

FIRST REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 66

94TH GENERAL ASSEMBLY
2007

0286S.03T

AN ACT

To repeal sections 354.150, 354.180, 354.210, 354.350, 354.400, 354.435, 354.444, 354.455, 354.460, 354.464, 354.475, 354.485, 354.495, 354.500, 354.510, 354.530, 354.540, 354.545, 354.550, 354.600, 354.722, 374.150, 374.160, 374.210, 374.215, 374.230, 374.261, 374.263, 374.265, 374.267, 374.280, 374.285, 374.512, 375.012, 375.020, 375.152, 375.236, 375.306, 375.310, 375.320, 375.330, 375.340, 375.345, 375.445, 375.480, 375.532, 375.534, 375.720, 375.777, 375.780, 375.786, 375.881, 375.940, 375.942, 375.946, 375.994, 375.1010, 375.1014, 375.1016, 375.1070, 375.1072, 375.1075, 375.1135, 375.1156, 375.1160, 375.1204, 375.1306, 375.1309, 376.170, 376.190, 376.280, 376.300, 376.301, 376.303, 376.305, 376.307, 376.309, 376.320, 376.620, 376.672, 376.889, 376.1012, 376.1094, 377.100, 377.200, 379.361, 379.510, 379.790, 380.391, 380.571, 381.003, 381.009, 381.011, 381.015, 381.018, 381.021, 381.022, 381.025, 381.028, 381.032, 381.035, 381.038, 381.041, 381.042, 381.045, 381.048, 381.051, 381.052, 381.055, 381.058, 381.061, 381.062, 381.065, 381.068, 381.072, 381.075, 381.078, 381.081, 381.085, 381.088, 381.091, 381.092, 381.095, 381.098, 381.101, 381.102, 381.105, 381.108, 381.111, 381.112, 381.115, 381.118, 381.121, 381.122, 381.125, 381.131, 381.151, 381.161, 381.211, 381.221, 381.231, 381.241, 384.054, 384.071, and 409.950, RSMo, and section 381.410 as enacted by conference committee substitute for senate bill no. 664, eighty-eighth general assembly, second regular session, and section 381.412 as enacted by house committee substitute for senate bill no. 148, eighty-ninth general assembly, first regular session, and sections 381.410 and 381.412 as enacted by conference committee substitute for house substitute for house committee

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

substitute for senate committee substitute for senate bill no. 894, ninetieth general assembly, second regular session, and to enact in lieu thereof one hundred fifty-one new sections relating to insurance company investments and examinations, with penalty provisions and an effective date for certain sections.

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

Section A. Sections 354.150, 354.180, 354.210, 354.350, 354.400, 354.435, 2 354.444, 354.455, 354.460, 354.464, 354.475, 354.485, 354.495, 354.500, 354.510, 3 354.530, 354.540, 354.545, 354.550, 354.600, 354.722, 374.150, 374.160, 374.210, 4 374.215, 374.230, 374.261, 374.263, 374.265, 374.267, 374.280, 374.285, 374.512, 5 375.012, 375.020, 375.152, 375.236, 375.306, 375.310, 375.320, 375.330, 375.340, 6 375.345, 375.445, 375.480, 375.532, 375.534, 375.720, 375.777, 375.780, 375.786, 7 375.881, 375.940, 375.942, 375.946, 375.994, 375.1010, 375.1014, 375.1016, 8 375.1070, 375.1072, 375.1075, 375.1135, 375.1156, 375.1160, 375.1204, 375.1306, 9 375.1309, 376.170, 376.190, 376.280, 376.300, 376.301, 376.303, 376.305, 376.307, 10 376.309, 376.320, 376.620, 376.672, 376.889, 376.1012, 376.1094, 377.100, 11 377.200, 379.361, 379.510, 379.790, 380.391, 380.571, 381.003, 381.009, 381.011, 12 381.015, 381.018, 381.021, 381.022, 381.025, 381.028, 381.032, 381.035, 381.038, 13 381.041, 381.042, 381.045, 381.048, 381.051, 381.052, 381.055, 381.058, 381.061, 14 381.062, 381.065, 381.068, 381.072, 381.075, 381.078, 381.081, 381.085, 381.088, 15 381.091, 381.092, 381.095, 381.098, 381.101, 381.102, 381.105, 381.108, 381.111, 16 381.112, 381.115, 381.118, 381.121, 381.122, 381.125, 381.131, 381.151, 381.161, 17 381.211, 381.221, 381.231, 381.241, 384.054, 384.071, and 409.950, RSMo, and 18 section 381.410 as enacted by conference committee substitute for senate bill no. 19 664, eighty-eighth general assembly, second regular session, and section 381.412 20 as enacted by house committee substitute for senate bill no. 148, eighty-ninth 21 general assembly, first regular session, and sections 381.410 and 381.412 as 22 enacted by conference committee substitute for house substitute for house 23 committee substitute for senate committee substitute for senate bill no. 894, 24 ninetieth general assembly, second regular session, are repealed and one hundred 25 fifty-one new sections enacted in lieu thereof, to be known as sections 354.150, 26 354.180, 354.210, 354.350, 354.400, 354.435, 354.444, 354.455, 354.460, 354.464, 27 354.475, 354.485, 354.495, 354.500, 354.510, 354.530, 354.540, 354.545, 354.550, 28 354.600, 354.722, 374.051, 374.055, 374.150, 374.160, 374.185, 374.208, 374.210, 29 374.215, 374.230, 374.280, 374.285, 374.512, 375.012, 375.020, 375.143, 375.145, 30 375.152, 375.236, 375.306, 375.310, 375.320, 375.330, 375.340, 375.345, 375.445,

31 375.480, 375.532, 375.534, 375.720, 375.777, 375.780, 375.786, 375.881, 375.940,
 32 375.942, 375.946, 375.994, 375.1010, 375.1014, 375.1016, 375.1070, 375.1072,
 33 375.1075, 375.1135, 375.1156, 375.1160, 375.1161, 375.1204, 375.1306, 375.1309,
 34 376.170, 376.190, 376.280, 376.291, 376.292, 376.293, 376.294, 376.295, 376.296,
 35 376.297, 376.298, 376.300, 376.301, 376.302, 376.303, 376.304, 376.305, 376.306,
 36 376.307, 376.309, 376.620, 376.889, 376.1012, 376.1094, 376.1500, 376.1502,
 37 376.1504, 376.1506, 376.1508, 376.1510, 376.1512, 376.1514, 376.1516, 376.1518,
 38 376.1520, 376.1522, 376.1524, 376.1528, 376.1530, 376.1532, 377.100, 377.200,
 39 379.361, 379.510, 379.790, 380.391, 380.571, 381.011, 381.015, 381.018, 381.019,
 40 381.022, 381.023, 381.024, 381.025, 381.026, 381.029, 381.038, 381.042, 381.045,
 41 381.048, 381.052, 381.055, 381.058, 381.062, 381.065, 381.068, 381.072, 381.075,
 42 381.085, 381.112, 381.115, 381.118, 381.122, 381.161, 381.410, 381.412, 384.054,
 43 384.071, and 409.950, to read as follows:

354.150. Every health services corporation subject to the provisions of
 2 sections 354.010 to 354.380 shall pay the following fees to the director [of
 3 insurance] for **the administration and** enforcement of the provisions of this
 4 chapter:

5	[Issuance of certificate of authority.....	\$150.00
6	Filing articles of amendment.....	\$ 20.00
7	Filing each annual statement	\$100.00
8	Filing articles of acceptance and issuing a	
9	certificate of acceptance.....	\$ 20.00
10	Filing any other statement or report	\$ 1.00
11	For a certified copy of any document or	
12	other paper filed in the office of the director,	
13	per page.....	\$.35
14	For the certificate and for affixing the seal	
15	thereto.....	\$ 10.00
16	For filing statement and pertinent admission	
17	papers required of a foreign health	
18	services corporation.....	\$200.00
19	For copies of papers, records and documents filed	
20	in the office of the director, an amount not	
21	to exceed, at the director's discretion	\$ 1.00
22		per page
23	For each service of process upon the director, on	

- 24 behalf of the health services corporation \$10.00]
- 25 **(1) For filing the declaration required on organization of each**
- 26 **domestic company, two hundred fifty dollars;**
- 27 **(2) For filing statement and certified copy of charter required of**
- 28 **foreign companies, two hundred fifty dollars;**
- 29 **(3) For filing application to renew certificate of authority, along**
- 30 **with all required annual reports, including the annual statement,**
- 31 **actuarial statement, risk based capital report, report of valuation of**
- 32 **policies or other obligations of assurance, and audited financial report**
- 33 **of any company doing business in this state, one thousand five hundred**
- 34 **dollars;**
- 35 **(4) For filing any paper, document, or report not filed under**
- 36 **subdivision (1), (2), or (3) of this section but required to be filed in the**
- 37 **office of the director, fifty dollars each;**
- 38 **(5) For affixing the seal of office of the director, ten dollars;**
- 39 **(6) For accepting each service of process upon the company, ten**
- 40 **dollars.**

354.180. 1. [(1) The director may issue cease and desist orders whenever

2 it appears to him upon competent and substantial evidence that any person is

3 acting in violation of any law, rule or regulation relating to corporations subject

4 to the provisions of sections 354.010 to 354.380, or whenever the director has

5 reason to believe that any health services corporation is in such financial

6 condition that the assumption of additional obligations would be hazardous to its

7 members or the general public. Before any cease and desist order shall be issued,

8 a copy of the proposed order together with an order to show cause why such cease

9 and desist order should not be issued shall be served either personally or by

10 certified mail on any person named therein.

11 (2) (a) Upon issuing any order to show cause, the director shall notify the

12 person named therein that the person is entitled to a public hearing before the

13 director if a request for a hearing is made in writing to the director within fifteen

14 days from the day of the service of the order to show cause why the cease and

15 desist order should not be issued.

16 (b) The cease and desist order shall be issued fifteen days after the service

17 of the order to show cause if no request for a public hearing is made as above

18 provided.

19 (c) Upon receipt of a request for a hearing, the director shall set a time

20 and place for the hearing which shall not be less than ten days or more than
21 fifteen days from the receipt of the request or as otherwise agreed upon by the
22 parties. Notice of the time and place shall be given by the director not less than
23 five days before the hearing.

24 (d) At the hearing the person may be represented by counsel and shall be
25 entitled to be advised of the nature and source of any adverse evidence procured
26 by the director and shall be given the opportunity to submit any relevant written
27 or oral evidence in his behalf to show cause why the cease and desist order should
28 not be issued.

29 (e) At the hearing the director shall have such powers as are conferred
30 upon him in section 354.190.

