost of any examination provided for in
2 this section shall be paid by the insurer, rating organization,
3 advisory organization or group, association, or other
4 organization undergoing such examination.

5 5. No report of examination shall be made public until the
6 organization examined has an opportunity to review the proposed
7 report and to file its comments with reference thereto, after
8 which the report and its comments shall be filed for public
9 inspection and become admissible in evidence as a public record.

10 6. The director may accept the report of an examination
11 made by the insurance supervisory official of another state in
12 lieu of any examination provided for in this section.

13 379.440. 1. No corporation, unincorporated association,
14 partnership, or individual shall act as a rating organization in
15 this state without first filing with the director [of insurance]
16 a written application for, and securing a license as, a rating
17 organization for such kinds of insurance or subdivisions thereof
18 as are specified in its application.

19 2. Any corporation, unincorporated association,
20 partnership, or individual, whether located within or outside
21 this state may make application for and obtain a license as a
22 rating organization for such kinds of insurance or subdivision or
23 class of risk or a part or combination thereof as are specified
24 in its application, provided it shall meet the requirements for
25 license set forth in sections 379.420 to 379.510.

26 3. To obtain a license as a rating organization, every such
27 corporation, unincorporated association, partnership or
28 individual shall file therewith

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

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

6 (3) The name and address of a resident of this state upon
7 whom notices or orders of the director [of insurance] or process
8 affecting such rating organization may be served; and

9 (4) A statement of its qualifications as a rating
10 organization.

11 379.445. To obtain and retain a license, a rating
12 organization shall provide satisfactory evidence to the director
13 of insurance, financial and professional regulation that it will

14 (1) Permit any licensed insurer to become a subscriber to
15 such rating organization or withdraw therefrom without obligation
16 to adhere to its manual of classifications, rules and rates or
17 rating plans or systems;

18 (2) Neither adopt any rule nor exact any agreement the
19 effect of which would be to prohibit or regulate the payment of
20 dividends, savings or unabsorbed premium deposits allowed or
21 returned by insurers to their policyholders, members or
22 subscribers. A plan for the payment of dividends, savings or
23 unabsorbed premium deposits allowed or returned by insurers to
24 their policyholders, members or subscribers shall not be deemed
25 to be a rating plan or system;

26 (3) Neither practice nor sanction any plan or act of
27 boycott, coercion or intimidation;

28 (4) Neither enter into nor sanction any contract or act by

1 which any person is restrained from lawfully engaging in the
2 insurance business;

3 (5) Submit to examination as prescribed by section 379.475;

4 (6) Notify the director [of insurance] promptly of every
5 change in its constitution, its articles of agreement or
6 association, or its articles of incorporation and of its bylaws,
7 rules and regulations governing the conduct of its business; its
8 list of members and subscribers; and the name and address of the
9 resident of this state designated by it upon whom notices or
10 orders of the director or process affecting such organization may
11 be served.

12 379.450. 1. If the director [of insurance] finds that the
13 applicant meets the licensing requirements of sections 379.420 to
14 379.510 applicable to it and is trustworthy and competent to act
15 as a rating organization and that its constitution, articles of
16 agreement or association or certificate of incorporation, and its
17 bylaws, rules and regulations governing the conduct of its
18 business conform to the requirements of sections 379.420 to
19 379.510, he shall issue a license specifying the kinds of
20 insurance or subdivisions thereof for which the applicant is
21 authorized to act as a rating organization.

22 2. Every such application shall be granted or denied in
23 whole or in part by the director within sixty days of the date of
24 its filing with him.

25 3. Licenses issued pursuant to this section shall remain in
26 effect until revoked as provided in sections 379.420 to 379.510.

27 379.475. 1. The director [of insurance] shall have the
28 power, at any time he may deem it advisable, to examine any

1 insurer writing any class of insurance which is subject to the
2 provisions of sections 379.420 to 379.510, any rating
3 organization licensed under said sections, any advisory
4 organization referred to in section 379.455, and every group,
5 association, or other organization referred to in section
6 379.460.

7 2. The examination of an insurer may be made during the
8 course of an examination pursuant to provisions of other laws of
9 this state.

10 3. It shall be the duty of the director at least once every
11 three years to make or cause to be made an examination of every
12 rating organization licensed under sections 379.420 to 379.510.

13 4. During the course of any examination provided for in
14 this section the officers, managers, agents and employees of the
15 insurer, rating organization, advisory organization, or group,
16 association or other organization may be examined under oath and
17 shall exhibit all books, records, accounts, documents, or
18 agreements governing its method of operation as may be requested
19 by the director.

20 5. The reasonable cost of any examination provided for in
21 this section shall be paid by the insurer, rating organization,
22 advisory organization or group, association, or other
23 organization undergoing such examination.

24 6. The director may accept the report of an examination
25 made by the insurance supervisory official of another state in
26 lieu of any examination provided for in this section.

27 379.670. The subscribers so contracting among themselves
28 shall, through their attorney, file with the director [of

1 insurance of this state] a declaration verified by the oath of
2 the attorney setting forth:

3 (1) The name or title of the office at which the
4 subscribers propose to exchange indemnity contracts. The name or
5 title shall not be so similar to any other name or title
6 previously adopted by a similar organization or by any insurance
7 corporation or association as in the opinion of the director [of
8 insurance] is calculated to result in confusion or deception;

9 (2) The kind or kinds of insurance to be effected or
10 exchanged;

11 (3) A copy of the form of policy contract or agreement
12 under or by which the insurance is to be effected or exchanged;

13 (4) A copy of the form of power of attorney or other
14 authority of the attorney under which the insurance is to be
15 effected or exchanged;

16 (5) The location of the offices from which the contracts or
17 agreements are to be issued;

18 (6) That, except as to the kinds of insurance herein
19 specifically mentioned in this subdivision, applications have
20 been made for indemnity upon at least one hundred separate risks
21 aggregating not less than one and one-half million dollars
22 represented by executed contracts or bona fide applications to
23 become concurrently effective. In the case of employer's
24 liability or workers' compensation insurance, applications shall
25 have been made for indemnity upon at least one hundred separate
26 risks covering a total payroll of not less than two and one-half
27 million dollars as represented by executed contracts or bona fide
28 applications to become concurrently effective. In the case of

1 automobile insurance, applications shall have been made for
2 indemnity upon at least one thousand motor vehicles or for
3 insurance aggregating not less than one and one-half million
4 dollars represented by executed contracts or bona fide
5 applications to become concurrently effective on any or all
6 classes of automobile insurance effected by the subscribers
7 through the attorney;

8 (7) That there is in the possession of the attorney and
9 available for the payment of losses, assets conforming to the
10 requirements of sections 379.700 and 379.710.

11 379.680. 1. Concurrently with the filing of the
12 declaration provided for by the terms of section 379.670, the
13 attorney shall file with the director [of insurance] an
14 instrument in writing, executed by him for the subscribers,
15 conditioned that, upon the issuance of certificate of authority
16 provided for in section 379.750, service of process may be had
17 upon the director [of insurance] in all suits in this state
18 arising out of the policies, contracts or agreements, which
19 service shall be valid and binding upon all subscribers
20 exchanging at any time reciprocal or interinsurance contracts
21 through the attorney.

22 2. Three copies of the process shall be served, and the
23 director [of insurance] shall file one copy, forward one copy to
24 the attorney, and return one copy with his admission of service.

25 379.690. There shall be filed with the director [of
26 insurance of this state], by the attorney, a statement under the
27 oath of the attorney, showing in the case of fire insurance, the
28 maximum amount of indemnity upon any single risk, and the

1 attorney shall, whenever and as often as the same shall be
2 required, file with the director [of insurance] a statement
3 verified by his oath to the effect that he has examined the
4 commercial rating of the subscribers as shown by the reference
5 book of a commercial agency having at least one hundred thousand
6 subscribers, and that from the examination or from other
7 information in his possession, it appears that no subscriber has
8 assumed on any single fire insurance risk an amount greater than
9 ten percent of the net worth of the subscriber.

10 379.720. 1. If at any time the amounts on hand are less
11 than the requirements of sections 379.700 and 379.710, the
12 subscribers or their attorney for them shall make up the
13 deficiency.

14 2. Where funds other than those which have accrued from
15 premiums or deposits of subscribers are supplied to make up a
16 deficiency as herein provided for they shall be deposited and
17 held for the benefit of subscribers under such terms and
18 conditions as the director [of insurance] may require so long as
19 the deficiency exists, thereafter to be returned to the
20 depositors.

21 3. "Net premiums" or "deposits" as used in this law shall
22 be construed to mean the advance premiums or deposits made by
23 subscribers after deducting therefrom the amount for expenses
24 specifically provided in the subscriber's agreement.

25 379.730. 1. The attorney shall make an annual report to
26 the director [of insurance] for the calendar year, showing that
27 the financial condition of affairs at the office where the
28 contracts are issued is in accordance with the standard of

1 solvency provided for herein and shall furnish such additional
2 information and reports as may be required to show the total
3 premiums or deposits collected, the total losses paid, the total
4 amounts returned to subscribers, and the amounts retained for
5 expenses; provided, however, that the attorney shall not be
6 required to furnish the names and addresses of any subscribers.

7 2. The business affairs and assets of the reciprocal or
8 interinsurance exchanges, as shown at the office of the attorney
9 thereof, shall be subject to examination by the director [of
10 insurance] as often as he sees fit, and the cost thereof shall be
11 paid by the exchange examined.

12 379.750. 1. Each attorney by whom or through whom are
13 issued any policies of or contracts for indemnity of the
14 character referred to in sections 379.650 to 379.790 shall
15 procure from the director [of insurance] annually a certificate
16 of authority, stating that all of the requirements of the
17 sections have been complied with, and upon compliance and the
18 payment of the fees required by those sections the director [of
19 insurance] shall issue the certificate of authority.

20 2. The director [of insurance] may revoke or suspend any
21 certificate of authority issued hereunder in case of breach of
22 any of the conditions imposed by sections 379.650 to 379.790
23 after reasonable notice has been given the attorney, in writing,
24 so that he may appear and show cause why action should not be
25 taken.

26 3. Any attorney who may have procured a certificate of
27 authority hereunder shall renew same annually as of July first
28 thereafter; provided, however, that any certificate of authority

1 shall continue in full force and effect until the new certificate
2 of authority be issued or specifically refused.

3 379.770. Two or more domestic reciprocal exchanges or
4 interinsurers may merge or consolidate on affirmative vote of not
5 less than two-thirds of the subscribers of each exchange or
6 interinsurer who vote on the merger or consolidation, pursuant to
7 due notice and prior approval of the director [of the department
8 of insurance of this state] of the terms and manner of the notice
9 and of the manner and form of the voting and of the proposed
10 merger or consolidation.

11 379.800. All of the provisions of the law relating to
12 insurance agents, agencies, brokers and companies, and to the
13 administration and enforcement of the laws of the state relating
14 to insurance by the [department of insurance] director, which are
15 repealed by sections 374.030 to 379.790 and reenacted hereby in
16 part or in whole under new section numbers in the same or a
17 different chapter, so far as they are the same as those of the
18 prior law, shall be construed as a continuation of such law and
19 not as a new enactment.

20 379.815. As used in this section, the following terms mean:

21 (1) "All-industry placement facility" (hereinafter referred
22 to as "the facility"), the organization formed by insurers to
23 assist applicants in securing basic property insurance, to issue
24 policies and to administer the program and the joint reinsurance
25 association;

26 (2) "Basic property insurance", the coverage against direct
27 loss to real and tangible personal property at a fixed location
28 that is provided in the standard fire policy and extended

1 coverage endorsement, including builders' risk, and such
2 vandalism and malicious mischief endorsements, and such other
3 classes of insurance as may be added to the program with respect
4 to the property by amendment as hereinafter provided. Basic
5 property insurance does not include automobile risks or such
6 types of manufacturing risks as the governing committee may
7 exclude with the approval of the director. Any contract, as
8 defined in section 375.918, RSMo, of the facility shall be
9 subject to the provisions of section 375.918, RSMo;

10 (3) "Commercial", basic property insurance not included
11 under the personal lines statistical plan;

12 (4) "Director", the director of the department of
13 insurance, financial and professional regulation [of the state of
14 Missouri];

15 (5) "Habitational", basic property insurance included under
16 the personal lines statistical plan;

17 (6) "Inspection bureau", the rating bureau or other
18 organization designated by the facility with the approval of the
19 director to make inspections as required under the program and to
20 perform such other duties as may be authorized by the facility;

21 (7) "Insurer", any insurance company, reciprocal or
22 interinsurance exchange or other organization licensed and
23 authorized by the director to write property insurance, including
24 the property insurance components of multiperil policies, on a
25 direct basis, in this state;

26 (8) "Person" includes any individual or group of
27 individuals, corporation, partnership, or association, or any
28 other organized group of persons;

1 (9) "Premiums written", gross direct premiums (excluding
2 that portion of premium on risks ceded to the joint reinsurance
3 association) charged during the second preceding calendar year
4 with respect to property in this state on all policies of basic
5 property insurance and the basic property insurance premium
6 components of all multiperil policies, as computed by the
7 facility, less return premiums, dividends paid or credited to
8 policyholders, or the unused or unabsorbed portions of premium
9 deposits;

10 (10) "Property owner", with respect to any real, personal,
11 or mixed real and personal property, means any person having an
12 insurable interest in such property;

13 (11) "Secretary", the Secretary of the United States
14 Department of Housing and Urban Development.

15 379.882. As used in sections 379.882 to 379.886:

16 (1) "Commercial casualty insurance" means casualty
17 insurance for business or nonprofit interests which is not for
18 personal, family or household purposes, and which is provided by
19 issuance of a policy of insurance and not merely a binder for
20 such insurance coverage;

21 (2) "Director" means the director of the department of
22 insurance, financial and professional regulation;

23 (3) "Insurer" means all insurance companies, reciprocals or
24 interinsurance exchanges transacting the business of commercial
25 casualty insurance in this state;

26 (4) "Nonpayment of premium" means failure of the named
27 insured to discharge when due any of his obligations in
28 connection with payment of premiums on the policies or any

1 installment of the premium whether the premium is payable
2 directly to the insurer or its agents or indirectly under any
3 premium finance plan or extension of credit;

4 (5) "Nonrenewal" means the determination of an insurer not
5 to issue or deliver a policy replacing at the end of the policy
6 period a policy previously issued and delivered by the same
7 insurer or a certificate of notice extending the term of a policy
8 beyond its policy period or term;

9 (6) "Renewal" or "to renew" means a policy previously
10 issued and delivered by the same insurer or the issuance and
11 delivery of a certificate or notice extending the term of the
12 policy beyond its policy period or term, and any policy written
13 for a term longer than one year or any policy with no fixed
14 expiration date shall be considered as if written for successive
15 policy periods or terms of one year.

16 379.888. 1. As used in sections 379.888 to 379.893, the
17 following terms mean:

18 (1) "'A' rated risk", any insurance coverage for which
19 rates are individually determined based upon judgment because
20 neither a rate service organization nor the insurer has yet
21 established a manual rate based upon experience, except that if a
22 rate service organization or the insurer acquires sufficient
23 experience to establish, or if the insurer itself has, a manual
24 rate for such coverage, then such coverage shall no longer be
25 considered an "A" rated risk for each insurer;

26 (2) "Base rate", the rate designed to reflect the average
27 aggregate experience of a particular market, prior to adjustment
28 for individual risk characteristics resulting from application of

1 any rating plan;

2 (3) "Classification", a grouping of insurance risks
3 according to a classification system used by an insurer;

4 (4) "Classification system", a schedule of classifications
5 and a rule or set of rules used by an insurer for determining the
6 classification applicable to an insured;

7 (5) "Commercial casualty insurance", casualty insurance for
8 business or nonprofit interests which is not for personal,
9 family, or household purposes;

10 (6) "Director", the director of the department of
11 insurance, financial and professional regulation;

12 (7) "Rate", a monetary amount applied to the units of
13 exposure basis assigned to a classification and used by an
14 insurer to determine the premium for an insured;

15 (8) "Rating plan", a rule or set of rules used by an
16 insurer to calculate premium for an insured, and the parameter
17 values used in such calculation, after application of
18 classification premium rates to units of exposure; and

19 (9) "Rating system", a collection of rating plans to be
20 used by an insurer, rules for determining which rating plans are
21 applicable to an insured, a classification system, and other
22 rules used by an insurer for determining contractual
23 consideration for insured.

24 2. Nothing in this section applies to premium increases or
25 decreases from:

26 (1) Change in hazard of the insured's operation;

27 (2) Change in magnitude of the exposure basis for the
28 insured, including, without limitation, changes in payroll or

1 sales;

2 (3) "A" rated risks.

3 3. Any renewal notice of a commercial casualty insurance
4 policy as defined in section 379.882 for any Missouri risk or
5 portion thereof which would have the effect of increasing the
6 premium charged to the insured due to a change in any scheduled
7 rating factor applied to the policy during the previous policy
8 period shall contain or be accompanied by a notice to the insured
9 informing the insured that any inquiry by the insured concerning
10 the change may be directed to the agent of record or directly to
11 the insurer. When any insured makes a request for information
12 pursuant to this subsection, the insurer, directly or through the
13 insurer's agent, shall inform the insured in writing in terms
14 sufficiently clear and specific of the basis for any reduction in
15 a scheduled rating credit or increase in a scheduled rating debit
16 which is applied to the policy. Evidence supporting the basis
17 for any scheduled rating credit or debit shall be retained by the
18 insurer for the policy term plus two calendar years pursuant to
19 section 374.205, RSMo. The department [of insurance] shall
20 notify commercial casualty insurers of the requirements of this
21 section by bulletin.