31 (f) At the conclusion of the hearing, or within ten days thereafter, the
32 director shall issue the cease and desist order as proposed or as subsequently
33 modified or notify the person or corporation subject to the provisions of sections
34 354.010 to 354.380 that no order shall be issued, provided that where the director
35 finds that the corporation is in such financial condition that the assumption of
36 additional obligations would be hazardous to its members or the general public,
37 he may order the corporation to cease and desist from making contracts for new
38 members or for the provision of new benefits until the corporation's financial
39 condition is no longer hazardous.

40 (g) The circuit court of Cole County shall have jurisdiction to review any
41 cease and desist order of the director under the provisions of sections 536.100 to
42 536.150, RSMo; and, if any person against whom an order is issued fails to
43 request judicial review, or if, after judicial review, the director's cease and desist
44 order is upheld, the order shall become final.

45 2. (1) Any person willfully violating any provision of any cease and desist
46 order of the director after it becomes final, while the same is in force, upon
47 conviction thereof shall be guilty of a class A misdemeanor, punishable as
48 provided by law.

49 (2) In addition to any other penalty provided, violation of any cease and
50 desist order shall subject the violator to suspension or revocation of any
51 certificate of authority or license as may be applicable under the laws of this state
52 relating to corporations subject to the provisions of sections 354.010 to 354.380.

53 3. (1) When it appears to the director that there is a violation of the law,
54 rule or regulation relating to corporations subject to the provisions of sections
55 354.010 to 354.380, and that the continuance of the acts or actions of any person

56 as herein defined would produce injury to the public or to any other person in this
57 state, or when it appears that a person is doing or threatening to do some act in
58 violation of the laws of this state relating to corporations subject to the provisions
59 of sections 354.010 to 354.380, the director may file a petition for injunction in
60 the circuit court of Cole County, Missouri, in which he may ask for a temporary
61 injunction or restraining order as well as a permanent injunction to restrain the
62 act or threatened act. In the event the temporary injunction or restraining order
63 or a permanent injunction is issued by the circuit court of Cole County, Missouri,
64 no person against whom the temporary injunction or restraining order or
65 permanent injunction is granted shall do or continue to do any of the acts or
66 actions complained of in the petition for injunction, unless and until the
67 temporary injunction or restraining order or permanent injunction is vacated,
68 dismissed or otherwise terminated.

69 (2) Any writ of injunction issued under this law may be served and
70 enforced as provided by law in injunctions issued in other cases, but the director
71 of the insurance department shall not be required to give any bond as preliminary
72 to or in the course of any proceedings to which he is a party as director.

73 4. The term "person" as used in this section shall include any individual,
74 partnership, corporation, association or trust, or any other legal entity.] **If the**
75 **director determines that a person has engaged, is engaging in, or has**
76 **taken a substantial step toward engaging in an act, practice or course**
77 **of business constituting a violation of sections 354.010 to 354.380 or a**
78 **rule adopted or order issued pursuant thereto, or a person has**
79 **materially aided or is materially aiding an act, practice, omission, or**
80 **course of business constituting a violation of sections 354.010 to 354.380**
81 **or a rule adopted or order issued pursuant thereto, the director may**
82 **issue such administrative orders as authorized under section 374.046,**
83 **RSMo. A violation of these sections is a level two violation under**
84 **section 374.049, RSMo, except for any violation of sections 354.320 and**
85 **354.350, which is a level three violation.**

86 2. **If the director believes that a person has engaged, is engaging**
87 **in, or has taken a substantial step toward engaging in an act, practice**
88 **or course of business constituting a violation of sections 354.010 to**
89 **354.380 or a rule adopted or order issued pursuant thereto, or that a**
90 **person has materially aided or is materially aiding an act, practice,**
91 **omission, or course of business constituting a violation of sections**

92 **354.010 to 354.380 or a rule adopted or order issued pursuant thereto,**
93 **the director may maintain a civil action for relief authorized under**
94 **section 374.048, RSMo. A violation of these sections is a level two**
95 **violation under section 374.049, RSMo, except for any violation of**
96 **sections 354.320 and 354.350, which is a level three violation.**

354.210. [1. Notwithstanding any other provisions of chapter 354,] If the
2 director [may, after a hearing, order as a forfeiture to the state of Missouri a sum
3 not to exceed one hundred dollars for each violation by any person or corporation
4 willfully violating any provision of sections 354.010 to 354.380 for which no
5 specific punishment is provided, or order of the director made in accordance with
6 such sections. Such forfeiture may be recovered by a civil action brought by and
7 in the name of the director of insurance. The civil action may be brought in the
8 county which has venue of an action against the person or corporation under
9 other provisions of law.

10 2. Nothing contained in this section shall be construed to prohibit the
11 director and the corporation or its enrollment representative from agreeing to a
12 voluntary forfeiture of the sum mentioned herein without civil proceedings being
13 instituted. Any sum so agreed upon shall be paid into the school fund as
14 provided by law for other fines and penalties] **has reason to believe that any**
15 **health services corporation is in such financial condition that the**
16 **assumption of additional obligations would be hazardous to its**
17 **members or the general public, the director may issue orders or seek**
18 **relief to protect the public under the provisions of section 354.180.**

354.350. 1. [When upon investigation the director finds that any] **It is**
2 **unlawful for any** corporation subject to the provisions of sections 354.010 to
3 354.380 transacting business in this state [has conducted] **to:**

4 **(1) Conduct** its business fraudulently[, is not carrying];
5 **(2) Fail to carry** out its contracts in good faith[, or is]; **or**
6 **(3) Habitually and as a matter of business practice [compelling] compel**
7 claimants under policies or liability judgment creditors of its members to either
8 accept less than the amount due under the terms of the policy or resort to
9 litigation against the corporation to secure payment of the amount due[, and that
10 a proceeding in respect thereto would be in the interest of the public, he shall
11 issue and serve upon the corporation a statement of the charges in that respect
12 and a notice of a hearing thereon].

13 2. [If after the hearing the director shall determine that the corporation

14 subject to the provisions of sections 354.010 to 354.380 has fraudulently
15 conducted its business as defined in this section, he shall order the corporation
16 to cease and desist from the fraudulent practice and may suspend the
17 corporation's certificate of authority for a period not to exceed thirty days and
18 may in addition order a forfeiture to the state of Missouri of a sum not to exceed
19 one thousand dollars, which forfeiture may be recovered by a civil action brought
20 by and in the name of the director of insurance. The civil action may be brought
21 in the circuit court of Cole County or, at the option of the director of insurance,
22 in another county which has venue of an action against the corporation under
23 other provisions of law] **If the director determines that a person has**
24 **engaged, is engaging in, or has taken a substantial step toward**
25 **engaging in an act, practice or course of business constituting a**
26 **violation of this section or a rule adopted or order issued pursuant**
27 **thereto or that a person has materially aided or is materially aiding an**
28 **act, practice, omission, or course of business constituting a violation of**
29 **this section or a rule adopted or order issued pursuant thereto, the**
30 **director may issue such administrative orders as authorized under**
31 **section 374.046, RSMo. Each practice in violation of this section is a**
32 **level two violation under section 374.049, RSMo. Each act as a part of**
33 **a practice does not constitute a separate violation under section**
34 **374.049, RSMo. The director [of insurance] may also suspend or revoke the**
35 **license or certificate of authority** of a corporation subject to the provisions of
36 sections 354.010 to 354.380 or enrollment representative for any such willful
37 violation.

38 **3. If the director believes that a person has engaged, is engaging**
39 **in, or has taken a substantial step toward engaging in an act, practice**
40 **or course of business constituting a violation of this section or a rule**
41 **adopted or order issued pursuant thereto or that a person has**
42 **materially aided or is materially aiding an act, practice, omission, or**
43 **course of business constituting a violation of this section or a rule**
44 **adopted or order issued pursuant thereto, the director may maintain**
45 **a civil action for relief authorized under section 374.048, RSMo. Each**
46 **practice in violation of this section is a level two violation under**
47 **section 374.049, RSMo. Each act as a part of a practice does not**
48 **constitute a separate violation under section 374.049, RSMo.**

354.400. As used in sections 354.400 to [354.535] **354.636**, the following

2 terms shall mean:

3 (1) "Basic health care services", health care services which an enrolled
4 population might reasonably require in order to be maintained in good health,
5 including, as a minimum, emergency care, inpatient hospital and physician care,
6 and outpatient medical services;

7 (2) "Community-based health maintenance organization", a health
8 maintenance organization which:

9 (a) Is wholly owned and operated by hospitals, hospital systems,
10 physicians, or other health care providers or a combination thereof who provide
11 health care treatment services in the service area described in the application for
12 a certificate of authority from the [department of insurance] **director**;

13 (b) Is operated to provide a means for such health care providers to
14 market their services directly to consumers in the service area of the health
15 maintenance organization;

16 (c) Is governed by a board of directors that exercises fiduciary
17 responsibility over the operations of the health maintenance organization and of
18 which a majority of the directors consist of equal numbers of the following:

19 a. Physicians licensed pursuant to chapter 334, RSMo;

20 b. Purchasers of health care services who live in the health maintenance
21 organization's service area;

22 c. Enrollees of the health maintenance organization elected by the
23 enrollees of such organization; and

24 d. Hospital executives, if a hospital is involved in the corporate ownership
25 of the health maintenance organization;

26 (d) Provides for utilization review, as defined in section 374.500, RSMo,
27 under the auspices of a physician medical director who practices medicine in the
28 service area of the health maintenance organization, using review standards
29 developed in consultation with physicians who treat the health maintenance
30 organization's enrollees;

31 (e) Is actively involved in attempting to improve performance on
32 indicators of health status in the community or communities in which the health
33 maintenance organization is operating, including the health status of those not
34 enrolled in the health maintenance organization;

35 (f) Is accountable to the public for the cost, quality and access of health
36 care treatment services and for the effect such services have on the health of the
37 community or communities in which the health maintenance organization is

38 operating on a whole;

39 (g) Establishes an advisory group or groups comprised of enrollees and
40 representatives of community interests in the service area to make
41 recommendations to the health maintenance organization regarding the policies
42 and procedures of the health maintenance organization;

43 (h) Enrolls fewer than fifty thousand covered lives;

44 (3) "Covered benefit" or "benefit", a health care service to which an
45 enrollee is entitled under the terms of a health benefit plan;

46 (4) "Director", the director of the department of insurance, **financial and**
47 **professional regulation**;

48 (5) "Emergency medical condition", the sudden and, at the time,
49 unexpected onset of a health condition that manifests itself by symptoms of
50 sufficient severity that would lead a prudent lay person, possessing an average
51 knowledge of health and medicine, to believe that immediate medical care is
52 required, which may include, but shall not be limited to:

53 (a) Placing the person's health in significant jeopardy;

54 (b) Serious impairment to a bodily function;

55 (c) Serious dysfunction of any bodily organ or part;

56 (d) Inadequately controlled pain; or

57 (e) With respect to a pregnant woman who is having contractions:

58 a. That there is inadequate time to effect a safe transfer to another
59 hospital before delivery; or

60 b. That transfer to another hospital may pose a threat to the health or
61 safety of the woman or unborn child;

62 (6) "Emergency services", health care items and services furnished or
63 required to screen and stabilize an emergency medical condition, which may
64 include, but shall not be limited to, health care services that are provided in a
65 licensed hospital's emergency facility by an appropriate provider;

66 (7) "Enrollee", a policyholder, subscriber, covered person or other
67 individual participating in a health benefit plan;

68 (8) "Evidence of coverage", any certificate, agreement, or contract issued
69 to an enrollee setting out the coverage to which the enrollee is entitled;

70 (9) "Health care services", any services included in the furnishing to any
71 individual of medical or dental care or hospitalization, or incident to the
72 furnishing of such care or hospitalization, as well as the furnishing to any person
73 of any and all other services for the purpose of preventing, alleviating, curing, or

74 healing human illness, injury, or physical disability;

75 (10) "Health maintenance organization", any person which undertakes to
76 provide or arrange for basic and supplemental health care services to enrollees
77 on a prepaid basis, or which meets the requirements of section 1301 of the United
78 States Public Health Service Act;

79 (11) "Health maintenance organization plan", any arrangement whereby
80 any person undertakes to provide, arrange for, pay for, or reimburse any part of
81 the cost of any health care services and at least part of such arrangement consists
82 of providing and assuring the availability of basic health care services to
83 enrollees, as distinguished from mere indemnification against the cost of such
84 services, on a prepaid basis through insurance or otherwise, and as distinguished
85 from the mere provision of service benefits under health service corporation
86 programs;

87 (12) "Individual practice association", a partnership, corporation,
88 association, or other legal entity which delivers or arranges for the delivery of
89 health care services and which has entered into a services arrangement with
90 persons who are licensed to practice medicine, osteopathy, dentistry, chiropractic,
91 pharmacy, podiatry, optometry, or any other health profession and a majority of
92 whom are licensed to practice medicine or osteopathy. Such an arrangement shall
93 provide:

94 (a) That such persons shall provide their professional services in
95 accordance with a compensation arrangement established by the entity; and

96 (b) To the extent feasible for the sharing by such persons of medical and
97 other records, equipment, and professional, technical, and administrative staff;

98 (13) "Medical group/staff model", a partnership, association, or other
99 group:

100 (a) Which is composed of health professionals licensed to practice
101 medicine or osteopathy and of such other licensed health professionals (including
102 dentists, chiropractors, pharmacists, optometrists, and podiatrists) as are
103 necessary for the provisions of health services for which the group is responsible;

104 (b) A majority of the members of which are licensed to practice medicine
105 or osteopathy; and

106 (c) The members of which (i) as their principal professional activity over
107 fifty percent individually and as a group responsibility engaged in the coordinated
108 practice of their profession for a health maintenance organization; (ii) pool their
109 income from practice as members of the group and distribute it among themselves

110 according to a prearranged salary or drawing account or other plan, or are
111 salaried employees of the health maintenance organization; (iii) share medical
112 and other records and substantial portions of major equipment and of
113 professional, technical, and administrative staff; (iv) establish an arrangement
114 whereby an enrollee's enrollment status is not known to the member of the group
115 who provides health services to the enrollee;

116 (14) "Person", any partnership, association, or corporation;

117 (15) "Provider", any physician, hospital, or other person which is licensed
118 or otherwise authorized in this state to furnish health care services;

119 (16) "Uncovered expenditures", the costs of health care services that are
120 covered by a health maintenance organization, but that are not guaranteed,
121 insured, or assumed by a person or organization other than the health
122 maintenance organization, or those costs which a provider has not agreed to
123 forgive enrollees if the provider is not paid by the health maintenance
124 organization.

354.435. 1. Every health maintenance organization shall annually, on or
2 before March first, file a report, verified by at least two principal officers, with
3 the director, covering its preceding calendar year.

4 2. Such report shall be on forms prescribed by the director and shall
5 include:

6 (1) A financial statement of the organization, including its balance sheet
7 for the preceding calendar year;

8 (2) Any material changes in the information submitted pursuant to
9 subsection 3 of section 354.405;

10 (3) The number of persons enrolled during the year, the number of
11 enrollees, as of the end of the year, and the number of enrollments terminated
12 during the year;

13 (4) A statement setting forth the amount of uncovered and covered
14 expenses that are payable and are more than ninety days past due for the period
15 of August first through December thirty-first of the preceding year;

16 (5) Such other information relating to the performance of the organization
17 as is necessary to enable the director to carry out his duties under sections
18 354.400 to [354.550] **354.636**.

354.444. 1. [Notwithstanding any other provisions of chapter 354,] **If** the
2 director [may, after a hearing, order a forfeiture to the state of Missouri a sum
3 not to exceed one hundred dollars for each violation by any person knowingly

4 violating any provision] **determines that a person has engaged, is engaged**
5 **in, or has taken a substantial step toward engaging in an act, practice**
6 **or course of business constituting a violation** of sections 354.400 to 354.636
7 [for which no specific punishment is provided, or order a specific punishment in
8 accordance with such sections. Such forfeiture may be recovered by a civil action
9 brought by and in the name of the department of insurance. The civil action may
10 be brought in the county which has venue for an action against the person or
11 corporation], **or a rule adopted or order issued pursuant thereto or that**
12 **a person has materially aided or is materially aiding an act, practice,**
13 **omission, or course of business constituting a violation of sections**
14 **354.400 to 354.636 or a rule adopted or order issued pursuant thereto,**
15 **the director may issue such administrative orders as authorized under**
16 **section 374.046, RSMo. A violation of any of these sections is a level**
17 **one violation under section 374.049, RSMo.**

18 2. [Nothing contained in this section shall be construed to prohibit the
19 director and the corporation or its enrollment representative from agreeing to a
20 voluntary forfeiture of the sum mentioned herein without civil proceedings being
21 instituted. Any payment under this section shall be paid into the school fund as
22 provided by article IX, section 7 of the Missouri Constitution for fines and
23 penalties] **If the director believes that a person has engaged, is engaging**
24 **in, or has taken a substantial step toward engaging in an act, practice**
25 **or course of business constituting a violation of sections 354.400 to**
26 **354.636, or a rule adopted or order issued pursuant thereto or that a**
27 **person has materially aided or is materially aiding an act, practice,**
28 **omission, or course of business constituting a violation of sections**
29 **354.400 to 354.636 or a rule adopted or order issued pursuant thereto,**
30 **the director may maintain a civil action for relief authorized under**
31 **section 374.048, RSMo. A violation of any of these sections is a level**
32 **one violation under section 374.049, RSMo.**

354.455. Unless otherwise provided in sections 354.400 to [354.550]
2 **354.636**, each health maintenance organization shall deposit with the director,
3 or with any organization or trustee acceptable to him through which a custodial
4 or controlled account is utilized, cash, securities, or any combination of these or
5 other measures acceptable to him, in the amount set forth in section 354.410.

354.460. No health maintenance organization, or representative thereof,
2 may cause or knowingly permit the use of advertising which is untrue or

3 misleading, solicitation which is untrue or misleading, or any form of evidence of
4 coverage which is deceptive. For purposes of sections 354.400 to [354.550]
5 **354.636**:

6 (1) A statement or item of information shall be deemed to be untrue if it
7 does not conform to fact in any respect which is or may be significant to an
8 enrollee of, or person considering enrollment with, a health maintenance
9 organization;

10 (2) A statement or item of information shall be deemed to be misleading,
11 whether or not it may be literally untrue, if, in the total context in which such
12 statement is made or such item of information is communicated, such statement
13 or item of information may be reasonably understood by a reasonable person, not
14 possessing special knowledge regarding health care coverage, as indicating any
15 benefit or advantage or the absence of any exclusion, limitation, or disadvantage
16 of possible significance to an enrollee of, or person considering enrollment in, a
17 health maintenance organization plan, if such benefit, advantage, or absence of
18 limitation, exclusion, or disadvantage does not, in fact, exist;

19 (3) An evidence of coverage shall be deemed to be deceptive if the evidence
20 of coverage, taken as a whole, is misleading.

354.464. No health maintenance organization, unless licensed as an
2 insurer, may use in its name, contracts, or literature any of the words
3 "insurance", "casualty", "surety", "mutual", or any other words descriptive of the
4 insurance, casualty, or surety business or deceptively similar to the name or
5 description of any insurance or surety corporation doing business in this state
6 when such words are deceptive or misleading. No person, if not in possession of
7 a valid certificate of authority issued pursuant to sections 354.400 to [354.550]
8 **354.636**, may use the phrase "health maintenance organization" or "HMO" in the
9 course of its operation.

354.475. 1. An insurance company licensed in this state, or a health
2 services corporation authorized to do business in this state, may directly or
3 through a subsidiary or affiliate, organize and operate a health maintenance
4 organization under the provisions of sections 354.400 to [354.550] **354.636** so long
5 as they comply with the provisions of section 354.410 as applicable
6 thereto. Notwithstanding any other law to the contrary, any two or more such
7 insurance companies, health services corporations, or subsidiaries or affiliates
8 thereof, may jointly organize and operate a health maintenance organization.

9 2. Notwithstanding any other provision of law pertaining to insurance and

- 25 maintenance organization 10.00]
- 26 **(1) For filing the declaration required on organization of each**
 27 **domestic company, two hundred fifty dollars;**
- 28 **(2) For filing statement and certified copy of charter required of**
 29 **foreign companies, two hundred fifty dollars;**
- 30 **(3) For filing application to renew certificate of authority, along**
 31 **with all required annual reports, including the annual statement,**
 32 **actuarial statement, risk based capital report, report of valuation of**
 33 **policies or other obligations of assurance, and audited financial report**
 34 **of any company doing business in this state, one thousand five hundred**
 35 **dollars;**
- 36 **(4) For filing any paper, document, or report not filed under**
 37 **subdivision (1), (2), or (3) of this section but required to be filed in the**
 38 **office of the director, fifty dollars each;**
- 39 **(5) For affixing the seal of office of the director, ten dollars;**
- 40 **(6) For accepting each service of process upon the company, ten**
 41 **dollars.**

354.500. 1. If the director shall for any reason have cause to believe that
 2 any violation of sections 354.400 to [354.550] **354.636** has occurred or is about
 3 to occur, the director may give notice to the health maintenance organization and
 4 to the representatives, or other persons who appear to be involved in such
 5 suspected violation, to arrange a conference with the alleged violators, or
 6 potential violators, or their authorized representatives, for the purpose of
 7 attempting to ascertain the facts relating to such suspected or potential violation,
 8 and, in the event it appears that any violation has occurred or is about to occur,
 9 to arrive at an adequate and effective means of correcting or preventing such
 10 violation. Proceedings under this subsection shall not be governed by any formal
 11 procedural requirements, and may be conducted in such manner as the director
 12 may deem appropriate under the circumstances.