22 4. Any renewal involving a "premium alteration requiring
23 notification" as defined in subsection 6 of section 379.321,
24 shall be handled pursuant to the requirements of that subsection.

25 379.930. 1. Sections 379.930 to 379.952 shall be known and
26 may be cited as the "Small Employer Health Insurance Availability
27 Act".

28 2. For the purposes of sections 379.930 to 379.952:

1 (1) "Actuarial certification" means a written statement by
2 a member of the American Academy of Actuaries or other individual
3 acceptable to the director that a small employer carrier is in
4 compliance with the provisions of section 379.936, based upon the
5 person's examination, including a review of the appropriate
6 records and of the actuarial assumptions and methods used by the
7 small employer carrier in establishing premium rates for
8 applicable health benefit plans;

9 (2) "Affiliate" or "affiliated" means any entity or person
10 who directly or indirectly through one or more intermediaries,
11 controls or is controlled by, or is under common control with, a
12 specified entity or person;

13 (3) "Agent" means "insurance agent" as that term is defined
14 in section 375.012, RSMo;

15 (4) "Base premium rate" means, for each class of business
16 as to a rating period, the lowest premium rate charged or that
17 could have been charged under the rating system for that class of
18 business, by the small employer carrier to small employers with
19 similar case characteristics for health benefit plans with the
20 same or similar coverage;

21 (5) "Basic health benefit plan" means a lower cost health
22 benefit plan developed pursuant to section 379.944;

23 (6) "Board" means the board of directors of the program
24 established pursuant to sections 379.942 and 379.943;

25 (7) "Broker" means "broker" as that term is defined in
26 section 375.012, RSMo;

27 (8) "Carrier" means any entity that provides health
28 insurance or health benefits in this state. For the purposes of

1 sections 379.930 to 379.952, carrier includes an insurance
2 company, health services corporation, fraternal benefit society,
3 health maintenance organization, multiple employer welfare
4 arrangement specifically authorized to operate in the state of
5 Missouri, or any other entity providing a plan of health
6 insurance or health benefits subject to state insurance
7 regulation;

8 (9) "Case characteristics" means demographic or other
9 objective characteristics of a small employer that are considered
10 by the small employer carrier in the determination of premium
11 rates for the small employer, provided that claim experience,
12 health status and duration of coverage since issue shall not be
13 case characteristics for the purposes of sections 379.930 to
14 379.952;

15 (10) "Class of business" means all or a separate grouping
16 of small employers established pursuant to section 379.934;

17 (11) "Committee" means the health benefit plan committee
18 created pursuant to section 379.944;

19 (12) "Control" shall be defined in manner consistent with
20 chapter 382, RSMo;

21 (13) "Dependent" means a spouse or an unmarried child under
22 the age of nineteen years; an unmarried child who is a full-time
23 student under the age of twenty-three years and who is
24 financially dependent upon the parent; or an unmarried child of
25 any age who is medically certified as disabled and dependent upon
26 the parent;

27 (14) "Director" means the director of the department of
28 insurance, financial and professional regulation of this state;

1 (15) "Eligible employee" means an employee who works on a
2 full-time basis and has a normal work week of thirty or more
3 hours. The term includes a sole proprietor, a partner of a
4 partnership, and an independent contractor, if the sole
5 proprietor, partner or independent contractor is included as an
6 employee under a health benefit plan of a small employer, but
7 does not include an employee who works on a part-time, temporary
8 or substitute basis. For purposes of sections 379.930 to
9 379.952, a person, his spouse and his minor children shall
10 constitute only one eligible employee when they are employed by
11 the same small employer;

12 (16) "Established geographic service area" means a
13 geographical area, as approved by the director and based on the
14 carrier's certificate of authority to transact insurance in this
15 state, within which the carrier is authorized to provide
16 coverage;

17 (17) "Health benefit plan" means any hospital or medical
18 policy or certificate, health services corporation contract, or
19 health maintenance organization subscriber contract. Health
20 benefit plan does not include a policy of individual accident and
21 sickness insurance or hospital supplemental policies having a
22 fixed daily benefit, or accident-only, specified disease-only,
23 credit, dental, vision, Medicare supplement, long-term care, or
24 disability income insurance, or coverage issued as a supplement
25 to liability insurance, worker's compensation or similar
26 insurance, or automobile medical payment insurance;

27 (18) "Index rate" means, for each class of business as to a
28 rating period for small employers with similar case

1 characteristics, the arithmetic mean of the applicable base
2 premium rate and the corresponding highest premium rate;

3 (19) "Late enrollee" means an eligible employee or
4 dependent who requests enrollment in a health benefit plan of a
5 small employer following the initial enrollment period for which
6 such individual is entitled to enroll under the terms of the
7 health benefit plan, provided that such initial enrollment period
8 is a period of at least thirty days. However, an eligible
9 employee or dependent shall not be considered a late enrollee if:

10 (a) The individual meets each of the following:

11 a. The individual was covered under qualifying previous
12 coverage at the time of the initial enrollment;

13 b. The individual lost coverage under qualifying previous
14 coverage as a result of termination of employment or eligibility,
15 the involuntary termination of the qualifying previous coverage,
16 death of a spouse or divorce;

17 c. The individual requests enrollment within thirty days
18 after termination of the qualifying previous coverage;

19 (b) The individual is employed by an employer that offers
20 multiple health benefit plans and the individual elects a
21 different plan during an open enrollment period; or

22 (c) A court has ordered coverage be provided for a spouse
23 or minor or dependent child under a covered employee's health
24 benefit plan and request for enrollment is made within thirty
25 days after issuance of the court order;

26 (20) "New business premium rate" means, for each class of
27 business as to a rating period, the lowest premium rate charged
28 or offered, or which could have been charged or offered, by the

1 small employer carrier to small employers with similar case
2 characteristics for newly issued health benefit plans with the
3 same or similar coverage;

4 (21) "Plan of operation" means the plan of operation of the
5 program established pursuant to sections 379.942 and 379.943;

6 (22) "Premium" means all moneys paid by a small employer
7 and eligible employees as a condition of receiving coverage from
8 a small employer carrier, including any fees or other
9 contributions associated with the health benefit plan;

10 (23) "Producer" includes an insurance agent or broker;

11 (24) "Program" means the Missouri small employer health
12 reinsurance program created pursuant to sections 379.942 and
13 379.943;

14 (25) "Qualifying previous coverage" and "qualifying
15 existing coverage" mean benefits or coverage provided under:

16 (a) Medicare or Medicaid;

17 (b) An employer-based health insurance or health benefit
18 arrangement that provides benefits similar to or exceeding
19 benefits provided under the basic health benefit plan; or

20 (c) An individual health insurance policy (including
21 coverage issued by a health maintenance organization, health
22 services corporation or a fraternal benefit society) that
23 provides benefits similar to or exceeding the benefits provided
24 under the basic health benefit plan, provided that such policy
25 has been in effect for a period of at least one year;

26 (26) "Rating period" means the calendar period for which
27 premium rates established by a small employer carrier are assumed
28 to be in effect;

1 (27) "Restricted network provision" means any provision of
2 a health benefit plan that conditions the payment of benefits, in
3 whole or in part, on the use of health care providers that have
4 entered into a contractual arrangement with the carrier pursuant
5 to section 354.400, RSMo, et seq. to provide health care services
6 to covered individuals;

7 (28) "Small employer" means any person, firm, corporation,
8 partnership or association that is actively engaged in business
9 that, on at least fifty percent of its working days during the
10 preceding calendar quarter, employed not less than three nor more
11 than twenty-five eligible employees, the majority of whom were
12 employed within this state. In determining the number of
13 eligible employees, companies that are affiliated companies, or
14 that are eligible to file a combined tax return for purposes of
15 state taxation, shall be considered one employer;

16 (29) "Small employer carrier" means a carrier that offers
17 health benefit plans covering eligible employees of one or more
18 small employers in this state;

19 (30) "Standard health benefit plan" means a health benefit
20 plan developed pursuant to section 379.944.

21 380.005. 1. As used in this chapter, unless otherwise
22 clearly indicated by the context, the following words mean:

23 (1) "Department", the department of insurance, financial
24 and professional regulation; and

25 (2) "Director", the director of the department of
26 insurance, financial and professional regulation.

27 380.011. 1. All county mutual insurance companies, all
28 town mutual insurance companies and all farmers' mutual insurance

1 companies possessing a certificate of incorporation from the
2 secretary of state and operating under sections 380.009 to
3 380.270, 380.280 to 380.470 and 380.479 to 380.570, respectively,
4 shall be known as Missouri mutual insurance companies and shall
5 after January 1, 1985, operate under the provisions of sections
6 380.011 to 380.151. Only those county mutual insurance
7 companies, town mutual insurance companies and farmers' mutual
8 insurance companies possessing a certificate of incorporation
9 from the secretary of state upon January 1, 1985, shall operate
10 under sections 380.011 to 380.151, and no new companies shall be
11 formed to operate under those sections of the Revised Statutes of
12 Missouri.

13 2. All Missouri mutual insurance companies shall, within
14 ninety days of January 1, 1985, file a registration statement
15 with the director [of insurance] which shall contain the name of
16 the company, the location and address of its principal office,
17 the names and addresses of its officers and directors, and shall
18 be accompanied by copies of its articles of incorporation and
19 bylaws. The director shall compile and maintain a list of all
20 companies registered and operating under the provisions of
21 sections 380.011 to 380.151 and shall file this list with the
22 secretary of state on or before May 1, 1985.

23 3. If any county mutual insurance company, town mutual
24 insurance company or farmers' mutual insurance company possessing
25 a certificate of incorporation from the secretary of state and
26 operating under the provisions of sections 380.009 to 380.270,
27 380.280 to 380.470 or 380.479 to 380.570, respectively, fails to
28 file the required registration statement with the director [of

1 insurance] within ninety days of January 1, 1985, the secretary
2 of state shall irrevocably forfeit the company's corporate
3 charter.

4 380.021. 1. All Missouri mutual insurance companies
5 operating under the provisions of sections 380.011 to 380.151
6 shall be authorized to do the business of insurance on an
7 assessable, mutual and not-for-profit basis. All such companies
8 shall have authority to insure the property of their members from
9 loss or damage caused by fire; lightning; tornado; windstorm;
10 cyclone; hail; explosion; riot; riot attending a strike; civil
11 commotion; aircraft; vehicles; smoke; physical damage to
12 livestock; overturn or collision of farm machinery; theft;
13 burglary; vandalism; malicious mischief; removal; breakage of
14 glass; falling objects; weight of ice, snow or sleet; collapse of
15 buildings; freezing, accidental discharge, leakage or overflow of
16 water or steam; other damage caused by steam; and sudden and
17 accidental injury from electrical currents. Nothing contained in
18 these sections shall be construed as to allow any Missouri mutual
19 insurance company to insure its members against loss to their
20 motor vehicles, as defined in section 301.010, RSMo, from any
21 peril whatsoever or liability occasioned by the use of such motor
22 vehicles, or to insure property pursuant to or in connection with
23 a specific loan or other credit transaction.

24 2. All Missouri mutual insurance companies shall do
25 business only in the county or counties in which they are
26 organized or in adjoining counties. Any Missouri mutual
27 insurance company may write insurance against loss or damage to
28 the crops of their members from the perils enumerated in

1 subsection 1 of this section in any and all counties of this
2 state so long as the company maintains a reserve fund of at least
3 three hundred thousand dollars and reinsurance sufficient to
4 protect the financial stability of the company. The director [of
5 insurance] may require additional reinsurance if he deems it
6 necessary to protect the policyholders of the company.

7 3. The corporation shall have all the powers, rights,
8 privileges, duties and obligations of a corporation organized
9 under chapter 355, RSMo, except insofar as such provisions are
10 inconsistent with the provisions of sections 380.011 to 380.151.
11 Nothing herein shall be construed as prohibiting any Missouri
12 mutual insurance company from distributing underwriting or
13 investment gain to its members or from accumulating a reasonable
14 reserve fund for the payment of losses and other expenses.

15 380.051. Every such company shall, on or before the first
16 day of March in each year, file a statement with the director [of
17 insurance], verified by the affidavit of its president and
18 secretary reporting the financial condition of the company for
19 the preceding calendar year. The statement of financial
20 condition shall provide such information and be in such form as
21 may be prescribed by the director [of insurance]. Each company
22 shall pay a fee of twenty-five dollars to the director [of
23 insurance] at the time of filing the annual statement.

24 380.061. 1. It shall be the duty of the director [of
25 insurance] or his duly appointed agents to make full and careful
26 examination of the affairs of any company operating under the
27 provisions of sections 380.011 to 380.151. The director shall
28 examine such companies whenever, in his discretion, it is deemed

1 necessary.

2 2. He or any of his duly appointed agents may compel the
3 attendance before him, and may examine, under oath, the
4 directors, officers, agents, employees, solicitors, attorneys or
5 any other person, in reference to the condition, affairs,
6 management of the business, or any matters relating thereto. He
7 may administer oaths or affirmations, may summon and compel the
8 attendance of witnesses, and may require and compel the
9 production of records, books, papers, contracts or other
10 documents, if necessary.

11 3. In every such examination, inquiry shall be made as to
12 the nature and resources of the corporation generally, the mode
13 of conducting and managing its affairs, the actions of its
14 directors and the security provided its members.

15 4. The refusal of any such company to permit the
16 examination of its affairs as provided in this section shall be
17 sufficient cause for the institution of proceedings to wind up
18 the affairs of the corporation as provided by section 380.071.

19 5. The expenses of such examination, as determined by the
20 director [of insurance], shall be paid by the company examined.

21 6. In lieu of an examination by the department [of
22 insurance] the director may accept, in a format acceptable to the
23 director, a financial examination report of such company prepared
24 by an independent certified public accountant.

25 380.071. 1. If it appears to the director [of insurance]
26 from a statement of any company filed pursuant to the provisions
27 of section 380.051, or upon examination of any company made
28 pursuant to the provisions of section 380.061, or from any other

1 knowledge or information in his possession that such company is
2 conducting its business in an unsafe manner or that its assets
3 are insufficient to justify the continuance of business by such
4 company, he shall send written notice of the situation to the
5 officers and directors of the company.

6 2. Such officers and directors may, in the discretion of
7 the director, be allowed a reasonable time in which to remedy the
8 situation. If the officers and directors fail to remedy the
9 situation after a reasonable time, or if at any time it shall
10 appear to the director [of insurance] that the continued
11 operation of the company would not be in the best interests of
12 the policyholders, the director [of insurance] shall institute
13 proceedings, in the circuit court in the city or county in which
14 the company has its principal office, to enjoin or restrain the
15 company from further prosecution of its business, either
16 temporarily or permanently, and if the director seeks to enjoin
17 or restrain the company permanently, he shall also institute
18 proceedings to settle and wind up the affairs, and to liquidate
19 and to dissolve the company.

20 380.081. 1. If at any time the director [of insurance]
21 shall find that a Missouri mutual insurance company is not
22 operating in compliance with the provisions of sections 380.011
23 to 380.151, he shall notify in writing the officers and directors
24 of such fact. The notice shall clearly set forth the director's
25 belief, his reasons and his proposed action. The director may,
26 after a hearing held pursuant to the provisions of chapter 536,
27 RSMo, order the company to bring its operations into compliance.
28 Judicial review of the director's order may be sought as provided

1 in chapter 536, RSMo.

2 2. Refusal or neglect by any such company to comply with
3 the requirements of the above order shall be sufficient cause for
4 the institution of proceedings to wind up the affairs of the
5 company. The director may, in his discretion, institute
6 proceedings to enjoin or restrain such company from the further
7 prosecution of its business as provided in section 380.071.

8 380.091. 1. All Missouri mutual insurance companies shall
9 file all applications, policy forms and all endorsements, riders
10 or amendments thereto with the director [of insurance]. Those
11 forms may be used upon filing unless disapproved by the director.
12 The director may disapprove any form if it does not comply with
13 the provisions of sections 380.011 to 380.151, or if it contains
14 any provision which is deceptive, ambiguous or misleading. The
15 company shall be notified in writing of any disapproval and the
16 reasons therefor.

17 2. Any disapproval of a form by the director [of insurance]
18 shall be subject to judicial review under the provisions of
19 chapter 536, RSMo.

20 380.201. As used in sections 380.201 to 380.601, unless the
21 context clearly indicates otherwise, the following terms mean:

22 (1) "Assessment", the amount, or the policyholder's share
23 of such amount, determined by the company to be necessary to pay
24 accrued liabilities, to meet or defray anticipated needs of the
25 company and/or to add to or restore the guaranty fund;

26 (2) "Director", the director of the department of
27 insurance, financial and professional regulation of the state of
28 Missouri;

1 (3) "Fee", the charge or that portion of such charge
2 collected by the company which is used for or allocated to the
3 payment of acquisition or survey costs;

4 (4) "Guaranty fund", accumulated assets in excess of
5 accrued losses and expenses;

6 (5) "Initial charge", such charge or that portion of such
7 charge not otherwise defined herein collected by the company
8 before or at the time of the issuance or the renewal of the
9 policy and used for, or allocated to, any purpose which the
10 company deems desirable not prohibited by law;

11 (6) "Premium", a stipulated amount charged for a specified
12 policy period, which the company is required to charge as a
13 liability and maintain as an unearned premium reserve until the
14 end of the specified policy period.

15 380.221. 1. Any company operating under the provisions of
16 sections 380.011 to 380.151 may avail itself of the rights,
17 powers, privileges, obligations and immunities conferred by
18 sections 380.201 to 380.591 by appropriate resolution to operate
19 under sections 380.201 to 380.591 adopted by its board of
20 directors and filed with the director [of insurance].

21 2. Whenever any company shall elect to come under the
22 provisions of sections 380.201 to 380.591, the secretary of state
23 shall transfer to the director [of insurance] for custody all
24 records and papers filed in the office of the secretary of state
25 by such company. The secretary of state, however, shall retain
26 in his office duplicate copies of all such records and papers.

27 3. Upon receipt of the records and papers from the
28 secretary of state, the director shall determine whether or not

1 the company complies with sections 380.201 to 380.591 and any
2 other applicable laws. If the director determines that the
3 company is in compliance with the law, he shall issue a
4 certificate of authority to commence business to the company, and
5 thereafter such company shall be fully subject to and governed by
6 the provisions of sections 380.201 to 380.591 and shall be
7 entitled to avail itself of those provisions.

8 4. All companies formerly operating under sections 380.580
9 to 380.840 shall operate under sections 380.201 to 380.591.

10 5. Any company operating under the provisions of sections
11 380.011 to 380.151 which elects to come under the provisions of
12 sections 380.201 to 380.601 within thirty days of January 1,
13 1985, may have all of the company's agents which have been agents
14 for one year or more on the date of this election licensed to
15 sell the same lines of insurance which the company is authorized
16 to write under sections 380.011 to 380.151 without the necessity
17 of those agents taking an examination as provided in section
18 375.018, RSMo. Any company requesting this exemption shall file
19 a list of all agents eligible for the exemption, verified under
20 oath by the president of the company.

21 6. Any mutual insurance company operating under the
22 provisions of chapter 379, RSMo, and doing insurance business
23 only in this state, and which was formerly organized under this
24 chapter, may elect to come under the provisions of sections
25 380.201 to 380.591 on or before December 31, 1992. To so elect,
26 such company shall adopt an appropriate amendment to its articles
27 of incorporation under sections 375.201 to 375.226, RSMo, and
28 apply for an amended certificate of authority. Upon the approval

1 of the amendment to the articles and the filing of the
2 application for an amended certificate of authority, the director
3 shall issue an amended certificate of authority recognizing the
4 company as an extended Missouri mutual company.

5 380.521. 1. No company organized or operating under the
6 provisions of sections 380.201 to 380.591 shall pay any
7 commission or other compensation to any person for any services,
8 as agent, in obtaining in this state any contract of insurance
9 except to an agent, agency or broker licensed by the [department
10 of insurance of the state of Missouri] director.

11 2. Any insurance agent, agency or broker that acts as such
12 in connection with the procurement of an insurance contract
13 through a company organized or operating under the provisions of
14 sections 380.201 to 380.591 shall be subject to the provisions of
15 sections 375.012 to 375.146, RSMo.

16 380.611. 1. It is unlawful for any person to sell the
17 corporate charter of a Missouri mutual insurance company
18 operating under the provisions of sections 380.011 to 380.151 or
19 operating under the provisions of sections 380.201 to 380.591.
20 Any violation of this provision is a class A misdemeanor.

21 2. An agreement of contract under which any person,
22 organization or corporation is granted the exclusive or dominant
23 right to manage or control a Missouri mutual insurance company
24 operating under the provisions of sections 380.011 to 380.151, or
25 operating under the provisions of sections 380.201 to 380.591,
26 shall be filed with and approved by the director [of insurance].
27 The director [of insurance] shall approve such agreements or
28 contracts only if they are not detrimental to the policyholders

1 of the company or the public.

2 382.010. As used in sections 382.010 to 382.300, the
3 following words and terms have the meanings indicated unless the
4 context clearly requires otherwise:

5 (1) An "affiliate" of, or person "affiliated" with, a
6 specific person, is a person that directly, or indirectly through
7 one or more intermediaries, controls, or is controlled by, or is
8 under common control with, the person specified;

9 (2) The term "control", including the terms "controlling",
10 "controlled by" and "under common control with", means the
11 possession, direct or indirect, of the power to direct or cause
12 the direction of the management and policies of a person, whether
13 through the ownership of voting securities, by contract other
14 than a commercial contract for goods or nonmanagement services,
15 or otherwise, unless the power is the result of an official
16 position with or corporate office held by the person. Control
17 shall be presumed to exist if any person, directly or indirectly,
18 owns, controls, holds with power to vote, or holds proxies
19 representing, ten percent or more of the voting securities of any
20 other person. This presumption may be rebutted by a showing made
21 in the manner provided by section 382.170 that control does not
22 exist in fact. The director may determine, after furnishing all
23 persons in interest notice and opportunity to be heard and making
24 specific findings of fact to support such determination, that
25 control exists in fact, notwithstanding the absence of a
26 presumption to that effect;

27 (3) [The term] "Department", the department of insurance,
28 financial and professional regulation;

1 (4) "Director" [means], the director of insurance, [his
2 deputies, or the department of insurance, as appropriate]
3 financial and professional regulation;

4 [(4)] (5) An "insurance holding company system" consists of
5 two or more affiliated persons, one or more of which is an
6 insurer;

7 [(5)] (6) The term "insurer" means an insurance company as
8 defined in section 375.012, RSMo, including a reciprocal or
9 interinsurance exchange, and which is qualified and licensed by
10 the department of insurance, financial and professional
11 regulation of Missouri to transact the business of insurance in
12 this state; but it shall not include any company organized and
13 doing business under chapters 377, 378 or 380, RSMo;

14 [(6)] (7) A "person" is an individual, corporation,
15 partnership, association, joint stock company, business trust,
16 unincorporated organization, or any similar entity, or any
17 combination of the foregoing acting in concert, but is not any
18 securities broker performing no more than the usual and customary
19 broker's function;

20 [(7)] (8) A "securityholder" of a specified person is one
21 who owns any security of that person, including common stock,
22 preferred stock, debt obligations, and any other security
23 convertible into or evidencing the right to acquire any of the
24 foregoing;

25 [(8)] (9) A "subsidiary" of a specified person is an
26 affiliate controlled by that person directly, or indirectly
27 through one or more intermediaries;

28 [(9)] (10) The term "voting security" includes any security

1 convertible into or evidencing a right to acquire a voting
2 security.

3 383.005. 1. As used in this chapter, unless otherwise
4 clearly indicated by the context, the following words mean:

5 (1) "Department", the department of insurance, financial
6 and professional regulation; and

7 (2) "Director", the director of the department of
8 insurance, financial and professional regulation.

9 383.015. 1. Any such group of persons desiring to provide
10 malpractice insurance or indemnification for its members shall
11 pay a license fee of one hundred dollars and shall file articles
12 of association with the director [of insurance]. The articles
13 shall be filed in accordance with the provisions of sections
14 375.201 to 375.236, RSMo, and shall also include the names of
15 persons initially associated, the method by which other persons
16 may be admitted to the association as members, the purposes for
17 which organized, the amount of the initial assessment which has
18 been paid into the association, the method of assessment
19 thereafter, and the maximum amount of any assessment which the
20 association may make against any member. The articles of
21 association shall provide for bylaws and for the amendment of the
22 articles of association and bylaws.

23 2. Each association shall designate and maintain a
24 registered agent within this state, and service upon the agent
25 shall be service upon the association and each of its members.

26 3. The articles of association shall be accompanied by a
27 copy of the initial bylaws of the association. The bylaws shall
28 provide for a governing body for the association, a manner of

1 election thereof, the manner in which assessments will be made,
2 the specific kinds of insurance or indemnification which will be
3 offered, the classes of membership which will be offered, and may
4 provide that assessments of various amounts for particular
5 classes of membership may be made. All assessments shall be
6 uniform within classes. The bylaws may provide for the transfer
7 of risks to other insurance companies or for reinsurance.

8 383.020. The director [of insurance] shall, within thirty
9 days after any such articles of association are filed with him,
10 determine if the proposed association meets the requirements of
11 sections 383.010 to 383.040, and if it does, shall issue a
12 license to the association authorizing it to do business for a
13 one-year period.

14 383.025. The association may, on the seventh day
15 thereafter, commence to do business. The association shall be a
16 body corporate, and shall do business as a corporation. No
17 member of the association shall be liable for any amounts because
18 of his membership in the association other than his assessments
19 as provided in the articles of association, the bylaws of the
20 association or as ordered by the director [of the department of
21 insurance] pursuant to section 383.035. The business of the
22 association shall be conducted so as to preclude any distribution
23 of income, profit or property of the association to the
24 individual members thereof except in payment of claims or
25 indemnities or upon the final dissolution of the association, but
26 the association may pay dividends to its members as long as the
27 association has a positive surplus both before and after any such
28 dividend is declared.

1 383.030. 1. The director [of the department of insurance]
2 shall be authorized in accordance with sections [374.190 and
3 374.200] 374.202 to 374.207, RSMo, or in the event that either or
4 both of such sections are repealed, then any successor sections
5 relating to financial examination, to examine the financial
6 condition, affairs and management of any association organized
7 under the provisions of sections 383.010 to 383.040, and the
8 association shall pay the expenses of any such examination in
9 accordance with sections 374.160 and 374.220, RSMo. Annually
10 thereafter, within thirty days before the expiration of its
11 license, each association shall pay a renewal license fee of one
12 hundred dollars.

13 2. Any existing association shall also, at the time it
14 files for renewal of its license, file any amendments to its
15 articles of association or bylaws which have been adopted in the
16 preceding year.

17 383.060. As used in sections 383.060 to 383.069, the
18 following terms mean:

19 (1) "Director", the director of the department of
20 insurance, financial and professional regulation;

21 (2) "Real estate malpractice insurance", insurance coverage
22 against a civil liability arising against the insured resulting
23 from an act or omission by the insured, his agents or his
24 employees acting in their professional capacity.

25 383.075. As used in sections 383.075 to 383.083, the
26 following terms mean:

27 (1) "Director", the director of the department of
28 insurance, financial and professional regulation;

1 (2) "Legal malpractice insurance", insurance coverage
2 against a civil liability arising against the insured resulting
3 from an act of omission by the insured or his employees acting in
4 their professional capacity.

5 383.100. As used in sections 383.100 to 383.125, the
6 following terms mean:

7 (1) "Director", the director shall be the director of the
8 department of insurance, financial and professional regulation;

9 (2) "Health care provider" includes physicians, dentists,
10 clinical psychologists, pharmacists, optometrists, podiatrists,
11 registered nurses, physicians' assistants, chiropractors,
12 physical therapists, nurse anesthetists, anesthetists, emergency
13 medical technicians, hospitals, nursing homes and extended care
14 facilities; but shall not include any nursing service or nursing
15 facility conducted by and for those who rely upon treatment by
16 spiritual means alone in accordance with the creed or tenets of
17 any well-recognized church or religious denomination;

18 (3) "Medical malpractice insurance" means insurance
19 coverage against the legal liability of the insured and against
20 loss, damage, or expense incident to a claim arising out of the
21 death or injury of any person as a result of the negligence or
22 malpractice in rendering professional service by any health care
23 provider.

24 383.110. Such reports shall be made to the director [of the
25 department of insurance] quarterly on dates and in the form to be
26 determined by the director.

27 384.015. As used in sections 384.011 to 384.071:

28 (1) "Admitted insurer" means an insurer licensed to do an

1 insurance business in this state;

2 (2) "Capital" means funds paid in for stock or other
3 evidence of ownership;

4 (3) "Director" means the director of the department of
5 insurance, financial and professional regulation;

6 (4) "Eligible surplus lines insurer" means a nonadmitted
7 insurer with which a surplus lines licensee may place surplus
8 lines insurance;

9 (5) "Export" means to place surplus lines insurance with a
10 nonadmitted insurer;

11 (6) "Kind of insurance" means one of the types of insurance
12 required to be reported in the annual statement which must be
13 filed with the director by admitted insurers;

14 (7) "Nonadmitted insurer" means an insurer not licensed to
15 do an insurance business in this state, including insurance
16 exchanges authorized under the laws of other states;

17 (8) "Producing broker" means the individual broker or agent
18 dealing directly with the party seeking insurance;

19 (9) "Surplus" means funds over and above liabilities and
20 capital of the company for the protection of policyholders;

21 (10) "Surplus lines insurance" means any insurance of risks
22 resident, located or to be performed in this state, permitted to
23 be placed through a surplus lines licensee with a nonadmitted
24 insurer eligible to accept such insurance, other than
25 reinsurance, wet marine and transportation insurance
26 independently procured, and life and health insurance and
27 annuities;

28 (11) "Surplus lines licensee" means a person licensed to

1 place insurance on risks resident, located or to be performed in
2 this state with nonadmitted insurers eligible to accept such
3 insurance;

4 (12) "Wet marine and transportation insurance" means:

5 (a) Insurance upon vessels, crafts, hulls and of interests
6 therein or with relation thereto;

7 (b) Insurance of marine builder's risks, marine war risks
8 and contracts of marine protection and indemnity insurance;

9 (c) Insurance of freights and disbursements pertaining to a
10 subject of insurance coming within this section; and

11 (d) Insurance of personal property and interests therein,
12 in the course of exportation from or importation into any
13 country, or in the course of transportation coastwise or on
14 inland waters, including transportation by land, water or air
15 from point of origin to final destination, in connection with any
16 and all risks or periods of navigation, transit or
17 transportation, and while being prepared for and while awaiting
18 shipment, and during any delays, transshipment, or reshipment
19 incident thereto.

20
21 385.020. 1. As used in sections 385.010 to 385.080, the
22 following words and phrases mean:

23 (1) "Credit accident and sickness insurance", insurance on
24 a debtor to provide indemnity for payments becoming due on a
25 specific loan or other credit transaction while the debtor is
26 disabled as defined in the policy;

27 (2) "Credit casualty insurance", insurance other than
28 credit life insurance, credit accident and sickness insurance,

1 credit involuntary unemployment insurance, or credit property
2 insurance, by which the satisfaction of a debt in whole or in
3 part is a benefit provided upon the occurrence of any unknown or
4 contingent event whatever, when such insurance is sold to
5 individual consumers and written as part of a credit transaction,
6 but only insofar as it applies to personal debt incurred by
7 individual consumers and not debt incurred in any business, trade
8 or profession of the debtor;

9 (3) "Credit involuntary unemployment insurance", insurance
10 on a debtor to provide indemnity for payments becoming due on a
11 specific loan or other credit transaction while the debtor is
12 involuntarily unemployed as defined in the policy;

13 (4) "Credit life insurance", insurance on the life of a
14 debtor pursuant to or in connection with a specific loan or other
15 credit transaction;

16 (5) "Credit property insurance", insurance against loss of
17 or damage to personal property, covering a creditor's security
18 interest in such property, when such insurance is written as part
19 of a loan or other credit transaction, but only insofar as it
20 applies to property sold to individual consumers for personal
21 use, or pledge by them, and not used in any business, trade or
22 profession of the purchaser, except that such insurance shall not
23 mean homeowners', renters' or lessees' insurance;

24 (6) "Creditor", the lender of money or vendor or lessor of
25 goods, services, property, rights, or privileges for which
26 payment is arranged through a credit transaction, or any
27 successor to the right, title, or interest of any such lender,
28 vendor, or lessor, and any affiliate, associate, or subsidiary of

1 any of them, or any director, officer, or employee of any of
2 them, or any other person in any way associated with any of them,
3 including a holding company;

4 (7) "Debtor", a borrower of money or a purchaser or lessee
5 of goods, services, property, rights, or privileges for which
6 payment is arranged through a credit transaction;

7 (8) "Decreasing term life coverage", credit life insurance
8 decreasing over the term of the coverage to correspond with the
9 scheduled or actual amount of unpaid indebtedness, whichever is
10 greater;

11 (9) "Director", director of the Missouri department of
12 insurance, financial and professional regulation;

13 (10) "Identifiable charge", the amount a creditor charges a
14 debtor or collects from him specifically for credit insurance in
15 addition to any other stated charges, including interest or
16 discount, permitted by law;

17 (11) "Indebtedness", the total amount payable by a debtor
18 to a creditor in connection with a loan or other credit
19 transaction;

20 (12) "Insurer", an insurance company authorized to write
21 credit life insurance, credit accident and sickness insurance,
22 credit casualty insurance, credit involuntary unemployment
23 insurance or credit property insurance;

24 (13) "Joint life coverage", credit life insurance covering
25 two or more lives, the entire sum insured being payable upon the
26 death of the first insured debtor to die while the insurance is
27 in force;

28 (14) "Level term life coverage", credit life insurance

1 remaining level over the term of the coverage.