13 2. [The director may issue an order directing a health maintenance
 14 organization, or a representative of a health maintenance organization, to cease
 15 and desist from engaging in any act or practice in violation of the provisions of
 16 sections 354.400 to 354.550. Within twenty days after service of the order to
 17 cease and desist, the respondent may request a hearing on the question of
 18 whether acts or practices in violation of sections 354.400 to 354.550 have
 19 occurred. Such hearing shall be conducted, and judicial review shall be available,

20 as provided in chapter 536, RSMo.

21 3. In the case of noncompliance with a cease and desist order issued
22 pursuant to subsection 2 of this section, the director may institute a proceeding
23 to obtain injunctive or other appropriate relief, in the circuit court.]

354.510. **Unless otherwise provided**, all applications, filings, and
2 reports required under sections 354.400 to [354.550] **354.636** shall be treated as
3 public documents.

354.530. If any section, term, or provision of sections 354.400 to [354.550]
2 **354.636** shall be adjudged invalid for any reason, such judgment shall not affect,
3 impair, or invalidate any other section, term, or provision of sections 354.400 to
4 [354.550] **354.636**, but the remaining sections, terms, and provisions shall be and
5 remain in full force and effect.

354.540. A health maintenance organization approved and regulated
2 under the laws of another bordering state may be admitted to do business in this
3 state by satisfying the director that it is fully and legally organized under the
4 laws of its state, and that it complies with all requirements for health
5 maintenance organizations organized within Missouri. The director may waive
6 or modify the provisions of sections 354.400 to [354.550] **354.636** if he determines
7 that the same are not appropriate or necessary to a particular health
8 maintenance organization of another state.

354.545. The provisions of sections 354.400 to [354.550] **354.636** shall not
2 apply to any labor organization's health plan providing services established and
3 maintained solely for its members and their dependents, and facilities of
4 not-for-profit corporations in existence on October 1, 1980, subject either to the
5 provisions and regulations of section 302 of the Labor-Management Relations Act,
6 29 U.S.C. 186 or the Labor-Management Reporting and Disclosure Act, 29 U.S.C.
7 401-538.

354.550. The provisions of sections 354.400 to [354.550] **354.636** shall not
2 apply to community health corporations as defined by Public Law 94-63 so long
3 as such corporations limit their activities to those described in Public Law 94-63.

354.600. For purposes of sections 354.600 to 354.636 the following terms
2 shall mean:

3 (1) ["Covered benefit" or "benefit", a health care service to which an
4 enrollee is entitled under the terms of a health benefit plan;

5 (2) "Director", the director of the department of insurance;

6 (3) "Emergency medical condition", the sudden and, at the time,

7 unexpected onset of a health condition that manifests itself by symptoms of
8 sufficient severity that would lead a prudent lay person, possessing an average
9 knowledge of medicine and health, to believe that immediate medical care is
10 required, which may include, but shall not be limited to:

11 (a) Placing the person's health in significant jeopardy;

12 (b) Serious impairment to a bodily function;

13 (c) Serious dysfunction of any bodily organ or part;

14 (d) Inadequately controlled pain; or

15 (e) With respect to a pregnant woman who is having contractions:

16 a. That there is inadequate time to effect a safe transfer to another
17 hospital before delivery; or

18 b. That transfer to another hospital may pose a threat to the health or
19 safety of the woman or unborn child;

20 (4) "Emergency service", a health care item or service furnished or
21 required to screen and stabilize an emergency medical condition, which may
22 include, but shall not be limited to, health care services that are provided in a
23 licensed hospital's emergency facility by an appropriate provider;

24 (5) "Enrollee", a policyholder, subscriber, covered person or other
25 individual participating in a health benefit plan;

26 (6)] "Facility", an institution providing health care services or a health
27 care setting, including but not limited to, hospitals and other licensed inpatient
28 centers, ambulatory surgical or treatment centers, skilled nursing facilities,
29 residential treatment centers, diagnostic, laboratory and imaging centers, and
30 rehabilitation and other therapeutic health settings;

31 [(7)] (2) "Health benefit plan", a policy, contract, certificate or agreement
32 entered into, offered or issued by a health carrier to provide, deliver, arrange for,
33 pay for or reimburse any of the costs of health care services;

34 [(8)] (3) "Health care professional", a physician or other health care
35 practitioner licensed, accredited or certified by the state of Missouri to perform
36 specified health services;

37 [(9)] (4) "Health care provider" or "provider", a health care professional
38 or a facility;

39 [(10)] "Health care service", a service for the diagnosis, prevention,
40 treatment, cure or relief of a health condition, illness, injury or disease;

41 [(11)] (5) "Health carrier", a health maintenance organization established
42 pursuant to sections 354.400 to 354.636;

43 [(12)] (6) "Health indemnity plan", a health benefit plan that is not a
44 managed care plan;

45 [(13)] (7) "Intermediary", a person authorized to negotiate and execute
46 provider contracts with health carriers on behalf of health care providers or on
47 behalf of a network;

48 [(14)] (8) "Managed care plan", a health benefit plan that either requires
49 an enrollee to use, or creates incentives, including financial incentives, for an
50 enrollee to use health care providers managed, owned, under contract with or
51 employed by the health carrier;

52 [(15)] (9) "Network", the group of participating providers providing
53 services to a managed care plan;

54 [(16)] (10) "Participating provider", a provider who, under a contract with
55 the health carrier or with its contractor or subcontractor, has agreed to provide
56 health care services to enrollees with an expectation of receiving payment, other
57 than coinsurance, co-payments or deductibles, directly or indirectly from the
58 health carrier;

59 [(17)] "Person", an individual, a corporation, a partnership, an association,
60 a joint venture, a joint stock company, a trust, an unincorporated organization,
61 any similar entity or any combination of the foregoing; and

62 (18)] (11) "Primary care professional" or "primary care provider", a
63 participating health care professional designated by the health carrier to
64 supervise, coordinate or provide initial care or continuing care to an enrollee, and
65 who may be required by the health carrier to initiate a referral for specialty care
66 and maintain supervision of health care services rendered to the enrollee.

354.722. 1. The director may suspend or revoke any certificate of
2 authority issued to a prepaid dental plan corporation pursuant to sections
3 354.700 to 354.723 if he finds that any of the following conditions exist:

4 (1) The prepaid dental plan corporation is operating substantially in
5 contravention of its basic organizational document or is not fulfilling its contracts;

6 (2) [The prepaid dental plan corporation issues a contract, contract
7 certificate or amendment which has not been filed with the director and approved
8 or deemed approved by the director;

9 (3)] The prepaid dental plan corporation is no longer financially
10 responsible and may reasonably be expected to be unable to meet its contractual
11 obligations to enrollees, or prospective enrollees;

12 [(4)] (3) The prepaid dental plan corporation, or any person on its behalf,

13 has advertised or merchandised its prepaid dental benefits in an untrue,
14 misrepresentative, misleading, deceptive or unfair manner;

15 [(5)] (4) The continued operation of the prepaid dental plan corporation
16 would be hazardous to its enrollees; or

17 [(6)] (5) The prepaid dental plan corporation has failed to substantially
18 comply with the provisions of sections 354.700 to 354.723 or any rules or
19 regulations promulgated thereunder.

20 2. [When the director believes that grounds for the suspension or
21 revocation of the corporation's certificate of authority exists, he shall notify the
22 corporation in writing, stating the grounds and fixing a date and time for a
23 hearing. At least twenty days' notice of such hearing shall be given. The hearing
24 and any appeals therefrom shall be in accordance with chapter 536, RSMo.

25 3. The director may, in lieu of the suspension or revocation of the
26 corporation's certification of authority, file suit in circuit court to seek a civil
27 penalty in an amount not less than one hundred dollars nor more than one
28 thousand dollars.

29 4.] **If the director determines that a person has engaged, is**
30 **engaging in, or has taken a substantial step toward engaging in an act,**
31 **practice or course of business constituting a violation of sections**
32 **354.700 to 354.723 or a rule adopted or order issued pursuant thereto**
33 **or that a person has materially aided or is materially aiding an act,**
34 **practice, omission, or course of business constituting a violation of**
35 **sections 354.700 to 354.723 or a rule adopted or order issued pursuant**
36 **thereto, the director may issue such administrative orders as**
37 **authorized under section 374.046, RSMo. A violation of this section is**
38 **a level two violation under section 374.049, RSMo. The director may**
39 **also suspend or revoke the certificate of authority of a corporation for**
40 **any such willful violation.**

41 3. When the certificate of authority of a prepaid dental plan corporation
42 is suspended, the prepaid dental plan corporation shall not, during the period of
43 such suspension, enroll any additional enrollees except newborn children or other
44 newly acquired dependent of existing enrollees and shall not engage in any
45 advertising or solicitation whatsoever.

46 [5.] 4. When the certificate of authority of a prepaid dental plan
47 corporation is revoked, such corporation shall proceed, immediately following the
48 effective date of the order of revocation, to wind up its affairs and shall conduct

49 no further business except as may be essential to the orderly conclusion of the
50 affairs of such corporation. It shall engage in no further advertising or
51 solicitation whatsoever.