2 2. As used in sections 385.010 to 385.080, the following
3 technical terms shall have the indicated meanings:

4 (1) "Claims", benefits payable on death, disability, debt
5 default, involuntary unemployment or property damage, excluding
6 loss adjustment expense, claims settlement costs, or other
7 additions of any kind;

8 (2) "Claims incurred", claims actually paid during the
9 reporting year plus the estimated reserves at the end of the year
10 for reported claims in the process of settlement and for
11 unreported claims, less the corresponding estimated reserves at
12 the end of the preceding year. All reserves are to be determined
13 in a consistent manner from year to year;

14 (3) "Credibility period", as of any point of time the
15 period of at least three years immediately prior thereto;

16 (4) "Premiums earned", the total gross premiums which
17 become due the insurer, without reduction of any kind, except the
18 premiums refunded or adjusted on account of termination of
19 coverage, appropriately adjusted for changes in gross unearned
20 premiums in force upon a pro rata basis or a "sum of the digits"
21 basis, where applicable. Where premiums are payable monthly on
22 the basis of outstanding insured balances, "premiums earned"
23 means the total premiums paid the insurer during the reporting
24 year plus premiums due the insurer but unpaid at the end of that
25 year, less premiums due the insurer but unpaid at the end of the
26 previous year. As defined under either system, premiums are
27 without reduction of any kind except for those refunded or
28 adjusted because of termination of coverage.

1 400.008.117. 1. Notwithstanding any other provision of
2 law, any fiduciary holding securities in its fiduciary capacity
3 and any insurance company with respect to its general account or
4 separate accounts, any bank or trust company holding securities
5 as a custodian or managing agent, and any bank or trust company
6 holding securities as custodian for a fiduciary or insurance
7 company is authorized to deposit or arrange for the deposit of
8 such securities in a clearing corporation, or in a federal
9 reserve bank under book-entry system. When such securities are
10 so deposited with a clearing corporation, certificates
11 representing securities of the same class of the same issuer may
12 be merged and held in bulk in the name of the nominee of such
13 clearing corporation by any person, regardless of the ownership
14 of such securities, and certificates of small denomination may be
15 merged into one or more certificates of larger denomination. The
16 records of such fiduciary and the records of such bank or trust
17 company acting as custodian, as managing agent, or as custodian
18 for a fiduciary or insurance company shall at all times show the
19 name of the party for whose account the securities are so
20 deposited. Title to such securities may be transferred by
21 bookkeeping entry on the books of such clearing corporation or
22 federal reserve bank without physical delivery of certificates or
23 documents representing such securities. A bank or trust company
24 so depositing securities pursuant to this section shall be
25 subject to such rules and regulations as the director of the
26 division of finance, and, in the case of national banking
27 associations, the comptroller of the currency, may from time to
28 time issue. An insurance company depositing securities pursuant

1 to this section shall be subject to such rules and regulations as
2 the director of the department of insurance, financial and
3 professional regulation may from time to time issue. A bank or
4 trust company acting as custodian for a fiduciary or insurance
5 company shall, on demand by the fiduciary or insurance company,
6 certify in writing to the fiduciary or insurance company the
7 securities so deposited by such bank or trust company in such
8 clearing corporation or federal reserve bank for the account of
9 such fiduciary or insurance company. A fiduciary shall, on
10 demand by any party to a judicial proceeding, or on demand by the
11 attorney for such party, certify in writing to such party the
12 securities deposited by such fiduciary in such clearing
13 corporation or federal reserve bank for its account as such
14 fiduciary. This section shall apply to any fiduciary holding
15 securities in its fiduciary capacity, any insurance company with
16 respect to its general account or separate accounts, and to any
17 bank or trust company holding securities as a custodian, managing
18 agent, or custodian for a fiduciary, or insurance company, acting
19 on September 28, 1979, or who, thereafter, may act regardless of
20 the date of the agreement, instrument, or court order by which it
21 is appointed, and regardless of whether or not such fiduciary,
22 insurance company, custodian, managing agent, or custodian for a
23 fiduciary owns capital stock of such clearing corporation. For
24 purposes of this subsection, "clearing corporation" shall also
25 include securities intermediary as that term is defined in
26 section 400.8-102(a)(14).

27 2. Notwithstanding any other provision of law, the state
28 treasurer may permit bonds standing as security for moneys

1 deposited by him in banking institutions under the provisions of
2 chapter 30, RSMo, to be deposited in book-entry collateral
3 accounts maintained in a federal reserve bank or other clearing
4 corporation as defined in section 400.8-102, or deposited with a
5 banking institution in safekeeping for the state treasurer under
6 procedures agreed upon by the governor, state auditor and state
7 treasurer. The governor, state auditor and state treasurer shall
8 also agree upon procedures to verify that the bonds are actually
9 recorded in a book-entry collateral account or actually held in
10 safekeeping.

11 3. Securities, of the kind and type in which insurance
12 companies are permitted to invest their funds, deposited in a
13 clearing corporation or in book-entry accounts maintained in a
14 federal reserve bank by an insurance company shall be eligible
15 for deposit under any and all provisions of the insurance laws of
16 this state relating to deposit of securities with the director of
17 the department of insurance, financial and professional
18 regulation. The director shall establish procedures to verify
19 that the securities are actually recorded in a book-entry account
20 or actually held in safekeeping by a clearing corporation. Such
21 procedures shall also provide that said securities on deposit
22 with the department of insurance, financial and professional
23 regulation cannot be withdrawn by the insurance company without
24 the approval of the director.

25 407.020. 1. The act, use or employment by any person of
26 any deception, fraud, false pretense, false promise,
27 misrepresentation, unfair practice or the concealment,
28 suppression, or omission of any material fact in connection with

1 the sale or advertisement of any merchandise in trade or commerce
2 or the solicitation of any funds for any charitable purpose, as
3 defined in section 407.453, in or from the state of Missouri, is
4 declared to be an unlawful practice. The use by any person, in
5 connection with the sale or advertisement of any merchandise in
6 trade or commerce or the solicitation of any funds for any
7 charitable purpose, as defined in section 407.453, in or from the
8 state of Missouri of the fact that the attorney general has
9 approved any filing required by this chapter as the approval,
10 sanction or endorsement of any activity, project or action of
11 such person, is declared to be an unlawful practice. Any act,
12 use or employment declared unlawful by this subsection violates
13 this subsection whether committed before, during or after the
14 sale, advertisement or solicitation.

15 2. Nothing contained in this section shall apply to:

16 (1) The owner or publisher of any newspaper, magazine,
17 publication or printed matter wherein such advertisement appears,
18 or the owner or operator of a radio or television station which
19 disseminates such advertisement when the owner, publisher or
20 operator has no knowledge of the intent, design or purpose of the
21 advertiser; or

22 (2) Any institution [or company that is under the direction
23 and supervision of], company, or entity that is subject to
24 chartering, licensing, or regulation by the director of the
25 department of insurance, financial and professional regulation
26 under chapter 354, RSMo, or chapters 374 to 385, RSMo, the
27 director of the division of credit unions under chapter 370,
28 RSMo, or director of the division of finance under chapters 361

1 to 369, RSMo, or chapter 371, RSMo, unless [the directors of such
2 divisions] such directors specifically authorize the attorney
3 general to implement the powers of this chapter or such powers
4 are provided to either the attorney general or a private citizen
5 by statute.

6 3. Any person who willfully and knowingly engages in any
7 act, use, employment or practice declared to be unlawful by this
8 section with the intent to defraud shall be guilty of a class D
9 felony.

10 4. It shall be the duty of each prosecuting attorney and
11 circuit attorney in their respective jurisdictions to commence
12 any criminal actions under this section, and the attorney general
13 shall have concurrent original jurisdiction to commence such
14 criminal actions throughout the state where such violations have
15 occurred.

16 5. It shall be an unlawful practice for any long-term care
17 facility, as defined in section 660.600, RSMo, except a facility
18 which is a residential care facility or an assisted living
19 facility, as defined in section 198.006, RSMo, which makes,
20 either orally or in writing, representation to residents,
21 prospective residents, their families or representatives
22 regarding the quality of care provided, or systems or methods
23 utilized for assurance or maintenance of standards of care to
24 refuse to provide copies of documents which reflect the
25 facility's evaluation of the quality of care, except that the
26 facility may remove information that would allow identification
27 of any resident. If the facility is requested to provide any
28 copies, a reasonable amount, as established by departmental rule,

1 may be charged.

2 6. Any long-term care facility, as defined in section
3 660.600, RSMo, which commits an unlawful practice under this
4 section shall be liable for damages in a civil action of up to
5 one thousand dollars for each violation, and attorney's fees and
6 costs incurred by a prevailing plaintiff, as allowed by the
7 circuit court.

8 407.1085. 1. The following acts or practices are exempt
9 from the provisions of sections 407.1070 to 407.1082:

10 (1) Telephone calls in which the sale of merchandise is not
11 completed, and payment or authorization of payment is not
12 required, until after a face-to-face sales presentation by the
13 telemarketer or seller; or

14 (2) Telephone calls in which the sale of merchandise is
15 completed and a written contract is forwarded to the consumer so
16 long as the consumer may return the merchandise within fourteen
17 days of receipt of the merchandise and receive a refund of any
18 moneys paid except for any coverage, fees or services earned;
19 provided that the telemarketer shall inform the consumer at the
20 time of the call that:

21 (a) A written contract regarding the sale of the
22 merchandise will be forwarded to the consumer;

23 (b) The approximate date of the delivery of the
24 merchandise; and

25 (c) The consumer will have a right to terminate the
26 contract within fourteen days of receipt of the merchandise, and
27 upon returning the merchandise, shall have a right to a refund as
28 provided in this subdivision.

1 The term "merchandise" as used in this subdivision shall mean
2 merchandise sold by a person, institution or company that is
3 under the direction and supervision of the director of the
4 department of insurance, financial and professional regulation,
5 [director of the division of credit unions or director of the
6 division of finance] or federally chartered banks, savings and
7 loans and credit unions, but shall not mean a person or company
8 that is under the direction and supervision of the director of
9 the division of professional registration or any board assigned
10 thereto;

11 (3) Telephone calls initiated by a consumer that:

12 (a) Are not the result of any advertisement by a seller or
13 telemarketer;

14 (b) Are in response to an advertisement through any media,
15 other than direct mail or telemarketing, which discloses the name
16 of the seller and the identity of the merchandise; provided that,
17 this exemption shall not apply to calls initiated by the consumer
18 in response to an advertisement that offers a prize or investment
19 opportunity, or is used to engage in telemarketing activities
20 prohibited by subdivision (6) or (7) of section 407.1076; or

21 (c) Are in response to direct mail solicitations that
22 clearly and conspicuously disclose and do not misrepresent the
23 material information required by subsection 2 of section
24 407.1073; provided that, this exemption does not apply to calls
25 initiated by the consumer in response to an advertisement that
26 offers a prize or investment opportunity, or is to engage in
27 telemarketing activities prohibited by subdivision (6) or (7) of
28 section 407.1076; or

1 (d) Are in response to the mailing of a catalog which
2 contains a written description or illustration of the goods or
3 services offered for sale; includes the business address of the
4 seller, includes multiple pages of written materials or
5 illustrations; and has been issued not less frequently than once
6 a year, when the seller or telemarketer does not contact
7 consumers by telephone but only receives calls initiated by
8 consumers in response to the catalog, and stops further
9 solicitation of items not in a catalog when the consumer states
10 that he or she is not interested in any further solicitations; or

11 (4) Telephone calls or messages:

12 (a) To any consumer with such consumer's prior express
13 invitation or permission;

14 (b) To any consumer with whom the seller has an established
15 business relationship; or

16 (c) By or on behalf of any entity over which either a state
17 or federal agency has regulatory authority to the extent that:

18 a. Subject to such authority, the entity is required to
19 maintain a license, registration, certificate or permit to sell
20 or provide the merchandise being offered through telemarketing;
21 and

22 b. As of August 28, 2000, the state or federal agency has,
23 directly or through a delegation of authority which is
24 enforceable pursuant to state or federal law, promulgated rules
25 that regulate the telemarketing sales practices of the entity for
26 the merchandise that entity offers through telemarketing and are
27 reasonably consistent with the requirements of section 407.1070
28 through section 407.1079 and which allow consumer redress

1 pursuant to that agency's rules or applicable federal law;

2 (d) Between a telemarketer and any business except calls
3 involving the retail sale of nondurable office and cleaning
4 supplies.

5 2. The office of the attorney general shall receive
6 telemarketing complaints by means of a toll-free telephone
7 number, by a notice in writing or by electronic means.
8 Complaints against entities who are licensed, certificated or
9 permitted and whose telemarketing practices are regulated by the
10 same state or federal agency and which agency has rules
11 regulating telemarketing practices shall be forwarded for
12 investigation by the office of the attorney general to such
13 agency. All other complaints shall be handled by the office of
14 the attorney general.

15 407.1200. As used in sections 407.1200 to 407.1227, the
16 following terms shall mean:

17 (1) "Administrator", the person who is responsible for the
18 administration of the service contracts or the service contracts
19 plan and who is responsible for any filings required by sections
20 407.1200 to 407.1227;

21 (2) "Consumer", a natural person who buys other than for
22 purposes of resale any motor vehicle that is distributed in
23 commerce and that is normally used for personal, family, or
24 household purposes and not for business or research purposes;

25 (3) "Director", the director of the department of
26 insurance, financial and professional regulation;

27 (4) "Maintenance agreement", a contract of limited duration
28 that provides for scheduled maintenance only;

1 (5) "Manufacturer", a person that:

2 (a) Manufactures or produces the property and sells the
3 property under its own name or label;

4 (b) Is a wholly owned subsidiary of the person who
5 manufactures or produces the property;

6 (c) Is a corporation which owns one hundred percent of the
7 person who manufactures or produces the property;

8 (d) Does not manufacture or produce the property, but the
9 property is sold under its trade name label;

10 (e) Manufactures or produces the property and the property
11 is sold under the trade name or label of another person; or

12 (f) Does not manufacture or produce the property but,
13 pursuant to a written contract, licenses the use of its trade
14 name or label to another person that sells the property under the
15 licensor's trade name or label;

16 (6) "Mechanical breakdown insurance", a policy, contract,
17 or agreement issued by an authorized insurer that provides for
18 the repair, replacement, or maintenance of a motor vehicle or
19 indemnification for repair, replacement, or service, for the
20 operational or structural failure of a motor vehicle due to a
21 defect in materials or workmanship or to normal wear and tear;

22 (7) "Motor vehicle extended service contract" or "service
23 contract", a contract or agreement for a separately stated
24 consideration or for a specific duration to perform the repair,
25 replacement, or maintenance of a motor vehicle or indemnification
26 for repair, replacement, or maintenance, for the operational or
27 structural failure due to a defect in materials, workmanship, or
28 normal wear and tear, with or without additional provision for

1 incidental payment of indemnity under limited circumstances,
2 including, but not limited to, towing, rental, and emergency road
3 service, but does not include mechanical breakdown insurance or
4 maintenance agreements;

5 (8) "Nonoriginal manufacturer's parts", replacement parts
6 not made for or by the original manufacturer of the property,
7 commonly referred to as "after market parts";

8 (9) "Person", an individual, partnership, corporation,
9 incorporated or unincorporated association, joint stock company,
10 reciprocal, syndicate, or any similar entity or combination of
11 entities acting in concert;

12 (10) "Premium", the consideration paid to an insurer for a
13 reimbursement insurance policy;

14 (11) "Provider", a person who administers, issues, makes,
15 provides, sells, or offers to sell a motor vehicle extended
16 service contract, or who is contractually obligated to provide
17 service under a motor vehicle extended service contract such as
18 sellers, administrators, and other intermediaries;

19 (12) "Provider fee", the consideration paid for a service
20 contract in excess of the premium;

21 (13) "Reimbursement insurance policy", a policy of
22 insurance issued to a provider and pursuant to which the insurer
23 agrees, for the benefit of the service contract holders, to
24 discharge all of the obligations and liabilities of the provider
25 under the terms of the service contracts in the event of
26 nonperformance by the provider. All obligations and liabilities
27 include, but are not limited to, failure of the provider to
28 perform under the service contract and the return of the unearned

1 provider fee in the event of the provider's unwillingness or
2 inability to reimburse the unearned provider fee in the event of
3 termination of a service contract;

4 (14) "Service contract holder" or "contract holder", a
5 person who is the purchaser or holder of a service contract;

6 (15) "Warranty", a warranty made solely by the
7 manufacturer, importer, or seller of property or services without
8 charge, that is not negotiated or separated from the sale of the
9 product and is incidental to the sale of the product, that
10 guarantees indemnity for defective parts, mechanical or
11 electrical breakdown, labor, or other remedial measures, such as
12 repair or replacement of the property or repetition of services.

13 408.233. 1. No charge other than that permitted by section
14 408.232 shall be directly or indirectly charged, contracted for
15 or received in connection with any second mortgage loan, except
16 as provided in this section:

17 (1) Fees and charges prescribed by law actually and
18 necessarily paid to public officials for perfecting, releasing,
19 or satisfying a security interest related to the second mortgage
20 loan;

21 (2) Taxes;

22 (3) Bona fide closing costs paid to third parties, which
23 shall include:

24 (a) Fees or premiums for title examination, title
25 insurance, or similar purposes including survey;

26 (b) Fees for preparation of a deed, settlement statement,
27 or other documents;

28 (c) Fees for notarizing deeds and other documents;

1 (d) Appraisal fees; and
2 (e) Fees for credit reports;
3 (4) Charges for insurance as described in subsection 2 of
4 this section;

5 (5) A nonrefundable origination fee not to exceed five
6 percent of the principal which may be used by the lender to
7 reduce the rate on a second mortgage loan;

8 (6) Any amounts paid to the lender by any person,
9 corporation or entity, other than the borrower, to reduce the
10 rate on a second mortgage loan or to assist the borrower in
11 qualifying for the loan;

12 (7) For revolving loans, an annual fee not to exceed fifty
13 dollars may be assessed.

14 2. An additional charge may be made for insurance written
15 in connection with the loan, including insurance protecting the
16 lender against the borrower's default or other credit loss, and:

17 (1) For insurance against loss of or damage to property
18 where no such coverage already exists; and

19 (2) For insurance providing life, accident, health or
20 involuntary unemployment coverage.

21 3. The cost of any insurance shall not exceed the rates
22 filed with the [division] department of insurance, financial and
23 professional regulation, and the insurance shall be obtained from
24 an insurance company duly authorized to conduct business in this
25 state. Any person or entity making second mortgage loans, or any
26 of its employees, may be licensed to sell insurance permitted in
27 this section.

28 4. On any second mortgage loan, a default charge may be

1 contracted for and received for any installment or minimum
2 payment not paid in full within fifteen days of its scheduled due
3 date equal to five percent of the amount or fifteen dollars,
4 whichever is greater, not to exceed fifty dollars. A default
5 charge may be collected only once on an installment or a payment
6 due however long it remains in default. A default charge may be
7 collected at the time it accrues or at any time thereafter and
8 for purposes of subsection 3 of section 408.234 a default charge
9 shall be treated as a payment. No default charge may be
10 collected on an installment or a payment due which is paid in
11 full within fifteen days of its scheduled due date even though an
12 earlier installment or payment or a default charge on earlier
13 installment or payments may not have been paid in full.

14 5. The lender shall, in addition to the charge authorized
15 by subsection 4 of this section, be allowed to assess the
16 borrower or other maker of refused instrument the actual charge
17 made by any institution for processing the negotiable instrument,
18 plus a handling fee of not more than twenty-five dollars; and, if
19 the contract or promissory note, signed by the borrower, provides
20 for attorney fees, and if it is necessary to bring suit, such
21 attorney fees may not exceed fifteen percent of the amount due
22 and payable under such contract or promissory note, together with
23 any court costs assessed. The attorney fees shall only be
24 applicable where the contract or promissory note is referred for
25 collection to an attorney, and are not handled by a salaried
26 employee of the holder of the contract or note.

27 408.280. 1. The amount, if any, included for insurance, if
28 a separate identified charge is made for the insurance, which

1 insurance may be purchased by the seller or other person holding
2 a retail time contract or account under a retail charge
3 agreement, shall not exceed the applicable premium chargeable in
4 accordance with the rates approved by the department of
5 insurance, financial and professional regulation of this state
6 where such rates are required by law to be approved by such
7 department. All insurance shall be written by an insurance
8 company authorized to do business in this state and all policies
9 written in this state shall be countersigned by a duly licensed
10 resident agent authorized to engage in the insurance business in
11 this state, unless otherwise provided by law. A buyer may be
12 required to provide insurance on the goods at his own cost for
13 the protection of the seller or other person holding a retail
14 time contract or account under a retail charge agreement, as well
15 as the buyer, but such insurance shall be subject to limitations
16 provided for in regulations promulgated and issued by the
17 director of finance pursuant to the provisions of subsection 3 of
18 this section. An additional charge may be made for insurance
19 written in connection with the retail time contract which
20 provides involuntary unemployment coverage.

21 2. The seller or other person holding a retail time
22 contract or account under a retail charge agreement shall, within
23 thirty days after provision for any insurance is agreed to by the
24 buyer, send or cause to be sent to the buyer a policy or policies
25 or certificate or certificates of insurance, clearly setting
26 forth the amount of the premium, the kind or kinds of insurance,
27 the coverage and, if a policy, all the terms, exceptions,
28 limitations, restrictions and conditions of the contract or

1 contracts of insurance, or, if a certificate, a summary of the
2 certificate.

3 3. The amount of any life insurance shall not exceed the
4 amount of the total unpaid balance from time to time under a
5 retail time contract or under a retail charge agreement, except
6 that where the buyer's obligation under a retail time contract is
7 repayable in payments which are not substantially equal in
8 amount, such insurance may be level term insurance in an amount
9 which shall not exceed by more than five dollars the time balance
10 as determined under subsection 5 of section 408.260. The
11 director of finance, or such agency or agencies as may exercise
12 the powers and duties now performed by such director, shall issue
13 regulations providing for and governing the types and limits of
14 all other insurance and the issuance of policies in connection
15 with retail time transactions. Nothing in this section shall
16 alter or amend the statutes of this state relating to insurance
17 or affect the powers of the director of the department of
18 insurance, financial and professional regulation under such
19 statutes.

20 4. The seller shall not decline existing insurance written
21 by an insurance company authorized to do business in this state
22 and the buyer shall have the privilege of purchasing insurance
23 from an agent or broker of his own selection and of selecting his
24 insurance company, except that the insurance company shall be
25 acceptable to the holder, which acceptance shall not be
26 unreasonably or arbitrarily withheld, and further, that the
27 inclusion of the cost of the insurance premium in the retail time
28 contract when the buyer selects his agent, broker or company

1 shall be optional with the seller.

2 5. If any insurance is canceled, or the premium adjusted,
3 any refund of the insurance premium received by the holder shall
4 be credited to the final maturing payments of the contract except
5 to the extent applied toward payment for similar insurance
6 protecting the interests of the buyer and the holder or either of
7 them.

8 427.140. Upon cancellation or expiration of collateral
9 protection coverage, the amount of unearned premiums, if any, as
10 calculated in accordance with the policy approved by the
11 department of insurance, financial and professional regulation as
12 permitted by law, shall be refunded to the debtor. The amount of
13 unearned premiums, however, may not be calculated by the rule of
14 78 or sum of the digits method. A refund of unearned premiums
15 may be credited to the debtor's obligation under the credit
16 agreement or distributed directly to the debtor by check or other
17 means.

18 427.145. Collateral protection coverage may be placed with
19 any insurance carrier selected by the creditor that is licensed
20 to underwrite the insurance by the department of insurance, financial and professional regulation. The insurance shall be
21 evidenced by an individual policy or a certificate of insurance.
22

23 436.005. As used in sections 436.005 to 436.071, unless the
24 context otherwise requires, the following terms shall mean:

25 (1) "Beneficiary", the individual who is to be the subject
26 of the disposition and who will receive funeral services,
27 facilities or merchandise described in a preneed contract;

28 (2) "Division", the division of professional registration

1 [of the department of economic development];

2 (3) "Funeral merchandise", caskets, grave vaults, or
3 receptacles, and other personal property incidental to a funeral
4 or burial service, and such term shall also include grave lots,
5 grave space, grave markers, monuments, tombstones, crypts, niches
6 or mausoleums if, but only if, such items are sold:

7 (a) By a companion agreement which is sold in contemplation
8 of trade or barter for grave vaults or funeral or burial services
9 and funeral merchandise; or

10 (b) At prices, in excess of prevailing market prices,
11 intended to be offset by reductions in the costs of funeral or
12 burial services or facilities which are not immediately required;

13 (4) "Person", any individual, partnership, corporation,
14 cooperative, association, or other entity;

15 (5) "Preneed contract", any contract or other arrangement
16 which requires the current payment of money or other property in
17 consideration for the final disposition of a dead human body, or
18 for funeral or burial services or facilities, or for funeral
19 merchandise, where such disposition, services, facilities or
20 merchandise are not immediately required, including, but not
21 limited to, an agreement providing for a membership fee or any
22 other fee having as its purpose the furnishing of burial or
23 funeral services or merchandise at a discount, except for
24 contracts of insurance, including payment of proceeds from
25 contracts of insurance, unless the preneed seller or provider is
26 named as the owner or beneficiary in the contract of insurance;

27 (6) "Preneed trust", a trust established by a seller, as
28 grantor, to receive deposits of, administer, and disburse

1 payments received under preneed contracts by such seller,
2 together with income thereon;

3 (7) "Provider", the person obligated to provide the
4 disposition and funeral services, facilities, or merchandise
5 described in a preneed contract;

6 (8) "Purchaser", the person who is obligated to make
7 payments under a preneed contract;

8 (9) "Seller", the person who sells a preneed contract to a
9 purchaser and who is obligated to collect and administer all
10 payments made under such preneed contract;

11 (10) "State board", the Missouri state board of embalmers
12 and funeral directors;

13 (11) "Trustee", the trustee of a preneed trust, including
14 successor trustees.

15 443.803. 1. For the purposes of sections 443.800 to
16 443.893, the following terms mean:

17 (1) "Advertisement", the attempt by publication,
18 dissemination or circulation to induce, directly or indirectly,
19 any person to apply for a loan to be secured by residential real
20 estate;

21 (2) "Affiliate":

22 (a) Any entity that directly controls, or is controlled by,
23 the licensee and any other company that is directly affecting
24 activities regulated by sections 443.800 to 443.893 that is
25 controlled by the company that controls the licensee;

26 (b) Any entity:

27 a. That is controlled, directly or indirectly, by a trust
28 or otherwise by, or for the benefit of, shareholders who

1 beneficially, or otherwise, control, directly or indirectly, by
2 trust or otherwise, the licensee or any company that controls the
3 licensee; or

4 b. A majority of the directors or trustees of which
5 constitute a majority of the persons holding any such office with
6 the licensee or any company that controls the licensee;

7 (c) Any company, including a real estate investment trust,
8 that is sponsored and advised on a contractual basis by the
9 licensee or any subsidiary or affiliate of the licensee;

10 (3) "Annual audit", a certified audit of the licensee's
11 books and records and systems of internal control performed by a
12 certified public accountant in accordance with generally accepted
13 accounting principles and generally accepted auditing standards;

14 (4) "Board", the residential mortgage board, created in
15 section 443.816;

16 (5) "Borrower", the person or persons who use the services
17 of a loan broker, originator or lender;

18 (6) "Director", the director of the division of finance
19 [within the department of economic development];

20 (7) "Escrow agent", a third party, individual or entity,
21 charged with the fiduciary obligation for holding escrow funds on
22 a residential mortgage loan pending final payout of those funds
23 in accordance with the terms of the residential mortgage loan;

24 (8) "Exempt entity", the following entities:

25 (a) Any bank or trust company organized under the laws of
26 this or any other state or any national bank or any foreign
27 banking corporation licensed by the division of finance or the
28 United States Comptroller of the Currency to transact business in

1 this state;

2 (b) Any state or federal savings and loan association,
3 savings bank or credit union or any consumer finance company
4 licensed under sections 367.100 to 367.215, RSMo, which is
5 actively engaged in consumer credit lending;

6 (c) Any insurance company authorized to transact business
7 in this state;

8 (d) Any person engaged solely in commercial mortgage
9 lending or any person making or acquiring residential or
10 commercial construction loans with the person's own funds for the
11 person's own investment;

12 (e) Any service corporation of a federally chartered or
13 state- chartered savings and loan association, savings bank or
14 credit union;

15 (f) Any first-tier subsidiary of a national or state bank
16 that has its principal place of business in this state, provided
17 that such first-tier subsidiary is regularly examined by the
18 division of finance or the Comptroller of the Currency or a
19 consumer compliance examination of it is regularly conducted by
20 the Federal Reserve;

21 (g) Any person engaged solely in the business of securing
22 loans on the secondary market provided such person does not make
23 decisions about the extension of credit to the borrower;

24 (h) Any mortgage banker as defined in subdivision (19) of
25 this subsection; or

26 (i) Any wholesale mortgage lender who purchases mortgage
27 loans originated by a licensee provided such wholesale lender
28 does not make decisions about the extension of credit to the

1 borrower;

2 (j) Any person making or acquiring residential mortgage
3 loans with the person's own funds for the person's own
4 investment;

5 (k) Any person employed or contracted by a licensee to
6 assist in the performance of the activities regulated by sections
7 443.800 to 443.893 who is compensated in any manner by only one
8 licensee;

9 (l) Any person licensed pursuant to the real estate agents
10 and brokers licensing law, chapter 339, RSMo, who engages in
11 servicing or the taking of applications and credit and appraisal
12 information to forward to a licensee or an exempt entity for
13 transactions in which the licensee is acting as a real estate
14 broker and who is compensated by either a licensee or an exempt
15 entity;

16 (m) Any person who originates, services or brokers
17 residential mortgagee loans and who receives no compensation for
18 those activities, subject to the director's regulations regarding
19 the nature and amount of compensation;

20 (9) "Financial institution", a savings and loan
21 association, savings bank, credit union, mortgage banker or bank
22 organized under the laws of Missouri or the laws of the United
23 States with its principal place of business in Missouri;

24 (10) "First-tier subsidiary", as defined by administrative
25 rule promulgated by the director;

26 (11) "Full-service office", office and staff in Missouri
27 reasonably adequate to handle efficiently communications,
28 questions and other matters relating to any application for a

1 new, or existing, home mortgage loan which the licensee is
2 brokering, funding, originating, purchasing or servicing. The
3 management and operation of each full-service office must include
4 observance of good business practices such as adequate, organized
5 and accurate books and records, ample phone lines, hours of
6 business, staff training and supervision and provision for a
7 mechanism to resolve consumer inquiries, complaints and problems.
8 The director shall promulgate regulations with regard to the
9 requirements of this subdivision and shall include an evaluation
10 of compliance with this subdivision in the periodic examination
11 of the licensee;

12 (12) "Government-insured mortgage loan", any mortgage loan
13 made on the security of residential real estate insured by the
14 Department of Housing and Urban Development or Farmers Home Loan
15 Administration, or guaranteed by the Veterans Administration;

16 (13) "Lender", any person who either lends money for or
17 invests money in residential mortgage loans;

18 (14) "Licensee" or "residential mortgage licensee", a
19 person who is licensed to engage in the activities regulated by
20 sections 443.800 to 443.893;

21 (15) "Loan broker" or "broker", a person exempted from
22 licensing pursuant to subdivision (8) of this subsection, who
23 performs the activities described in subdivisions (17) and (32)
24 of this subsection;

25 (16) "Loan brokerage agreement", a written agreement in
26 which a broker agrees to do either of the following:

27 (a) Obtain a residential mortgage loan for the borrower or
28 assist the borrower in obtaining a residential mortgage loan; or

1 (b) Consider making a residential mortgage loan to the
2 borrower;

3 (17) "Loan brokering", "mortgage brokering", or "mortgage
4 brokerage service", the act of helping to obtain for an investor
5 or from an investor for a borrower, a loan secured by residential
6 real estate situated in Missouri or assisting an investor or a
7 borrower in obtaining a loan secured by residential real estate
8 in return for consideration;

9 (18) "Making a residential mortgage loan" or "funding a
10 residential mortgage loan", for compensation or gain, either,
11 directly or indirectly, advancing funds or making a commitment to
12 an applicant for a residential mortgage loan;

13 (19) "Mortgage banker", a mortgage loan company which is
14 subject to licensing, supervision, or annual audit requirements
15 by the Federal National Mortgage Association (FNMA), or the
16 Federal Home Loan Mortgage Corporation (FHLMC), or the United
17 States Veterans Administration (VA), or the United States
18 Department of Housing and Urban Development (HUD), or a successor
19 of any of the foregoing agencies or entities, as an approved
20 lender, loan correspondent, seller, or servicer;

21 (20) "Mortgage loan" or "residential mortgage loan", a loan
22 to, or for the benefit of, any natural person made primarily for
23 personal, family or household use, including a reverse mortgage
24 loan, primarily secured by either a mortgage or reverse mortgage
25 on residential real property or certificates of stock or other
26 evidence of ownership interests in, and proprietary leases from,
27 corporations or partnerships formed for the purpose of
28 cooperative ownership of residential real property;

- 1 (21) "Net worth", as provided in section 443.859;
- 2 (22) "Originating", the advertising, soliciting, taking
3 applications, processing, closing, or issuing of commitments for,
4 and funding of, residential mortgage loans;
- 5 (23) "Party to a residential mortgage financing
6 transaction", a borrower, lender or loan broker in a residential
7 mortgage financing transaction;
- 8 (24) "Payments", payment of all, or any part of, the
9 following: principal, interest and escrow reserves for taxes,
10 insurance and other related reserves and reimbursement for lender
11 advances;
- 12 (25) "Person", any individual, firm, partnership,
13 corporation, company or association and the legal successors
14 thereof;
- 15 (26) "Personal residence address", a street address, but
16 shall not include a post office box number;
- 17 (27) "Purchasing", the purchase of conventional or
18 government-insured mortgage loans secured by residential real
19 estate from either the lender or from the secondary market;
- 20 (28) "Residential mortgage board", the residential mortgage
21 board created in section 443.816;
- 22 (29) "Residential mortgage financing transaction", the
23 negotiation, acquisition, sale or arrangement for, or the offer
24 to negotiate, acquire, sell or arrange for, a residential
25 mortgage loan or residential mortgage loan commitment;
- 26 (30) "Residential mortgage loan commitment", a written
27 conditional agreement to finance a residential mortgage loan;
- 28 (31) "Residential real property" or "residential real

1 estate", real property located in this state improved by a
2 one-family to four-family dwelling;

3 (32) "Servicing", the collection or remittance for, or the
4 right or obligation to collect or remit for, any lender,
5 noteowner, noteholder or for a licensee's own account, of
6 payments, interests, principal and trust items such as hazard
7 insurance and taxes on a residential mortgage loan and includes
8 loan payment follow-up, delinquency loan follow-up, loan analysis
9 and any notifications to the borrower that are necessary to
10 enable the borrower to keep the loan current and in good
11 standing;

12 (33) "Soliciting, processing, placing or negotiating a
13 residential mortgage loan", for compensation or gain, either,
14 directly or indirectly, accepting or offering to accept an
15 application for a residential mortgage loan, assisting or
16 offering to assist in the processing of an application for a
17 residential mortgage loan on behalf of a borrower, or negotiating
18 or offering to negotiate the terms or conditions of a residential
19 mortgage loan with a lender on behalf of a borrower including,
20 but not limited to, the submission of credit packages for the
21 approval of lenders, the preparation of residential mortgage loan
22 closing documents, and including a closing in the name of a
23 broker;

24 (34) "Ultimate equitable owner", a person who, directly or
25 indirectly, owns or controls an ownership interest in a
26 corporation, foreign corporation, alien business organization,
27 trust or any other form of business organization regardless of
28 whether the person owns or controls the ownership interest

1 through one or more persons or one or more proxies, powers of
2 attorney, nominees, corporations, associations, partnerships,
3 trusts, joint stock companies or other entities or devices, or
4 any combination thereof.