**374.051. 1. Any applicant refused a license or the renewal of a
2 license by order of the director under sections 374.755, 374.787, and
3 375.141, RSMo, may file a petition with the administrative hearing
4 commission alleging that the director has refused the license. The
5 administrative hearing commission shall conduct hearings and make
6 findings of fact and conclusions of law in determining whether the
7 applicant may be disqualified by statute. Notwithstanding section
8 621.120, RSMo, the director shall retain discretion in refusing a license
9 or renewal and such discretion shall not transfer to the administrative
10 hearing commission.**

**11 2. If a proceeding is instituted to revoke or suspend a license of
12 any person under sections 374.755, 374.787, and 375.141, RSMo, the
13 director shall refer the matter to the administrative hearing
14 commission by directing the filing of a complaint. The administrative
15 hearing commission shall conduct hearings and make findings of fact
16 and conclusions of law in such cases. The director shall have the
17 burden of proving cause for discipline. If cause is found, the
18 administrative hearing commission shall submit its findings of fact and
19 conclusions of law to the director, who may determine appropriate
20 discipline.**

**21 3. Hearing procedures before the director or the administrative
22 hearing commission and judicial review of the decisions and orders of
23 the director and of the administrative hearing commission, and all
24 other procedural matters under this chapter, shall be governed by the
25 provisions of chapter 536, RSMo. Hearings before the administrative
26 hearing commission shall also be governed by the provisions of chapter
27 621, RSMo.**

**374.055. 1. Except as otherwise provided, any interested person
2 aggrieved by any order of the director under the laws of this state
3 relating to insurance in this chapter, chapter 354, RSMo, and chapters
4 375 to 385, RSMo, or a rule adopted by the director, or by any refusal
5 or failure of the director to make an order pursuant to any of said
6 provisions, shall be entitled to a hearing before the director in
7 accordance with the provisions of chapter 536, RSMo. A final order**

8 issued by the director is subject to judicial review in accordance with
9 the provisions of chapter 536, RSMo. However, any findings of fact or
10 conclusions of law in any order regarding the actual costs of the
11 investigation or proceedings under section 374.046, or the classification
12 of any violation under section 374.049, shall be subject to de novo
13 review.

14 2. A rule adopted by the director is subject to judicial review in
15 accordance with the provisions of chapter 536, RSMo.

16 3. Notwithstanding any other provision of law to the contrary,
17 no person or entity shall impose an accident response service fee on or
18 from an insurance company, the driver or owner of a motor vehicle, or
19 any other person. As used in this section, the term "accident response
20 service fee" means a fee imposed for the response or investigation by
21 a local law enforcement agency of a motor vehicle accident.

374.150. 1. All fees due the state under the provisions of the insurance
2 laws of this state shall be paid to the director of revenue and deposited in the
3 state treasury to the credit of the insurance [department] **dedicated** fund unless
4 otherwise provided for in subsection 2 of this section.

5 2. There is hereby established in the state treasury a special fund to be
6 known as the "[Department of] Insurance Dedicated Fund". The fund shall be
7 subject to appropriation of the general assembly and shall be devoted solely to the
8 payment of expenditures incurred by the department [of insurance] attributable
9 to duties performed by the department **for the regulation of the business of**
10 **insurance, regulation of health maintenance organizations and the**
11 **operation 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 to the contrary
13 notwithstanding, beginning on January 1, 1991, all fees charged under any
14 provision of chapter 325, 354, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384
15 or 385, RSMo, due the state shall be paid into this fund. The state treasurer
16 shall invest moneys in this fund in the same manner as other state funds and any
17 interest or earnings on such moneys shall be credited to the [department of]
18 insurance dedicated fund. The provisions of section 33.080, RSMo,
19 notwithstanding, moneys in the fund shall not lapse, be transferred to or placed
20 to the credit of the general revenue fund unless and then only to the extent to
21 which the unencumbered balance at the close of the biennium year exceeds two
22 times the total amount appropriated, paid, or transferred to the fund during such

23 fiscal year.

24 [3. Notwithstanding the provisions of this section to the contrary, fifty-five
25 percent of the balance in the department of insurance dedicated fund as of the
26 effective date of this act or six million fifteen thousand eight hundred and
27 fifty-five dollars, whichever is greater, shall be subject to an immediate one-time
28 transfer to the state general revenue fund.]

374.160. 1. The expenses of examinations, valuations or proceedings
2 against any company, and for dissolving or settling the affairs of companies are
3 to be paid by the company, or as provided by law. The state shall not be
4 responsible in any manner for the payment of any such expenses, or any charges
5 connected therewith.

6 **2. At the request of the director, every domestic insurance**
7 **company or health maintenance organization subject to an order of**
8 **conservation, rehabilitation, or liquidation shall reimburse the**
9 **insurance dedicated fund for administrative services rendered by state**
10 **employees to the company. Reimbursement shall include that portion**
11 **of the employee's salary, state benefits, and expenses that specifically**
12 **relates to the services rendered on behalf of the company.**

13 **3. All other expenses of the department of insurance, financial**
14 **institutions and professional registration now or hereafter incurred and**
15 **unpaid, or that may be hereafter incurred, including the salaries of the director**
16 **and deputy director, shall be paid out of the state treasury in the manner**
17 **provided by law.**

18 [3.] **4. The director shall assess the expenses of any examination against**
19 **the company examined and shall order that the examination expenses be paid**
20 **into the insurance examiners fund created by section 374.162. [The director shall**
21 **also assess an additional amount equal to fifteen percent of the total expenses of**
22 **examination, to be paid for the supervision and support of the examiners. The**
23 **insurance examiner's sick leave fund created by sections 374.261 to 374.267 shall**
24 **be combined with the insurance examiners fund.] This assessment shall**
25 **include the costs of compensation, including benefits, for the**
26 **examiners, analysts, actuaries, and attorneys directly contributing to**
27 **the examination of the company, any reasonable travel, lodging, and**
28 **meal expenses related to an on-site examination, and other expenses**
29 **related to the examination of the company, including an allocation for**
30 **examiners' office space, supplies, and equipment, but not expenses**

31 **associated with attending a course, seminar, or meeting, unless solely**
32 **related to the examination of the company assessed.** The director shall
33 pay from the insurance examiners fund the compensation of insurance examiners
34 [pursuant to section 374.115, any expenses to be paid from such sick leave fund
35 under sections 374.261 to 374.267], **analysts, actuaries, and attorneys,**
36 **including standard benefits afforded to state employees, for**
37 **performance of any such examination and other** expenses [incurred for
38 supervision and support of the examiners] **covered in the assessment.** The
39 general assembly shall annually provide appropriations sufficient to distribute
40 all receipts into the insurance examiners fund. The provisions of section 33.080,
41 RSMo, relating to the transfer of unexpended balances to the general revenue
42 fund shall not apply to the insurance examiners fund.

43 [4.] **5.** If any company shall refuse to pay the expenses of any
44 examination, valuation or proceeding assessed by the director pursuant to this
45 section, the company shall be liable for double the amount of such expenses and
46 all costs of collection, including attorney's fees. The company shall not be entitled
47 to a credit, pursuant to section 148.400, RSMo, for any fees, expenses or costs
48 ordered pursuant to this subsection other than in the amount of the expenses
49 originally assessed by the director. All amounts collected pursuant to this
50 subsection shall be credited to the insurance examiners fund.

374.185. 1. The director may cooperate, coordinate, and consult
2 **with other members of the National Association of Insurance**
3 **Commissioners, the commissioner of securities, state securities**
4 **regulators, the division of finance, the division of credit unions, the**
5 **attorney general, federal banking and securities regulators, the**
6 **National Association of Securities Dealers (NASD), the United States**
7 **Department of Justice, the Commodity Futures Trading Commission,**
8 **and the Federal Trade Commission to effectuate greater uniformity in**
9 **insurance and financial services regulation among state and federal**
10 **governments, and self-regulatory organizations. The director may**
11 **share records with any aforesaid entity, except that any record that is**
12 **confidential, privileged, or otherwise protected from disclosure by law**
13 **shall not be disclosed unless such entity agrees in writing prior to**
14 **receiving such record to provide it the same protection. No waiver of**
15 **any applicable privilege or claim of confidentiality regarding any**
16 **record shall occur as the result of any disclosure.**

17 **2. In cooperating, coordinating, consulting, and sharing records**
18 **and information under this section and in acting by rule, order, or**
19 **waiver under the laws relating to insurance, the director shall, at the**
20 **discretion of the director, take into consideration in carrying out the**
21 **public interest the following general policies:**

22 **(1) Maximizing effectiveness of regulation for the protection of**
23 **insurance consumers;**

24 **(2) Maximizing uniformity in regulatory standards; and**

25 **(3) Minimizing burdens on the business of insurance, without**
26 **adversely affecting essentials of consumer protection.**

27 **3. The cooperation, coordination, consultation, and sharing of**
28 **records and information authorized by this section includes:**

29 **(1) Establishing or employing one or more designees as a central**
30 **electronic depository for licensing and rate and form filings with the**
31 **director and for records required or allowed to be maintained;**

32 **(2) Encouraging insurance companies and producers to**
33 **implement electronic filing through a central electronic depository;**

34 **(3) Developing and maintaining uniform forms;**

35 **(4) Conducting joint market conduct examinations and other**
36 **investigations through collaboration and cooperation with other**
37 **insurance regulators;**

38 **(5) Holding joint administrative hearings;**

39 **(6) Instituting and prosecuting joint civil or administrative**
40 **enforcement proceedings;**

41 **(7) Sharing and exchanging personnel;**

42 **(8) Coordinating licensing under section 375.014, RSMo;**

43 **(9) Formulating rules, statements of policy, guidelines, forms, no**
44 **action determinations, and bulletins; and**

45 **(10) Formulating common systems and procedures.**

374.208. The director shall study and recommend to the General
2 **Assembly changes to avoid unnecessary duplication of market conduct**
3 **activities and to implement uniform processes and procedures for**
4 **market analysis and market conduct examinations which will more**
5 **effectively utilize resources to protect insurance consumers. The study**
6 **shall be completed and recommendations provided by January 1, 2008.**

374.210. 1. It is unlawful for, any person [testifying falsely in reference
2 **to any matter material to the investigation, examination or inquiry shall be**

3 deemed guilty of perjury.] **in any investigation, examination, inquiry, or**
4 **other proceeding under this chapter, chapter 354, RSMo, and chapters**
5 **375 to 385, RSMo, to:**

6 [2. Any person who shall refuse to give such director full and truthful
7 information, and answer in writing to any inquiry or question made in writing by
8 the director, in regard to the business of insurance carried on by such person, or
9 to appear and testify under oath before the director in regard to the same, shall
10 be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be
11 punished by a fine not exceeding five hundred dollars, or imprisonment not
12 exceeding three months.