5 2. The director may define by rule any terms used in
6 sections 443.800 to 443.893 for efficient and clear
7 administration.

8 447.572. The treasurer may at reasonable times and upon
9 reasonable notice examine the records of any person if the
10 treasurer has reason to believe that such person has failed to
11 report property that should have been reported pursuant to
12 sections 447.500 to 447.595; provided, however, that examination
13 of the records of any person or entity subject to the supervision
14 of the divisions of finance, credit unions, the department of
15 insurance, financial and professional regulation or the public
16 service commission shall be made by the chief officer of the
17 respective agency at the request of the treasurer. Such
18 examination by the chief officer of the respective agency may be
19 delegated to the chief officer's full-time employees, who
20 otherwise examine the specific listed institution regulated by
21 such agency. Such chief officer of the respective agency shall
22 certify in writing to the treasurer and the institution under
23 examination when the chief officer has reason to believe that
24 such institution has failed to report property that should have
25 been reported pursuant to sections 447.500 to 447.595. In such
26 case the treasurer may examine such institution. The
27 communications between such chief officers and the treasurer
28 concerning this section shall be considered exceptions to any

1 applicable confidentiality statutes. The treasurer may delegate
2 any duty imposed upon the treasurer pursuant to the provisions of
3 sections 447.500 to 447.595 to such other agency employees as the
4 treasurer deems appropriate.

5 525.050. Notice of garnishment shall be served on a
6 corporation, in writing, by delivering such notice, or a copy
7 thereof, only to a person designated by the corporation in a
8 registered letter filed with the sheriff or officer for
9 collection in the corporation's county of primary business;
10 provided, if such designated person is not available or if such
11 designation is not filed with the sheriff or officer of
12 collection, then such notice may be served upon the president,
13 secretary, treasurer, cashier or other chief or managing officer
14 of such corporation. Notice of garnishment may be served on
15 railroad corporations by delivering the same, or a copy thereof,
16 to any station or freight agent of such corporation, and on
17 insurance companies not incorporated by or organized under the
18 laws of this state, by delivering the same, or a copy thereof, to
19 the director of the department of insurance, financial and
20 professional regulation.

21 537.740. 1. If contributions to the fund do not produce
22 sufficient funds to pay any claims which may be due, the board
23 shall assess and each member, including any member who has
24 withdrawn but was a member in the year in which the assessment is
25 required, shall pay such additional amounts which are each
26 member's proportionate share of total claims allowed and due.
27 The board may abate or defer any part of the additional
28 assessment of a member, if, in the opinion of the board, payment

1 of the additional assessment would impair the ability of the
2 member to fulfill its contractual obligations. The provisions of
3 this subsection shall apply retroactively to the creation of the
4 Missouri public entity risk management fund.

5 2. The board, in order to carry out the purposes for which
6 the fund is established, may select and employ, or contract with,
7 persons experienced in insurance underwriting, accounting, the
8 servicing of claims, and rate making, who shall serve at the
9 board's pleasure, as technical advisors in establishing the
10 annual contribution, or may call upon the director of the
11 department of insurance, financial and professional regulation
12 for such services.

13 537.756. 1. The maximum amount which may be paid from the
14 fund, as defined in section 537.700, for the payment and
15 settlement of claims arising out of any single occurrence, is two
16 million dollars.

17 2. The limitation on awards for liability provided for in
18 this section shall be increased or decreased on an annual basis
19 effective January first of each year in accordance with the
20 Implicit Price Deflator for Personal Consumption Expenditures as
21 published by the Bureau of Economic Analysis of the United States
22 Department of Commerce. The current value of the limitation
23 shall be calculated by the director of the department of
24 insurance, financial and professional regulation, who shall
25 furnish that value to the secretary of state, who shall publish
26 such value in the Missouri Register as soon after each January
27 first as practicable, but it shall otherwise be exempt from the
28 provisions of section 536.021, RSMo.

1 620.010. 1. There is hereby created a "Department of
2 Economic Development" to be headed by a director appointed by the
3 governor, by and with the advice and consent of the senate. All
4 of the general provisions, definitions and powers enumerated in
5 section 1 of the Omnibus State Reorganization Act of 1974 shall
6 continue to apply to this department and its divisions, agencies
7 and personnel.

8 2. The office of director of the department of business and
9 administration, chapter 35, RSMo, and others, is abolished and
10 all powers, duties, personnel and property of that office, not
11 previously reassigned by executive reorganization plan no. 1 of
12 1973 as submitted by the governor pursuant to chapter 26, RSMo,
13 are transferred by type I transfer to the director of the
14 department of economic development. The department of business
15 and administration is hereby abolished.

16 3. The duties and responsibilities relating to subsection 2
17 of section 35.010, RSMo, are transferred by type I transfer to
18 the personnel division, office of administration.

19 4. The powers, duties and functions vested in the public
20 service commission, chapters 386, 387, 388, 389, 390, 392, and
21 393, RSMo, and others, and the administrative hearing commission,
22 sections 621.015 to 621.198, RSMo, [and others, are transferred
23 by type III transfers, and the state banking board, chapter 361,
24 RSMo, and others, and the savings and loan commission, chapter
25 369, RSMo,] and others, are transferred by type II transfers to
26 the department of economic development. The director of the
27 department is directed to provide and coordinate staff and
28 equipment services to these agencies in the interest of

1 facilitating the work of the bodies and achieving optimum
2 efficiency in staff services common to all the bodies. Nothing
3 in the Reorganization Act of 1974 shall prevent the chairman of
4 the public service commission from presenting additional budget
5 requests or from explaining or clarifying its budget requests to
6 the governor or general assembly.

7 5. The powers, duties and functions vested in the office of
8 the public counsel are transferred by type III transfer to the
9 department of economic development. Funding for the general
10 counsel's office shall be by general revenue.

11 6. The public service commission is authorized to employ
12 such staff as it deems necessary for the functions performed by
13 the general counsel other than those powers, duties and functions
14 relating to representation of the public before the public
15 service commission.

16 7. [There is hereby created a "Division of Credit Unions"
17 in the department of economic development, to be headed by a
18 director, nominated by the department director and appointed by
19 the governor with the advice and consent of the senate. All the
20 powers, duties and functions vested in the state supervisor of
21 credit unions in chapter 370, RSMo, and the powers and duties
22 relating to credit unions vested in the commissioner of finance
23 in chapter 370, RSMo, are transferred to the division of credit
24 unions of the department of economic development, by a type II
25 transfer, and the office of the state supervisor of credit unions
26 is abolished. The salary of the director of the division of
27 credit unions shall be set by the director of the department
28 within the limits of the appropriations therefor. The director

1 of the division shall assume all the duties and functions of the
2 state supervisor of credit unions and the commissioner of finance
3 only where the director has duties and responsibilities relating
4 to credit unions as set out in chapter 370, RSMo.

5 8. The powers, duties and functions vested in the division
6 of finance, chapters 361, 362, 364, 365, 367, and 408, RSMo, and
7 others, are transferred by type II transfer to the department of
8 economic development. There shall be a director of the division
9 who shall be nominated by the department director and appointed
10 by the governor with the advice and consent of the senate.

11 9. All the powers, duties and functions vested in the
12 director of the division of savings and loan supervision in
13 chapter 369, RSMo, sections 443.700 to 443.712, RSMo, or by any
14 other provision of law are transferred to the division of finance
15 of the department of economic development by a type I transfer.
16 The position of the director of the division of savings and loan
17 supervision is hereby abolished. The director of the division of
18 finance shall assume all the duties and functions of the director
19 of the division of savings and loan supervision as provided in
20 chapter 369, RSMo, sections 443.700 to 443.712, RSMo, and by any
21 other provision of law. The division of savings and loan is
22 hereby abolished. The powers of the savings and loan commission
23 are hereby limited to hearing appeals from decisions of the
24 director of the division of finance approving or denying
25 applications to incorporate savings and loan associations or to
26 establish branches of savings and loan associations and approving
27 regulations pertaining to savings and loan associations. Any
28 appeals shall be held in accordance with section 369.319, RSMo.

1 10. On and after August 28, 1990, the status of the
2 division is modified under a specific type transfer pursuant to
3 section 1 of the Omnibus Reorganization Act of 1974. The status
4 of the division is modified from that of a division transferred
5 to the department of economic development pursuant to a type II
6 transfer, as provided for in this section, to that of an agency
7 possessing the characteristics of a division transferred pursuant
8 to a type III transfer; provided, however, that the division will
9 remain within the department of economic development. The
10 division of insurance shall be assigned to the department of
11 economic development as a type III division, and the director of
12 the department of economic development shall have no supervision,
13 authority or control over the actions or decisions of the
14 director of the division. All authority, records, property,
15 personnel, powers, duties, functions, matter pending and all
16 other pertinent vestiges pertaining thereto shall be retained by
17 the division except as modified by this section. If the division
18 of insurance becomes a department by operation of a
19 constitutional amendment, the department of economic development
20 shall continue until December 31, 1991, to provide at least the
21 same assistance as was provided in previous fiscal years for
22 personnel, data processing support and other benefits from
23 appropriations.

24 11.] All the powers, duties and functions of the commerce
25 and industrial development division and the industrial
26 development commission, chapters 184 and 255, RSMo, and others,
27 not otherwise transferred, are transferred by type I transfer to
28 the department of economic development, and the industrial

1 development commission is abolished. All powers, duties and
2 functions of the division of commerce and industrial development
3 and the division of community development are transferred by a
4 type I transfer to the department of economic development, and
5 the division of commerce and industrial development and the
6 division of community development are abolished.

7 [12.] 8. All the powers, duties and functions vested in the
8 tourism commission, chapter 258, RSMo, and others, are
9 transferred to the "Division of Tourism", which is hereby
10 created, by type III transfer.

11 [13.] 9. All the powers, duties and functions of the
12 department of community affairs, chapter 251, RSMo, and others,
13 not otherwise assigned, are transferred by type I transfer to the
14 department of economic development, and the department of
15 community affairs is abolished. The director of the department
16 of economic development may assume all the duties of the director
17 of community affairs or may establish within the department such
18 subunits and advisory committees as may be required to administer
19 the programs so transferred. The director of the department
20 shall appoint all members of such committees and heads of
21 subunits.

22 [14. (1) There is hereby established a "Division of
23 Professional Registration" assigned to the department of economic
24 development as a type III division, headed by a director
25 appointed by the governor with the advice and consent of the
26 senate.

27 (2) The director of the division of professional
28 registration shall promulgate rules and regulations which

1 designate for each board or commission assigned to the division
2 the renewal date for licenses or certificates. After the initial
3 establishment of renewal dates, no director of the division shall
4 promulgate a rule or regulation which would change the renewal
5 date for licenses or certificates if such change in renewal date
6 would occur prior to the date on which the renewal date in effect
7 at the time such new renewal date is specified next occurs. Each
8 board or commission shall by rule or regulation establish
9 licensing periods of one, two, or three years. Registration fees
10 set by a board or commission shall be effective for the entire
11 licensing period involved, and shall not be increased during any
12 current licensing period. Persons who are required to pay their
13 first registration fees shall be allowed to pay the pro rata
14 share of such fees for the remainder of the period remaining at
15 the time the fees are paid. Each board or commission shall
16 provide the necessary forms for initial registration, and
17 thereafter the director may prescribe standard forms for renewal
18 of licenses and certificates. Each board or commission shall by
19 rule and regulation require each applicant to provide the
20 information which is required to keep the board's records
21 current. Each board or commission shall issue the original
22 license or certificate.

23 (3) The division shall provide clerical and other staff
24 services relating to the issuance and renewal of licenses for all
25 the professional licensing and regulating boards and commissions
26 assigned to the division. The division shall perform the
27 financial management and clerical functions as they each relate
28 to issuance and renewal of licenses and certificates. "Issuance

1 and renewal of licenses and certificates" means the ministerial
2 function of preparing and delivering licenses or certificates,
3 and obtaining material and information for the board or
4 commission in connection with the renewal thereof. It does not
5 include any discretionary authority with regard to the original
6 review of an applicant's qualifications for licensure or
7 certification, or the subsequent review of licensee's or
8 certificate holder's qualifications, or any disciplinary action
9 contemplated against the licensee or certificate holder. The
10 division may develop and implement microfilming systems and
11 automated or manual management information systems.

12 (4) The director of the division shall establish a system
13 of accounting and budgeting, in cooperation with the director of
14 the department, the office of administration, and the state
15 auditor's office, to ensure proper charges are made to the
16 various boards for services rendered to them. The general
17 assembly shall appropriate to the division and other state
18 agencies from each board's funds, moneys sufficient to reimburse
19 the division and other state agencies for all services rendered
20 and all facilities and supplies furnished to that board.

21 (5) For accounting purposes, the appropriation to the
22 division and to the office of administration for the payment of
23 rent for quarters provided for the division shall be made from
24 the "Professional Registration Fees Fund", which is hereby
25 created, and is to be used solely for the purpose defined in
26 subdivision (4) of subsection 14 of this section. The fund shall
27 consist of moneys deposited into it from each board's fund. Each
28 board shall contribute a prorated amount necessary to fund the

1 division for services rendered and rent based upon the system of
2 accounting and budgeting established by the director of the
3 division as provided in subdivision (4) of this subsection.
4 Transfers of funds to the professional registration fees fund
5 shall be made by each board on July first of each year; provided,
6 however, that the director of the division may establish an
7 alternative date or dates of transfers at the request of any
8 board. Such transfers shall be made until they equal the
9 prorated amount for services rendered and rent by the division.
10 The provisions of section 33.080, RSMo, to the contrary
11 notwithstanding, money in this fund shall not be transferred and
12 placed to the credit of general revenue.

13 (6) The director of the division shall be responsible for
14 collecting and accounting for all moneys received by the division
15 or its component agencies. Any money received by a board or
16 commission shall be promptly given, identified by type and
17 source, to the director. The director shall keep a record by
18 board and state accounting system classification of the amount of
19 revenue the director receives. The director shall promptly
20 transmit all receipts to the department of revenue for deposit in
21 the state treasury to the credit of the appropriate fund. The
22 director shall provide each board with all relevant financial
23 information in a timely fashion. Each board shall cooperate with
24 the director by providing necessary information.

25 (7) All educational transcripts, test scores, complaints,
26 investigatory reports, and information pertaining to any person
27 who is an applicant or licensee of any agency assigned to the
28 division of professional registration by statute or by the

1 department of economic development are confidential and may not
2 be disclosed to the public or any member of the public, except
3 with the written consent of the person whose records are
4 involved. The agency which possesses the records or information
5 shall disclose the records or information if the person whose
6 records or information is involved has consented to the
7 disclosure. Each agency is entitled to the attorney-client
8 privilege and work-product privilege to the same extent as any
9 other person. Provided, however, that any board may disclose
10 confidential information without the consent of the person
11 involved in the course of voluntary interstate exchange of
12 information, or in the course of any litigation concerning that
13 person, or pursuant to a lawful request, or to other
14 administrative or law enforcement agencies acting within the
15 scope of their statutory authority. Information regarding
16 identity, including names and addresses, registration, and
17 currency of the license of the persons possessing licenses to
18 engage in a professional occupation and the names and addresses
19 of applicants for such licenses is not confidential information.

20 (8) Any deliberations conducted and votes taken in
21 rendering a final decision after a hearing before an agency
22 assigned to the division shall be closed to the parties and the
23 public. Once a final decision is rendered, that decision shall
24 be made available to the parties and the public.

25 15. (1) The division of registration and examination,
26 department of education, within chapter 161, RSMo, and others, is
27 abolished and the following boards and commissions are
28 transferred by specific type transfers to the division of

1 professional registration, department of economic development:
2 state board of accountancy, chapter 326, RSMo; state board of
3 barber examiners, chapter 328, RSMo; state board of registration
4 for architects, professional engineers and land surveyors,
5 chapter 327, RSMo; state board of chiropractic examiners, chapter
6 331, RSMo; state board of cosmetology, chapter 329, RSMo; state
7 board of healing arts, chapter 334, RSMo; Missouri dental board,
8 chapter 332, RSMo; state board of embalmers and funeral
9 directors, chapter 333, RSMo; state board of optometry, chapter
10 336, RSMo; state board of nursing, chapter 335, RSMo; board of
11 pharmacy, chapter 338, RSMo; state board of podiatry, chapter
12 330, RSMo; Missouri real estate commission, chapter 339, RSMo;
13 and Missouri veterinary medical board chapter 340, RSMo. The
14 governor shall appoint members of these boards by and with the
15 advice and consent of the senate from nominees submitted by the
16 director of the department.

17 (2) The boards and commissions assigned to the division
18 shall exercise all their respective statutory duties and powers,
19 except those clerical and other staff services involving
20 collecting and accounting for moneys and financial management
21 relating to the issuance and renewal of licenses, which services
22 shall be provided by the division, within the appropriation
23 therefor. All clerical and other staff services relating to the
24 issuance and renewal of licenses of the individual boards and
25 commissions are abolished. All clerical and other staff services
26 pertaining to collecting and accounting for moneys and to
27 financial management relative to the issuance and renewal of
28 licenses of the individual boards and commissions are abolished.

1 Nothing herein shall prohibit employment of professional
2 examining or testing services from professional associations or
3 others as required by the boards or commissions on contract.

4 Nothing herein shall be construed to affect the power of a board
5 or commission to expend its funds as appropriated. However, the
6 division shall review the expense vouchers of each board. The
7 results of such review shall be submitted to the board reviewed
8 and to the house and senate appropriations committees annually.

9 (3) Notwithstanding any other provisions of law, the
10 director of the division shall exercise only those management
11 functions of the boards and commissions specifically provided in
12 the Reorganization Act of 1974, and those relating to the
13 allocation and assignment of space, personnel other than board
14 personnel, and equipment.

15 (4) "Board personnel", as used in this section or chapters
16 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 338, 339
17 and 340, RSMo, shall mean personnel whose functions and
18 responsibilities are in areas not related to the clerical duties
19 involving the issuance and renewal of licenses, to the collecting
20 and accounting for moneys, or to financial management relating to
21 issuance and renewal of licenses; specifically included are
22 executive secretaries (or comparable positions), consultants,
23 inspectors, investigators, counsel, and secretarial support staff
24 for these positions; and such other positions as are established
25 and authorized by statute for a particular board or commission.
26 Boards and commissions may employ legal counsel, if authorized by
27 law, and temporary personnel if the board is unable to meet its
28 responsibilities with the employees authorized above. Any board

1 or commission which hires temporary employees shall annually
2 provide the division director and the appropriation committees of
3 the general assembly with a complete list of all persons employed
4 in the previous year, the length of their employment, the amount
5 of their remuneration and a description of their
6 responsibilities.

7 (5) Board personnel for each board or commission shall be
8 employed by and serve at the pleasure of the board or commission,
9 shall be supervised as the board or commission designates, and
10 shall have their duties and compensation prescribed by the board
11 or commission, within appropriations for that purpose, except
12 that compensation for board personnel shall not exceed that
13 established for comparable positions as determined by the board
14 or commission pursuant to the job and pay plan of the department
15 of economic development. Nothing herein shall be construed to
16 permit salaries for any board personnel to be lowered except by
17 board action.

18 (6) Each board or commission shall receive complaints
19 concerning its licensees' business or professional practices.
20 Each board or commission shall establish by rule a procedure for
21 the handling of such complaints prior to the filing of formal
22 complaints before the administrative hearing commission. The
23 rule shall provide, at a minimum, for the logging of each
24 complaint received, the recording of the licensee's name, the
25 name of the complaining party, the date of the complaint, and a
26 brief statement of the complaint and its ultimate disposition.
27 The rule shall provide for informing the complaining party of the
28 progress of the investigation, the dismissal of the charges or

1 the filing of a complaint before the administrative hearing
2 commission.

3 16. All the powers, duties and functions of the division of
4 athletics, chapter 317, RSMo, and others, are transferred by type
5 I transfer to the division of professional registration. The
6 athletic commission is abolished.

7 [17.] 10. The state council on the arts, chapter 185, RSMo,
8 and others, is transferred by type II transfer to the department
9 of economic development, and the members of the council shall be
10 appointed by the director of the department.

11 [18.] 11. The Missouri housing development commission,
12 chapter 215, RSMo, is assigned to the department of economic
13 development, but shall remain a governmental instrumentality of
14 the state of Missouri and shall constitute a body corporate and
15 politic.

16 [19.] 12. All the authority, powers, duties, functions,
17 records, personnel, property, matters pending and other pertinent
18 vestiges of the division of manpower planning of the department
19 of social services are transferred by a type I transfer to the
20 "Division of Job Development and Training", which is hereby
21 created, within the department of economic development. The
22 division of manpower planning within the department of social
23 services is abolished. The provisions of section 1 of the
24 Omnibus State Reorganization Act of 1974, Appendix B, relating to
25 the manner and procedures for transfers of state agencies shall
26 apply to the transfers provided in this section.

27 [20.] 13. Any rule or portion of a rule, as that term is
28 defined in section 536.010, RSMo, that is created under the

1 authority delegated in this chapter shall become effective only
2 if it complies with and is subject to all of the provisions of
3 chapter 536, RSMo, and, if applicable, section 536.028, RSMo.
4 All rulemaking authority delegated prior to August 28, 1999, is
5 of no force and effect and repealed. Nothing in this section
6 shall be interpreted to repeal or affect the validity of any rule
7 filed or adopted prior to August 28, 1999, if it fully complied
8 with all applicable provisions of law. This section and chapter
9 536, RSMo, are nonseverable and if any of the powers vested with
10 the general assembly pursuant to chapter 536, RSMo, to review, to
11 delay the effective date or to disapprove and annul a rule are
12 subsequently held unconstitutional, then the grant of rulemaking
13 authority and any rule proposed or adopted after August 28, 1999,
14 shall be invalid and void.

15 621.045. 1. The administrative hearing commission shall
16 conduct hearings and make findings of fact and conclusions of law
17 in those cases when, under the law, a license issued by any of
18 the following agencies may be revoked or suspended or when the
19 licensee may be placed on probation or when an agency refuses to
20 permit an applicant to be examined upon his qualifications or
21 refuses to issue or renew a license of an applicant who has
22 passed an examination for licensure or who possesses the
23 qualifications for licensure without examination:

24 Missouri State Board of Accountancy

25 Missouri State Board [of Registration] for Architects,
26 Professional Engineers [and], Professional Land Surveyors and
27 Landscape Architects

28 [Board of Barber Examiners]

1 Board of Cosmetology and Barber Examiners
2 Board of Chiropody and Podiatry
3 Board of Chiropractic Examiners
4 Missouri Dental Board
5 Board of Embalmers and Funeral Directors
6 Board of Registration for the Healing Arts
7 Board of Nursing
8 Board of Optometry
9 Board of Pharmacy
10 Missouri Real Estate Commission
11 Missouri Veterinary Medical Board
12 Supervisor of Liquor Control
13 Department of Health and Senior Services
14 Department of Insurance, Financial and Professional
15 Regulation
16 Department of Mental Health.

17 2. If in the future there are created by law any new or
18 additional administrative agencies which have the power to issue,
19 revoke, suspend, or place on probation any license, then those
20 agencies are under the provisions of this law.

21 3. Notwithstanding any other provision of this section to
22 the contrary, after August 28, 1995, in order to encourage
23 settlement of disputes between any agency described in subsection
24 1 or 2 of this section and its licensees, any such agency shall:

25 (1) Provide the licensee with a written description of the
26 specific conduct for which discipline is sought and a citation to
27 the law and rules allegedly violated, together with copies of any
28 documents which are the basis thereof and the agency's initial

1 settlement offer, or file a contested case against the licensee;

2 (2) If no contested case has been filed against the
3 licensee, allow the licensee at least sixty days, from the date
4 of mailing, to consider the agency's initial settlement offer and
5 to contact the agency to discuss the terms of such settlement
6 offer;

7 (3) If no contested case has been filed against the
8 licensee, advise the licensee that the licensee may, either at
9 the time the settlement agreement is signed by all parties, or
10 within fifteen days thereafter, submit the agreement to the
11 administrative hearing commission for determination that the
12 facts agreed to by the parties to the settlement constitute
13 grounds for denying or disciplining the license of the licensee;
14 and

15 (4) In any contact pursuant to this subsection by the
16 agency or its counsel with a licensee who is not represented by
17 counsel, advise the licensee that the licensee has the right to
18 consult an attorney at the licensee's own expense.

19 4. If the licensee desires review by the administrative
20 hearing commission pursuant to subdivision (3) of subsection 3 of
21 this section at any time prior to the settlement becoming final,
22 the licensee may rescind and withdraw from the settlement and any
23 admissions of fact or law in the agreement shall be deemed
24 withdrawn and not admissible for any purposes under the law
25 against the licensee. Any settlement submitted to the
26 administrative hearing commission shall not be effective and
27 final unless and until findings of fact and conclusions of law
28 are entered by the administrative hearing commission that the

1 facts agreed to by the parties to the settlement constitute
2 grounds for denying or disciplining the license of the licensee.

3 660.551. 1. The department of insurance, financial and
4 professional regulation shall precertify long-term care insurance
5 policies which are issued by insurers who, in addition to
6 complying with other relevant laws and regulations:

7 (1) Alert the purchaser to the availability of consumer
8 information and public education provided by the [division of
9 aging] department of health and senior services and the
10 department of insurance, financial and professional regulation
11 pursuant to sections 660.546 to 660.557;

12 (2) Offer the option of home- and community-based services
13 in lieu of nursing home care;

14 (3) Offer automatic inflation protection or optional
15 periodic per diem upgrades until the insured begins to receive
16 long-term care benefits; provided, however, that such inflation
17 protection or upgrades shall not be required of life insurance
18 policies or riders containing accelerated long-term care
19 benefits;

20 (4) Provide for the keeping of records and an explanation
21 of benefits reports to the insured and the department of
22 insurance, financial and professional regulation on insurance
23 payments which count toward Medicaid resource exclusion; and

24 (5) Provide the management information and reports
25 necessary to document the extent of Medicaid resource protection
26 offered and to evaluate the Missouri partnership for long-term
27 care including, but not limited to, the information listed in
28 section 660.553.

1 Included among those policies precertified under this section
2 shall be life insurance policies which offer long-term care
3 either by rider or integrated into the life insurance policy.

4 2. No policy shall be precertified pursuant to sections
5 660.546 to 660.557, if it requires prior hospitalization or a
6 prior stay in a nursing home as a condition of providing
7 benefits.

8 3. The department of insurance, financial and professional
9 regulation may adopt regulations to carry out the provisions of
10 sections 660.546 to 660.557.

11 660.553. The department of insurance, financial and
12 professional regulation shall provide public information to
13 assist individuals in choosing appropriate insurance coverage,
14 and shall establish an outreach program to educate consumers as
15 to:

- 16 (1) The need for long-term; and
- 17 (2) The availability of long-term care insurance.

18 660.555. The director of the department of insurance, financial and professional regulation each year, on January first
19 shall report in writing to the department of social services the
20 following information:

- 21 (1) The success in implementing the provisions of sections
22 660.546 to 660.557;
- 23 (2) The number of policies precertified pursuant to
24 sections 660.546 to 660.557;
- 25 (3) The number of individuals filing consumer complaints
26 with respect to precertified policies; and
- 27 (4) The extent and type of benefits paid, in the aggregate,
28

1 under such policies that could count toward Medicaid resource
2 protection.

3 [329.240. 1. All fees provided for in this
4 chapter shall be payable to the director of the
5 division of professional registration in the department
6 of economic development who shall keep a record of the
7 account showing the total payments received and shall
8 immediately thereafter transmit them to the department
9 of revenue for deposit in the state treasury to the
10 credit of a fund to be known as the "State Board of
11 Cosmetology Fund". All the salaries and expenses for
12 the operation of the board shall be appropriated and
13 paid from such fund.

14 2. The provisions of section 33.080, RSMo, to the
15 contrary notwithstanding, money in this fund shall not
16 be transferred and placed to the credit of general
17 revenue until the amount in the fund at the end of the
18 biennium exceeds two times the amount of the
19 appropriation from the board's funds for the preceding
20 fiscal year or, if the board requires by rule permit
21 renewal less frequently than yearly, then three times
22 the appropriation from the board's funds for the
23 preceding fiscal year. The amount, if any, in the fund
24 which shall lapse is that amount in the fund which
25 exceeds the appropriate multiple of the appropriations
26 from the board's funds for the preceding fiscal year.]
27

28 [374.130. The director may designate one of the
29 clerks of the insurance department as chief clerk, who
30 shall possess the qualifications of the director, and
31 shall, subject to the director and his deputy, have
32 charge of the clerical and detail work of the
33 department, and the employees thereof. In the absence
34 or inability of both the director and deputy or in case
35 of a vacancy in both of said offices, the chief clerk
36 shall have and exercise the powers of the
37 director. Chief clerk shall serve during the pleasure
38 of the director, and shall perform such other duties as
39 the director may direct.]
40

41 [374.261. As used in sections 374.261 to 374.269,
42 the following words mean:

43 (1) "Director", the director of the department of
44 insurance;

45 (2) "Examiners", nonsalaried employees of the
46 department of insurance conducting an examination
47 pursuant to section 374.190;

48 (3) "Sick leave", those days of leave taken
49 during the conduct of an examination during which an

1 examiner is prevented from conducting an examination
2 due to illness or injury.]
3

4 [374.263. There is hereby created in the state
5 treasury a fund to be known as the "Insurance
6 Examiner's Sick Leave Fund", hereinafter referred to as
7 the "fund". The fund shall be used to pay the daily
8 wages of department of insurance examiners who are
9 temporarily unable to continue an examination of an
10 insurance company or companies pursuant to section
11 374.190, because of illness or injury suffered or
12 sustained by the examiner during the course of the
13 examination which the examiner is conducting.]
14

15 [374.267. 1. The director of the department of
16 insurance, his agents or appointees shall be empowered
17 to make assessments pursuant to section 374.265, and to
18 administer the fund.

19 2. The director, his agents or appointees shall
20 compensate an examiner out of the fund only after the
21 examiner has satisfied the director, his agents or
22 appointees that:

23 (1) The examiner was employed by the department
24 of insurance to conduct an examination of an insurance
25 company or companies pursuant to section 374.190 at the
26 time of the illness or injury for which daily wages are
27 claimed; and

28 (2) The examiner was prevented from conducting
29 the examination due to illness or injury.

30 3. The amount paid by the director, his agents or
31 appointees to an examiner from the fund shall not
32 exceed the amount of the examiner's daily wages times
33 the number of days during which the examiner was
34 prevented from conducting an examination as result of
35 illness or injury, but in no event shall any examiner
36 be paid for more than one and one-fourth days times the
37 number of months for which he has been employed by the
38 department of insurance as an examiner, nor shall an
39 examiner be paid for or receive credit for sick leave
40 after August 13, 1988, for or on the basis of any
41 month, months or portion thereof before August 13,
42 1988.]
43

44 [374.456. The director of the department of
45 insurance shall personally report to the appropriate
46 committees of the general assembly by March first of
47 each year on the status of all actions initiated,
48 maintained by the director, or which have been
49 concluded, during the preceding year to enforce the
50 provisions of this act. The director shall answer all

1 questions regarding such actions, or regarding other
2 matters that are related to the provisions of this
3 act.]
4

5 [375.041. 1. The provisions of this section
6 shall apply to all domestic, foreign and alien insurers
7 who are authorized to transact business in this state,
8 and shall also apply to those companies organized and
9 authorized to transact business in this state pursuant
10 to the provisions of chapter 354, 377, 378 or 381,
11 RSMo.

12 2. Each domestic, foreign and alien insurer who
13 is authorized to transact insurance in this state, and
14 each company organized and authorized to transact
15 business in this state pursuant to the provisions of
16 chapter 354, 377, 378 or 381, RSMo, shall annually, on
17 or before March first of each year, file with the
18 National Association of Insurance Commissioners a copy
19 of its annual statement convention blank, along with
20 such additional filings as prescribed by the director
21 of the department of insurance for the preceding year.
22 The information filed with the National Association of
23 Insurance Commissioners shall be in the same format and
24 scope as that required by the director of the
25 department of insurance and shall include the signed
26 jurat page and the actuarial certification. Any
27 amendments and addendums to the annual statement filing
28 subsequently filed with the director of the department
29 of insurance shall also be filed with the National
30 Association of Insurance Commissioners. Foreign
31 insurers that are domiciled in a state which has a law
32 substantially similar to this subsection shall be
33 deemed in compliance with this subsection.