13 3. Any director, officer, manager, agent or employee of any insurance
14 company, or any other person, who shall]

15 (1) **Knowingly make or cause to be made a false statement upon**
16 **oath or affirmation or in any record that is submitted to the director**
17 **or used in any proceeding under this chapter, chapter 354, RSMo, and**
18 **chapters 375 to 385, RSMo; or**

19 (2) Make any false certificate or entry or memorandum upon any of the
20 books or papers of any insurance company, or upon any statement or exhibit
21 offered, filed or offered to be filed in the [insurance] department, or used in the
22 course of any examination, inquiry, or investigation[, with intent to deceive the
23 director or any person employed or appointed by him to make any examination,
24 inquiry or investigation, shall, upon conviction, be punished by a fine not
25 exceeding one thousand dollars, and by imprisonment not less than two months
26 in the county or city jail, nor more than five years in the penitentiary] **under**
27 **this chapter, chapter 354, RSMo, and chapters 375 to 385, RSMo.**

28 2. **If a person does not appear or refuses to testify, file a**
29 **statement, produce records, or otherwise does not obey a subpoena as**
30 **required by the director, the director may apply to the circuit court of**
31 **any county of the state or any city not within a county, or a court of**
32 **another state to enforce compliance. The court may:**

33 (1) **Hold the person in contempt;**

34 (2) **Order the person to appear before the director;**

35 (3) **Order the person to testify about the matter under**
36 **investigation or in question;**

37 (4) **Order the production of records;**

38 (5) **Grant injunctive relief;**

39 **(6) Impose a civil penalty of up to fifty thousand dollars for each**
40 **violation; and**

41 **(7) Grant any other necessary or appropriate relief.**

42 **The director may also suspend, revoke or refuse any license or**
43 **certificate of authority issued by the director to any person who does**
44 **not appear or refuses to testify, file a statement, produce records, or**
45 **does not obey a subpoena.**

46 **3. This section does not preclude a person from applying to the**
47 **circuit court of any county of the state or any city not within a county**
48 **for relief from a request to appear, testify, file a statement, produce**
49 **records, or obey a subpoena.**

50 **4. A person is not excused from attending, testifying, filing a**
51 **statement, producing a record or other evidence, or obeying a subpoena**
52 **of the director under an action or proceeding instituted by the director**
53 **on the grounds that the required testimony, statement, record, or other**
54 **evidence, directly or indirectly, may tend to incriminate the individual**
55 **or subject the individual to a criminal fine, penalty, or forfeiture. If**
56 **the person refuses to testify, file a statement, or produce a record or**
57 **other evidence on the basis of the individual's privilege against self-**
58 **incrimination, the director may apply to the circuit court of any county**
59 **of the state or any city not within a county to compel the testimony, the**
60 **filing of the statement, the production of the record, or the giving of**
61 **other evidence. The testimony, record, or other evidence compelled**
62 **under such an order may not be used as evidence against the person in**
63 **a criminal case, except in a prosecution for perjury or contempt or**
64 **otherwise failing to comply with the order.**

65 **5. If the director determines that a person has engaged, is**
66 **engaging in, or has taken a substantial step toward engaging in an act,**
67 **practice or course of business constituting a violation of this section,**
68 **or a rule adopted or order issued pursuant thereto, or that a person has**
69 **materially aided or is materially aiding an act, practice, omission, or**
70 **course of business constituting a violation of this section or a rule**
71 **adopted or order issued pursuant thereto, the director may issue such**
72 **administrative orders as authorized under section 374.046. A violation**
73 **of subsection 1 of this section is a level four violation under section**
74 **374.049. The director may also suspend or revoke the license or**
75 **certificate of authority of such person for any willful violation.**

76 **6. If the director believes that a person has engaged, is engaging**
77 **in, or has taken a substantial step toward engaging in an act, practice**
78 **or course of business constituting a violation of this section or a rule**
79 **adopted or order issued pursuant thereto, or that a person has**
80 **materially aided or is materially aiding an act, practice, omission, or**
81 **course of business constituting a violation of this section or a rule**
82 **adopted or order issued pursuant thereto, the director may maintain**
83 **a civil action for relief authorized under section 374.048. A violation of**
84 **subsection 1 of this section is a level four violation under section**
85 **374.049.**

86 **7. Any person who knowingly engages in any act, practice,**
87 **omission, or course of business in violation of subsection 1 of this**
88 **section is guilty of a class D felony. If the offender holds a license or**
89 **certificate of authority under the insurance laws of this state, the court**
90 **imposing sentence shall order the department to revoke such license or**
91 **certificate of authority.**

92 **8. The director may refer such evidence as is available**
93 **concerning violations of this section to the proper prosecuting**
94 **attorney, who with or without a criminal reference, or the attorney**
95 **general under section 27.030, RSMo, may institute the appropriate**
96 **criminal proceedings.**

97 **9. Nothing in this section shall limit the power of the state to**
98 **punish any person for any conduct that constitutes a crime under any**
99 **other state statute.**

 374.215. 1. If any insurance company **or other entity regulated by**
2 **the director** doing business in this state fails to timely make and file any
3 statutorily required report or statement, the department [of insurance] shall
4 notify such company **or entity** of such failure by first class mail. Any company
5 **or entity** notified by the department [of insurance] pursuant to this section shall
6 **[have] file such report or statement within** fifteen days [to make and file
7 such report. If such company fails to make and file such report within the fifteen
8 days, it shall forfeit one hundred dollars for each day after the fifteen-day grace
9 period expires.

10 2. Any insurance company doing business in this state which knowingly
11 or intentionally files or which has filed on its behalf any materially false report
12 or statement forfeits not more than one thousand dollars.

13 3. Any forfeiture required or permitted by this section shall be considered
14 a civil penalty which the director of the department of insurance may order
15 pursuant to the provisions of sections 374.040 and 374.280] **of receiving**
16 **notification. After the expiration of such fifteen days, each day in**
17 **which the company or entity fails to file such report or statement is a**
18 **separate violation of this section.**

19 2. If the director determines that a person has engaged, is
20 engaging in, or has taken a substantial step toward engaging in an act,
21 practice or course of business constituting a violation of this section or
22 a rule adopted or order issued pursuant thereto, or that a person has
23 materially aided or is materially aiding an act, practice, omission, or
24 course of business constituting a violation of this section or a rule
25 adopted or order issued pursuant thereto, the director may issue such
26 administrative orders as authorized under section 374.046. A violation
27 of this section is a level two violation under section 374.049. The
28 director may also suspend or revoke the certificate of authority of such
29 person for any willful violation.

30 3. If the director believes that a person has engaged, is engaging
31 in, or has taken a substantial step toward engaging in an act, practice
32 or course of business constituting a violation of this section or a rule
33 adopted or order issued pursuant thereto, or that a person has
34 materially aided or is materially aiding an act, practice, omission, or
35 course of business constituting a violation of this section or a rule
36 adopted or order issued pursuant thereto, the director may maintain
37 a civil action for relief authorized under section 374.048. A violation of
38 this section is a level two violation under section 374.049.

 374.230. Every insurance company doing business in this state shall pay
2 to the director of revenue the following fees:

3 (1) [For making valuations of policies or other obligations of assurance,
4 one thousand dollars for all ordinary forms of policies, and the cost of computing
5 special evaluation tables for policy forms requiring such shall be added;

6 (2)] For filing the declaration required on organization of each **domestic**
7 company, **two hundred** fifty dollars;

8 [(3)] (2) For filing statement and certified copy of charter required of
9 foreign companies, **two hundred** fifty dollars;

10 [(4)] (3) For filing **application to renew certificate of authority,**

11 **along with all required annual reports, including the** annual statement,
12 **actuarial statement, risk based capital report, report of valuation of**
13 **policies or other obligations of assurance, and audited financial report**
14 annual statement of any company doing business in this state, [two hundred
15 fifty] **one thousand five hundred** dollars;

16 [(5)] (4) For filing supplementary annual statement of any company
17 doing business in this state, [ten] **fifty** dollars;

18 [(6)] (5) For filing any [other] paper, **document, or report not filed**
19 **under subdivision (1), (2), or (3), but** required to be filed in the office of the
20 director [of the department of insurance], fifty dollars each;

21 [(7)] (6) For [each agent's] a copy of [his] a company's certificate of
22 authority or **producer or agent** license, [two] **ten** dollars;

23 [(8)] (7) For copies of papers, records, and documents filed in the office of the
24 director of the department of insurance, twenty cents per folio;

25 [(9)] (7) For affixing the seal of office of the director [of the department
26 of insurance], ten dollars;

27 [(10)] (8) For accepting each service of process upon the company, ten
28 dollars.

374.280. 1. [Notwithstanding any other provisions of chapters 374, 375,
2 376, 377, 378 and 379, RSMo,] The director may, after a hearing **under section**
3 **374.046**, order a **civil penalty or forfeiture payable** to the state of Missouri [a
4 sum not to exceed one hundred dollars for each violation by any person,
5 partnership or corporation knowingly violating any provision of chapters 374, 375,
6 376, 377, 378 and 379, RSMo, or order of the director of insurance made in
7 accordance with those chapters] **authorized by section 374.049**, which
8 **penalty or forfeiture, if unpaid within ten days**, may be recovered by a civil
9 action brought by and in the name of the director [of insurance] **under section**
10 **374.048**. The civil action may be brought in the county which has venue of an
11 action against the person, partnership or corporation under other provisions of
12 law. The director [of insurance] may also suspend or revoke the license [of an
13 insurer, agent, broker or agency] **or certificate of authority of such person**
14 for any willful violation.

15 2. Nothing contained in this section shall be construed to prohibit the
16 director and [the insurer, agent, broker or agency] **any person subject to an**
17 **investigation, examination, or other proceeding** from agreeing to a
18 voluntary forfeiture of the sum mentioned herein without civil proceedings being

19 instituted. Any sum so agreed upon shall be paid into the school fund as
20 provided by law for other fines and penalties.

374.285. Except as provided in section 375.141, RSMo, all records of
2 disciplinary actions against an insurance [agent, broker, agency or] producer
3 which resulted in a [voluntary] forfeiture **or other monetary relief** of two
4 hundred dollars or less **and places no other legal duty upon the producer**
5 shall be expunged after a period of five years from the date of the execution of the
6 [voluntary forfeiture] **order or settlement agreement** by the director [of the
7 department of insurance].

374.512. 1. Whenever the director has reason to believe that a utilization
2 review agent subject to sections 374.500 to 374.515 has been or is engaged in
3 conduct which violates the provisions of sections 374.500 to 374.515, the director
4 shall notify the utilization review agent of the alleged violation. The utilization
5 review agent shall have thirty days from the date the notice is received to
6 respond to the alleged violation.

7 2. If the director [believes] **determines** that the utilization review agent
8 has [violated the provisions of sections 374.500 to 374.515, or is not satisfied that
9 the alleged violation has been corrected, he shall conduct a hearing on the alleged
10 violation, in accordance with chapter 536, RSMo] **engaged, is engaging in, or**
11 **has taken a substantial step toward engaging in an act, practice or**
12 **course of business constituting a violation of sections 374.500 to 374.515**
13 **or a rule adopted or order issued pursuant thereto, or that a person has**
14 **materially aided or is materially aiding an act, practice, omission, or**
15 **course of business constituting a violation of sections 374.500 to 374.515**
16 **or a rule adopted or order issued pursuant thereto, the director may**
17 **issue such administrative orders as authorized under section 374.046.**
18 **A violation of any of these sections is a level two violation under**
19 **section 374.049. The director may also suspend or revoke the license**
20 **or certificate of authority of such person for any willful violation.**

21 3. [If, after such hearing, the director determines that the utilization
22 review agent has engaged in violations of sections 374.500 to 374.515, he shall
23 reduce his findings to writing and shall issue and cause to be served upon the
24 utilization review agent a copy of such findings and an order requiring the
25 utilization review agent to cease and desist from engaging in such violations. The
26 director may also, at his discretion, order:

27 (1) Payment of a monetary penalty of not more than ten thousand dollars

28 for a violation which occurred if the utilization review agent consciously
29 disregarded sections 374.500 to 374.515 or which occurred with such frequency
30 as to indicate a general business practice; or

31 (2) Suspension or revocation of the authority to do business in this state
32 as a utilization review agent if the utilization review agent knew that it was in
33 violation of sections 374.500 to 374.515] **If the director believes that a**
34 **person has engaged, is engaging in, or has taken a substantial step**
35 **toward engaging in an act, practice or course of business constituting**
36 **a violation of sections 374.500 to 374.515 or a rule adopted or order**
37 **issued pursuant thereto, or that a person has materially aided or is**
38 **materially aiding an act, practice, omission, or course of business**
39 **constituting a violation of sections 374.500 to 374.515 or a rule adopted**
40 **or order issued pursuant thereto, the director may maintain a civil**
41 **action for relief authorized under section 374.048. A violation of any of**
42 **these sections is a level two violation under section 374.049.**

375.012. 1. **Sections 375.012 to 375.146 may be cited as the**
2 **"Insurance Producers Act".**

3 2. As used in sections 375.012 to 375.158, the following words mean:

4 (1) "Business entity", a corporation, association, partnership, limited
5 liability company, limited liability partnership or other legal entity;

6 (2) "Director", the director of the department of insurance, **financial and**
7 **professional regulation**;

8 (3) "Home state", the District of Columbia and any state or territory of the
9 United States in which the insurance producer maintains his or her principal
10 place of residence or principal place of business and is licensed to act as an
11 insurance producer;

12 (4) "Insurance", any line of authority, including life, accident and health
13 or sickness, property, casualty, variable life and variable annuity products,
14 personal, credit and any other line of authority permitted by state law or
15 regulation;

16 (5) "Insurance company" or "insurer", any person, reciprocal exchange,
17 interinsurer, Lloyds insurer, fraternal benefit society, and any other legal entity
18 engaged in the business of insurance, including health services corporations,
19 health maintenance organizations, prepaid limited health care service plans,
20 dental, optometric and other similar health service plans, unless their exclusion
21 from this definition can be clearly ascertained from the context of the particular

22 statutory section under consideration. Insurer shall also include all companies
23 organized, incorporated or doing business pursuant to the provisions of chapters
24 375, 376, 377, 378, 379, 381 and 384, RSMo. Trusteed pension plans and profit-
25 sharing plans qualified pursuant to the United States Internal Revenue Code as
26 now or hereafter amended shall not be considered to be insurance companies or
27 insurers within the definition of this section;

28 (6) "Insurance producer" or "producer", a person required to be licensed
29 pursuant to the laws of this state to sell, solicit or negotiate insurance;

30 (7) "License", a document issued by the director authorizing a person to
31 act as an insurance producer for the lines of authority specified in the
32 document. The license itself shall not create any authority, actual, apparent or
33 inherent, in the holder to represent or commit an insurance company;

34 (8) "Limited line credit insurance", credit life, credit disability, credit
35 property, credit unemployment, involuntary unemployment, mortgage life,
36 mortgage guaranty, mortgage disability, guaranteed automobile protection (GAP)
37 insurance, and any other form of insurance offered in connection with an
38 extension of credit that is limited to partially or wholly extinguishing that credit
39 obligation that the director determines should be designated a form of limited line
40 credit insurance;

41 (9) "Limited line credit insurance producer", a person who sells, solicits
42 or negotiates one or more forms of limited line credit insurance coverage through
43 a master, corporate, group or individual policy;

44 (10) "Limited lines insurance", insurance involved in credit transactions,
45 insurance contracts issued primarily for covering the risk of travel or any other
46 line of insurance that the director deems necessary to recognize for the purposes
47 of complying with subsection 5 of section 375.017;

48 (11) "Limited lines producer", a person authorized by the director to sell,
49 solicit or negotiate limited lines insurance;

50 (12) "Negotiate", the act of conferring directly with or offering advice
51 directly to a purchaser or prospective purchaser of a particular contract of
52 insurance concerning any of the substantive benefits, terms or conditions of the
53 contract, provided that the person engaged in that act either sells insurance or
54 obtains insurance from insurers for purchasers;

55 (13) "Person", an individual or any business entity;

56 (14) "Personal lines insurance", property and casualty insurance coverage
57 sold to individuals and families for primarily noncommercial purposes;

58 (15) "Sell", to exchange a contract of insurance by any means, for money
59 or its equivalent, on behalf of an insurance company;

60 (16) "Solicit", attempting to sell insurance or asking or urging a person to
61 apply for a particular kind of insurance from a particular company;

62 (17) "Terminate", the cancellation of the relationship between an
63 insurance producer and the insurer or the termination of the authority of the
64 producer to transact the business of insurance;

65 (18) "Uniform business entity application", the current version of the
66 National Association of Insurance Commissioners uniform business entity
67 application for resident and nonresident business entities seeking an insurance
68 producer license;

69 (19) "Uniform application", the current version of the National Association
70 of Insurance Commissioners uniform application for resident and nonresident
71 producer licensing.

72 [2.] 3. All statutory references to "insurance agent" or "insurance broker"
73 shall mean "insurance producer", as that term is defined pursuant to subsection
74 1 of this section.

375.020. 1. Beginning January 1, [1990] **2008**, each insurance producer,
2 unless exempt pursuant to section 375.016, licensed to sell insurance in this state
3 shall successfully complete courses of study as required by this section. Any
4 person licensed to act as an insurance producer shall, during each two years,
5 attend courses or programs of instruction or attend seminars equivalent to a
6 minimum of [ten] **sixteen** hours of instruction [for a life or accident and health
7 license or both a life and an accident and health license and a minimum ten
8 hours of instruction for a property or casualty license or both a property and a
9 casualty license. Sixteen hours of training will suffice for those with a life,
10 health, accident, property and casualty license]. Of the sixteen hours' training
11 required [above] **in this subsection**, the hours need not be divided equally
12 **among the lines of authority in which the producer has qualified**. The
13 courses or programs **attended by the producer during each two-year**
14 **period** shall include instruction on Missouri law, **products offered in any line**
15 **of authority in which the producer is qualified, producers' duties and**
16 **obligations to the department, and business ethics, including sales**
17 **suitability**. Course credit shall be given to members of the general assembly as
18 determined by the department.

19 2. Subject to approval by the director, the courses or programs of

20 instruction which shall be deemed to meet the director's standards for continuing
21 educational requirements shall include, but not be limited to, the following:

- 22 (1) American College Courses (CLU, ChFC);
- 23 (2) Life Underwriters Training Council (LUTC);
- 24 (3) Certified Insurance Counselor (CIC);
- 25 (4) Chartered Property and Casualty Underwriter (CPCU);
- 26 (5) Insurance Institute of America (IIA);
- 27 (6) **Any other professional financial designation approved by the**
28 **director by rule;**

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

32 [(7)] (8) A course or program of instruction or seminar developed or
33 sponsored by any authorized insurer, recognized producer association or
34 insurance trade association. A local producer group may also be approved if the
35 instructor receives no compensation for services.

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

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

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

- 50 (1) Serious physical injury or illness;
- 51 (2) Active duty in the armed services for an extended period of time;
- 52 (3) Residence outside the United States; or
- 53 (4) The licensee is at least seventy years of age.

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

56 programs or seminars of instruction taken and successfully completed by such
57 person. Every provider of continuing education courses authorized in this state
58 shall, within thirty working days of a licensed producer completing its approved
59 course, provide certification to the director of the completion in a format
60 prescribed by the director.

61 7. The provisions of this section shall not apply to those natural persons
62 holding licenses for any kind or kinds of insurance for which an examination is
63 not required by the law of this state, nor shall they apply to any limited lines
64 insurance producer license or restricted license as the director may exempt.

65 8. The provisions of this section shall not apply to a life insurance
66 producer who is limited by the terms of a written agreement with the insurer to
67 transact only specific life insurance policies having an initial face amount of five
68 thousand dollars or less, or annuities having an initial face amount of ten
69 thousand dollars or less, that are designated by the purchaser for the payment
70 of funeral or burial expenses. The director may require the insurer entering into
71 the written agreements with the insurance producers pursuant to this subsection
72 to certify as to the representations of the insurance producers.

73 9. Rules and regulations necessary to implement and administer this
74 section shall be promulgated by the director, including, but not limited to, rules
75 and regulations regarding the following:

76 (1) Course content and hour credits: The insurance advisory board
77 established by section 375.019 shall be utilized by the director to assist him in
78 determining acceptable content of courses, programs and seminars to include
79 classroom equivalency;

80 (2) Filing fees for course approval: Every applicant seeking approval by
81 the director of a continuing education course under this section shall pay to the
82 director a filing fee of fifty dollars per course. Fees shall be waived for state and
83 local insurance producer groups. Such fee shall accompany any application form
84 required by the director. Courses shall be approved for a period of no more than
85 one year. Applicants holding courses intended to be offered for a longer period
86 must reapply for approval. Courses approved by the director prior to August 28,
87 1993, for which continuous certification is sought should be resubmitted for
88 approval sixty days before the anniversary date of the previous approval.

89 10. All funds received pursuant to the provisions of this section shall be
90 transmitted by the director to the department of revenue for deposit in the state
91 treasury to the credit of the [department of] insurance dedicated fund. All

92 expenditures necessitated by this section shall be paid from funds appropriated
93 from the [department of] insurance dedicated fund by the legislature.