34 3. In the absence of actual malice, or gross
35 negligence, members of the National Association of
36 Insurance Commissioners, their duly authorized
37 committees, subcommittees and task forces, their
38 delegates, National Association of Insurance
39 Commissioners' employees, and all others charged with
40 the responsibility of collecting, reviewing, analyzing
41 and disseminating the information developed from the
42 filing of the annual statement convention blanks shall
43 be acting as agents of the director of the department
44 of insurance under the authority of this section and
45 shall not be subject to civil liability for libel,
46 slander or any other cause of action by virtue of their
47 collection, review and analysis or dissemination of the
48 data and information collected from the filings
49 required under this section.

50 4. The director of the department of insurance
51 may suspend, revoke or refuse to renew the certificate

1 of authority of any insurer failing to file its annual
2 statement when due or within any extension of time
3 which the director, for good cause, may have granted.]
4

5 [620.105. The provisions of this act relating to
6 disciplinary proceedings against any person licensed or
7 regulated under the provisions of chapter 326, 327,
8 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338,
9 339, 340, 345 or 346, RSMo, do not apply for any
10 circumstance occurring prior to September 28, 1981, or
11 to the construction and application of any defense in a
12 disciplinary proceeding for such circumstances. All
13 disciplinary proceedings for circumstances occurring
14 prior to September 28, 1981, shall be conducted and
15 determined according to the provisions of law existing
16 at the time of the occurrence of the circumstances
17 involved in the proceeding in the same manner as if
18 this act had not been enacted, any other provision of
19 law to the contrary notwithstanding.]
20

21 [620.106. Effective August 28, 1999, no new
22 licensing activity or other statutory requirements
23 assigned to the division of professional registration
24 shall become effective until expenditures or personnel
25 are specifically appropriated for the purpose of
26 conducting the business as required and the initial
27 rules filed, if appropriate, have become effective.
28 The director of the division of professional
29 registration shall have the authority to borrow funds
30 from any agency within the division to commence
31 operations upon appropriation for such purpose. This
32 authority shall cease at such time that a sufficient
33 fund has been established by the agency to fund its
34 operations and repay the amount borrowed.]
35

36 [620.111. 1. Contrary provisions of the law
37 notwithstanding, no complaint, investigatory report or
38 information received from any source must be disclosed
39 prior to its review by the appropriate division.

40 2. At its discretion an agency may disclose
41 complaints, completed investigatory reports and
42 information obtained from state administrative and law
43 enforcement agencies to a licensee or license applicant
44 in order to further an investigation or to facilitate
45 settlement negotiations.

46 3. Information obtained from a federal
47 administrative or law enforcement agency shall be
48 disclosed only after the agency has obtained written
49 consent to the disclosure from the federal
50 administrative or law enforcement agency.

1 4. At its discretion an agency may disclose
2 complaints and investigatory reports in the course of a
3 voluntary interstate exchange of information, or in the
4 course of any litigation concerning a licensee or
5 license applicant, or pursuant to a lawful request, or
6 to other state or federal administrative or law
7 enforcement agencies.

8 5. Except as disclosure is specifically provided
9 above and in section 610.021, RSMo, deliberations,
10 votes or minutes of closed proceedings of agencies
11 shall not be subject to disclosure or discovery.]
12

13 [620.120. When making appointments to the boards
14 governed by chapters 326, 327, 328, 329, 330, 331, 332,
15 333, 334, 335, 336, 337, 338, 339, 340 and 346, RSMo,
16 the governor shall take affirmative action to appoint
17 women and members of minority groups. In addition, the
18 governor shall not discriminate against or in favor of
19 any person on the basis of race, sex, religion,
20 national origin, ethnic background, or language.]
21

22 [620.125. No rule or portion of a rule
23 promulgated under the authority of chapters 326, 327,
24 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338,
25 339, 340, 345, and 346, RSMo, shall become effective
26 unless it has been promulgated pursuant to the
27 provisions of section 536.024, RSMo.]
28

29 [620.127. Notwithstanding any provision of law to
30 the contrary, every application for a license,
31 certificate, registration, or permit, or renewal of a
32 license, certificate, registration, or permit issued in
33 this state shall contain the Social Security number of
34 the applicant. This provision shall not apply to an
35 original application for a license, certificate,
36 registration, or permit submitted by a citizen of a
37 foreign country who has never been issued a Social
38 Security number and who previously has not been
39 licensed by any other state, United States territory,
40 or federal agency. A citizen of a foreign country
41 applying for licensure with the division of
42 professional registration shall be required to submit
43 his or her visa or passport identification number in
44 lieu of the Social Security number.]
45

46 [620.130. An orientation program for appointees
47 to all boards or commissions in the division of
48 professional registration shall be prepared under the
49 direction of the director of the department of economic
50 development, which shall acquaint new appointees with

1 their duties and provide available information on
2 subject matters of concern to the board or commission
3 to which each public member has been appointed.]
4

5 [620.132. 1. Any public member authorized under
6 the provisions of sections 326.160, RSMo, 327.031,
7 RSMo, 328.030, RSMo, 329.190, RSMo, 330.110, RSMo,
8 331.090, RSMo, 332.021, RSMo, 333.151, RSMo, 334.120,
9 RSMo, 335.021, RSMo, 336.130, RSMo, 337.050, RSMo,
10 338.110, RSMo, 339.120, RSMo, 340.120, RSMo, and
11 346.120, RSMo, who misses three consecutive regularly
12 scheduled meetings of the board or council on which he
13 serves shall forfeit his membership on that board or
14 council. A new public member shall be appointed to the
15 respective board or council by the governor with the
16 advice and consent of the senate.

17 2. Each public member authorized under the
18 provisions of law cited in subsection 1 of this section
19 shall, at the conclusion of each meeting of his
20 respective board or council, make a report on that
21 meeting to at least one major newspaper and one major
22 radio station which serves the city or town in which
23 the meeting occurred.]
24

25 [620.135. Except as otherwise specifically
26 provided by law, no license for any occupation or
27 profession shall be denied solely on the grounds that
28 an applicant has been previously convicted of a
29 felony.]
30

31 [620.140. 1. All fees charged by each board
32 assigned to the division of professional registration
33 shall be collected by that division and promptly
34 transmitted to the department of revenue for deposit in
35 the state treasury, credited to the proper account as
36 provided by law.

37 2. The division and its component agencies shall
38 permit any licensee to submit payment for fees
39 established by rule in the form of personal check,
40 money order, or cashier's check. All checks or money
41 orders shall be made payable to the appropriate board.
42 Any check or financial instrument which is returned to
43 the division or one of its agencies due to insufficient
44 funds, a closed account, or for other circumstances in
45 which the check or financial instrument is not honored
46 may subject an individual to additional costs,
47 substantial penalties, or other actions by the division
48 or one of its agencies. In such cases involving
49 renewal of licenses, the renewal license may be
50 withheld, and if issued, is not valid until the

1 appropriate fee and any additional costs are collected.
2 The division may require the payment of collection
3 costs or other expenses. The affected board may
4 establish penalty fees by rule and may suspend or
5 revoke a license if such behavior is repetitive or the
6 licensee fails to pay required penalty fees.

7 3. License renewal fees are generally
8 nonrefundable. Overpayments or other incorrect fees
9 may be refundable. The division shall establish a
10 refund reserve through the appropriation to the
11 professional registration fees fund.

12 4. Notwithstanding any other provision of law to
13 the contrary, no board, commission or any other
14 registration, licensing or certifying agency of the
15 division of professional registration shall be required
16 to collect or distribute any fee which is required for
17 administering any test to qualify for a license,
18 registration or certificate, if any portion of the fee
19 is to be remitted to a private testing service.]
20

21 [620.145. The division of professional
22 registration shall maintain, for each board in the
23 division, a registry of each person holding a current
24 license, permit or certificate issued by that board.
25 The registry shall contain the name, Social Security
26 number and address of each person licensed or
27 registered together with other relevant information as
28 determined by the board. The registry for each board
29 shall at all times be available to the board and copies
30 shall be supplied to the board on request. Copies of
31 the registry, except for the registrant's Social
32 Security number, shall be available from the division
33 or the board to any individual who pays the reasonable
34 copying cost. Any individual may copy the registry
35 during regular business hours. The information in the
36 registry shall be furnished upon request to the
37 division of child support enforcement. Questions
38 concerning the currency of license of any individual
39 shall be answered, without charge, by the appropriate
40 board. Each year each board may publish, or cause to
41 be published, a directory containing the name and
42 address of each person licensed or registered for the
43 current year together with any other information the
44 board deems necessary. Any expense incurred by the
45 state relating to such publication shall be charged to
46 the board. An official copy of any such publication
47 shall be filed with the director of the department of
48 economic development.]
49

50 [620.146. 1. Notwithstanding other provisions of
51 law, the director of the division of professional

1 registration may destroy records and documents of the
2 division or the boards in the division at any time if
3 such records and documents have been photographed,
4 microphotographed, electronically generated,
5 electronically recorded, photostatted, reproduced on
6 film or other process capable of producing a clear,
7 accurate and permanent copy of the original. Such film
8 or reproducing material shall be of durable material
9 and the device used to reproduce the records, reports,
10 returns and other related documents on film or material
11 shall be such as to accurately reproduce and perpetuate
12 the original records and documents in all details.

13 2. The reproductions so made may be used as
14 permanent records of the original. When microfilm or a
15 similar reproduction is used as a permanent record by
16 the director of revenue, one copy shall be stored in a
17 fireproof vault and other copies may be made for use by
18 any person entitled thereto. All reproductions shall
19 retain the same confidentiality as is provided in the
20 law regarding the original record.

21 3. Such photostatic copy, photograph,
22 microphotograph, electronically generated,
23 electronically recorded or other process copy shall be
24 deemed to be an original record for all purposes, and
25 shall be admissible in evidence in all courts or
26 administrative agencies. A transcript, exemplification
27 or certified copy of any records or documents made from
28 such photostatic copy, photograph, microphotograph,
29 electronically generated, electronically recorded or
30 other process copy shall, for all purposes be deemed to
31 be a transcript, exemplification or certified copy of
32 the original and shall be admissible in evidence in all
33 courts or administrative agencies. No document shall
34 be admissible pursuant to this section unless the
35 offeror shall comply with section 490.692, RSMo, when
36 applicable.

37 4. "Records and documents" include, but are not
38 limited to, papers, documents, facsimile information,
39 microphotographic process, electronically generated or
40 electronically recorded information, deposited or filed
41 with the division of professional registration or any
42 of the boards in the division.]

43
44 [620.148. Notwithstanding any other law to the
45 contrary, the director of the division of professional
46 registration is authorized to contract with third
47 parties to collect, account for and deposit fees on
48 behalf of the division and licensing agencies within
49 the division.]

50
51 [620.149. 1. Whenever a board within the

1 division of professional registration, including the
2 division itself when so empowered, may refuse to issue
3 a license for reasons which also serve as a basis for
4 filing a complaint with the administrative hearing
5 commission seeking disciplinary action against a holder
6 of a license, the board, as an alternative to refusing
7 to issue a license, may, at its discretion, issue to an
8 applicant a license subject to probation.

9 2. The board shall notify the applicant in
10 writing of the terms of the probation imposed, the
11 basis therefor, and the date such action shall become
12 effective. The notice shall also advise the applicant
13 of the right to a hearing before the administrative
14 hearing commission, if the applicant files a complaint
15 with the administrative hearing commission within
16 thirty days of the date of delivery or mailing by
17 certified mail of written notice of the probation. If
18 the board issues a probated license, the applicant may
19 file, within thirty days of the date of delivery or
20 mailing by certified mail of written notice of the
21 probation, a written complaint with the administrative
22 hearing commission seeking review of the board's
23 determination. Such complaint shall set forth that the
24 applicant or licensee is qualified for nonprobated
25 licensure pursuant to the laws and administrative
26 regulations relating to his or her profession. Upon
27 receipt of such complaint the administrative hearing
28 commission shall cause a copy of such complaint to be
29 served upon the board by certified mail or by delivery
30 of such copy to the office of the board, together with
31 a notice of the place of and the date upon which the
32 hearing on such complaint will be held. Hearings shall
33 be held pursuant to chapter 621, RSMo. The burden
34 shall be on the board to demonstrate the existence of
35 the basis for imposing probation on the licensee. If
36 no written request for a hearing is received by the
37 administrative hearing commission within the thirty-day
38 period, the right to seek review of the board's
39 decision shall be considered waived.

40 3. If the probation imposed includes restrictions
41 or limitations on the scope of practice, the license
42 issued shall plainly state such restriction or
43 limitation. When such restriction or limitation is
44 removed, a new license shall be issued.]
45

46 [620.150. There shall be established in each
47 board within the division of professional registration,
48 including the division itself when empowered with
49 licensing authority, which was on August 28, 1998,
50 required or authorized to revoke a license for failure
51 to submit an application for renewal, failure to

1 provide information required for renewal or nonpayment
2 of the required renewal fee, a classification for a
3 licensee who, desires to remove himself or herself from
4 participating in the licensing system of the board or
5 division. This classification shall be distinguished
6 from revocation of a license and from surrender of a
7 license pursuant to an agreement between the board or
8 division and the licensee filed with and approved by
9 the administrative hearing commission. This
10 classification shall not be available to a licensee
11 during the time there is an investigation of the
12 licensee or the licensee's practices or during the
13 pendency of a disciplinary complaint filed with the
14 administrative hearing commission. Each board within
15 the division or the division when empowered with
16 licensing authority shall establish by rule
17 qualifications for such classification and procedures
18 for a licensee to request an inactive license as
19 provided in this section. Notwithstanding any other
20 law to the contrary, no board within the division or
21 the division shall be required to revoke a license when
22 the licensee qualifies for the classification
23 authorized by this section, as provided by rule. An
24 inactive license authorized by this section shall be
25 subject to the same requirements for reinstatement or
26 restoration as a lapsed, expired or revoked license due
27 to failure to renew the license. This section shall
28 not affect those boards which are otherwise authorized
29 to classify a license as inactive.]

30
31 [620.151. For the purpose of determining whether
32 cause for discipline or denial exists under the
33 statutes of any board, commission or committee within
34 the division of professional registration, any
35 licensee, registrant, permittee or applicant that test
36 positive for a controlled substance, as defined in
37 chapter 195, RSMo, is presumed to have unlawfully
38 possessed the controlled substance in violation of the
39 drug laws or rules and regulations of this state, any
40 other state or the federal government unless he or she
41 has a valid prescription for the controlled substance.
42 The burden of proof that the controlled substance was
43 not unlawfully possessed in violation of the drug laws
44 or rules and regulations of this state, any other state
45 or the federal government is upon the licensee,
46 registrant, permittee or applicant.]

47
48 [620.153. Any board, commission or committee
49 within the division of professional registration may
50 impose additional discipline when it finds after
51 hearing that a licensee, registrant or permittee has

1 violated any disciplinary terms previously imposed or
2 agreed to pursuant to settlement. The board,
3 commission or committee may impose as additional
4 discipline, any discipline it would be authorized to
5 impose in an initial disciplinary hearing.]
6

7 [620.154. 1. Except as provided in this section,
8 no disciplinary proceeding against any person or entity
9 licensed, registered or certified to practice a
10 profession within the department of economic
11 development, division of professional registration
12 shall be initiated unless such action is commenced
13 within three years of the date upon which the
14 licensing, registering or certifying agency received
15 notice of an alleged violation of an applicable statute
16 or regulation.

17 2. For the purpose of this section, notice shall
18 be limited to:

19 (1) A written complaint;

20 (2) Notice of final disposition of a malpractice
21 claim, including exhaustion of all extraordinary
22 remedies and appeals;

23 (3) Notice of exhaustion of all extraordinary
24 remedies and appeals of a conviction based upon a
25 criminal statute of this state, any other state or the
26 federal government;

27 (4) Notice of exhaustion of all extraordinary
28 remedies and appeals in a disciplinary action by a
29 hospital, state licensing, registering or certifying
30 agency, or an agency of the federal government.

31 3. For the purposes of this section, an action is
32 commenced when a complaint is filed by the agency with
33 the administrative hearing commission, any other
34 appropriate agency or in a court; or when a complaint
35 is filed by the agency's legal counsel with the agency
36 in respect to an automatic revocation or a probation
37 violation.

38 4. Disciplinary proceedings based upon repeated
39 negligence shall be exempt from all limitations set
40 forth in this section.

41 5. Disciplinary proceedings based upon a
42 complaint involving sexual misconduct shall be exempt
43 from all limitations set forth in this section.

44 6. Any time limitation provided in this section
45 shall be tolled:

46 (1) During any time the accused licensee,
47 registrant or certificant is practicing exclusively
48 outside the state of Missouri or residing outside the
49 state of Missouri and not practicing in Missouri;

50 (2) As to an individual complainant, during the
51 time when such complainant is less than eighteen years

1 of age;

2 (3) During any time the accused licensee,
3 registrant or certificant maintains legal action
4 against the agency; or

5 (4) When a settlement agreement is offered to the
6 accused licensee, registrant or certificant, in an
7 attempt to settle such disciplinary matter without
8 formal proceeding pursuant to section 621.045, RSMo,
9 until the accused licensee, registrant or certificant
10 rejects or accepts the settlement agreement.

11 7. The licensing agency may, in its discretion,
12 toll any time limitation when the accused licensee,
13 registrant or certificant enters into and participates
14 in a treatment program for chemical dependency or
15 mental impairment.

16 8. This section shall become effective January 1,
17 1998. The above statute of limitations shall not apply
18 to any notice received by the agency prior to January
19 1, 1998.]

20