**375.143. In order to effectuate and aid in the interpretation of
2 section 375.141, the director, under section 374.045, RSMo, may adopt
3 rules and regulations codifying professional standards of producer
4 competency and trustworthiness in the handling of applications,
5 premium funds, conflicts of interest, record-keeping, supervision of
6 others, and customer suitability.**

**375.145. 1. If the director determines that a person has engaged,
2 is engaging in, or has taken a substantial step toward engaging in an
3 act, practice or course of business constituting a violation of sections
4 375.012 to 375.144 or a rule adopted or order issued pursuant thereto,
5 or that a person has materially aided or is materially aiding an act,
6 practice, omission, or course of business constituting a violation of
7 sections 375.012 to 375.144, or a rule adopted or order issued pursuant
8 thereto, the director may issue such administrative orders as
9 authorized under section 374.046, RSMo. A violation of sections 375.012
10 to 375.142 is a level two violation under section 374.049, RSMo. A
11 violation of section 375.144 is a level four violation under 374.049,
12 RSMo.**

**13 2. If the director believes that a person has engaged, is engaging
14 in, or has taken a substantial step toward engaging in an act, practice
15 or course of business constituting a violation of this section or a rule
16 adopted or order issued pursuant thereto, or that a person has
17 materially aided or is materially aiding an act, practice, omission, or
18 course of business constituting a violation of this section or a rule
19 adopted or order issued pursuant thereto, the director may maintain
20 a civil action for relief authorized under section 374.048, RSMo. A
21 violation of any of sections 375.012 to 375.142 is a level two violation
22 under section 374.049, RSMo. A violation of section 375.144 is a level
23 four violation under 374.049, RSMo.**

**375.152. 1. [If the director finds after a hearing conducted in accordance
2 with chapter 536, RSMo, that any person has violated the provisions of sections
3 375.147 to 375.153, the director may order:**

**4 (1) For each separate violation, imposition of an administrative penalty
5 in an amount of five hundred dollars. All moneys collected as a result of
6 imposition of such penalties shall be transferred to the state treasurer for deposit**

7 to general revenue of the state;

8 (2) Revocation or suspension of the producer's license, provided that such
9 action may be taken only after compliance with chapter 621, RSMo;

10 (3)] **If the director determines that a person has engaged, is**
11 **engaging in, or has taken a substantial step toward engaging in an act,**
12 **practice or course of business constituting a violation of sections**
13 **375.147 to 375.153 or a rule adopted or order issued pursuant thereto,**
14 **or that a person has materially aided or is materially aiding an act,**
15 **practice, omission, or course of business constituting a violation of**
16 **sections 375.147 to 375.153 or a rule adopted or order issued pursuant**
17 **thereto, the director may issue such administrative orders as**
18 **authorized under section 374.046, RSMo. A violation of any of these**
19 **sections is a level two violation under section 374.049, RSMo.**

20 **2. If the director believes that a person has engaged, is engaging**
21 **in, or has taken a substantial step toward engaging in an act, practice**
22 **or course of business constituting a violation of sections 375.147 to**
23 **375.153 or a rule adopted or order issued pursuant thereto, or that a**
24 **person has materially aided or is materially aiding an act, practice,**
25 **omission, or course of business constituting a violation of sections**
26 **375.147 to 375.153 or a rule adopted or order issued pursuant thereto,**
27 **the director may maintain a civil action for relief authorized under**
28 **section 374.048, RSMo. A violation under any of these sections is a level**
29 **two violation under section 374.049, RSMo. In addition to the relief**
30 **available in this section, the director may also order the managing**
31 **general agent to reimburse the insurer, the rehabilitator or liquidator of the**
32 **insurer, for any losses incurred by the insurer caused by a violation of sections**
33 **375.147 to 375.153 committed by the managing general agent.**

34 [2. The decision, determination or order of the director made pursuant to
35 subsection 1 of this section shall be subject to judicial review pursuant to sections
36 536.100 to 536.140, RSMo.]

37 3. Nothing contained in this section shall affect the right of the director
38 to impose any other penalties provided for in the insurance law.

39 4. Nothing contained in sections 375.147 to 375.153 is intended to or shall
40 in any manner limit or restrict the rights of policyholders, claimants and
41 creditors.

375.236. Other provisions of law notwithstanding, the director may

2 suspend or revoke, after a hearing, the certificate of authority or license of any
3 insurance company including a reciprocal or interinsurance exchange for the
4 same reasons and upon the same grounds as set forth in section [375.560]
5 **374.047, RSMo.**

375.306. 1. It [shall not be lawful] **is unlawful** for any person to act
2 within this state as agent, **producer**, or otherwise, in receiving or procuring
3 applications for insurance, or in any manner to aid in transacting the business
4 referred to in [sections 375.010 to 375.920] **this chapter** for any company or
5 association doing business in this state, unless the company is possessed of the
6 amount of capital and of actual paid-up capital, or of premium notes, cash
7 premiums or guarantee fund, of the kind, character and amounts required of
8 companies organized under the provisions of [sections 375.010 to 375.920] **this**
9 **chapter.**

10 2. The guarantee fund of companies other than those of this state shall
11 be deposited with the proper officer of the state or country under the laws of
12 which the company is organized, or with the director [of the insurance
13 department of this state], in the manner provided by section 379.050, RSMo, in
14 regard to the making of such deposit by companies organized under [sections
15 375.010 to 375.920] **this chapter.**

16 3. Whenever any insurance company doing business in this state
17 advertises its assets, either in any newspaper or periodical, or by any sign,
18 circular, card, policy of insurance or certificate of renewal thereof, it shall, in the
19 same connection, equally conspicuously advertise its liabilities, and the amount
20 of its assets available for fire and life losses separately, the same to be
21 determined in the manner required in making statement to the [insurance]
22 department, and all advertisements purporting to show the amount of capital of
23 the company shall show only the amount of capital actually paid up in cash.

24 4. [Any insurance company or agent thereof violating the provisions of
25 this section shall be liable to a fine of not less than fifty dollars nor more than
26 five hundred dollars] **If the director determines that a person has**
27 **engaged, is engaging in, or has taken a substantial step toward**
28 **engaging in an act, practice or course of business constituting a**
29 **violation of this section or a rule adopted or order issued pursuant**
30 **thereto, or that a person has materially aided or is materially aiding an**
31 **act, practice, omission, or course of business constituting a violation of**
32 **this section or a rule adopted or order issued pursuant thereto, the**

33 **director may issue such administrative orders as authorized under**
34 **section 374.046, RSMo. A violation of this section is a level two**
35 **violation under section 374.049, RSMo.**

36 **5. If the director believes that a person has engaged, is engaging**
37 **in, or has taken a substantial step toward engaging in an act, practice**
38 **or course of business constituting a violation of this section or a rule**
39 **adopted or order issued pursuant thereto, or that a person has**
40 **materially aided or is materially aiding an act, practice, omission, or**
41 **course of business constituting a violation of this section or a rule**
42 **adopted or order issued pursuant thereto, the director may maintain**
43 **a civil action for relief authorized under section 374.048, RSMo. A**
44 **violation of this section is a level two violation under section 374.049,**
45 **RSMo.**

375.310. 1. **It is unlawful for any person, association of individuals,**
2 **[and] or any corporation [transacting] to transact** in this state any insurance
3 **business[, without being] unless the person, association, or corporation is**
4 **duly** authorized by the director [of the insurance department of this state so to
5 do, or after the authority so to do has been suspended, revoked, or has expired,
6 shall be subject to suit by the director who may institute proceedings in the
7 circuit court of the county or city in which said company was organized, or in
8 which it has, or last had, its principal or chief office or place of business, or in the
9 county of Cole, to enjoin said company from the further transaction of its
10 business, either temporarily or perpetually, and for such other decrees and relief
11 as the court shall deem advisable; or said association of individuals or corporation
12 shall be liable to a penalty of two hundred and fifty dollars for each offense,
13 which penalty may be recovered by ordinary civil action in the name of the state,
14 and shall, when recovered, become part of the school fund, as by law provided for
15 other fines and penalties; suit for said penalty may be brought by the attorney
16 general, the director of the insurance department, or any county, circuit or
17 prosecuting attorney, in either the city or county in which the policy was
18 delivered, or in which the money was paid to any agent of such association or
19 corporation, or in which the receipt was delivered, or in any county or city in
20 which an attorney for service or any agent of said association or corporation may
21 be found; and if the plaintiff recover, an attorney fee to be allowed by the court
22 for each cause of action upon which recovery is had shall be taxed as and added
23 to the costs; service shall be made of process in any such action, either as in other

24 civil actions or as provided in sections 375.010 to 375.920 for service on insurance
25 companies] **under a certificate of authority or appropriate licensure, or**
26 **is an insurance company exempt from certification under section**
27 **375.786.**

28 **2. If the director determines that a person has engaged, is**
29 **engaging in, or has taken a substantial step toward engaging in an act,**
30 **practice or course of business constituting a violation of this section or**
31 **a rule adopted or order issued pursuant thereto, or that a person has**
32 **materially aided or is materially aiding an act, practice, omission, or**
33 **course of business constituting a violation of this section or a rule**
34 **adopted or order issued pursuant thereto, the director may issue such**
35 **administrative orders as authorized under section 374.046, RSMo. A**
36 **violation of this section is a level four violation under section 374.049,**
37 **RSMo.**

38 **3. If the director believes that a person has engaged, is engaging**
39 **in, or has taken a substantial step toward engaging in an act, practice**
40 **or course of business constituting a violation of this section or a rule**
41 **adopted or order issued pursuant thereto, or that a person has**
42 **materially aided or is materially aiding an act, practice, omission, or**
43 **course of business constituting a violation of this section or a rule**
44 **adopted or order issued pursuant thereto, the director may maintain**
45 **a civil action for relief authorized under section 374.048, RSMo. A**
46 **violation of this section is a level four violation under section 374.049,**
47 **RSMo.**

48 **4. Any person who knowingly engages in any act, practice,**
49 **omission, or course of business in violation of this section is guilty of**
50 **a class D felony.**

51 **5. The director may refer such evidence as is available**
52 **concerning violations of this chapter to the proper prosecuting**
53 **attorney, who with or without a criminal reference, or the attorney**
54 **general under section 27.030, RSMo, may institute the appropriate**
55 **criminal proceedings.**

56 **6. Nothing in this section shall limit the power of the state to**
57 **punish any person for any conduct that constitutes a crime under any**
58 **other state statute.**

375.320. 1. No insurance company formed under the laws of this state
2 shall, directly or indirectly, deal or trade in any goods, wares, merchandise or

3 other commodities whatsoever, except such as may be incident to and necessary
4 in connection with the ownership and operation of property held under the
5 provisions of sections 375.330 and 375.340.

6 **2. This section shall not apply to an insurer organized under**
7 **chapter 376, RSMo.**

375.330. 1. No insurance company formed under the laws of this state
2 shall be permitted to purchase, hold or convey real estate, excepting for the
3 purpose and in the manner herein set forth, to wit:

4 (1) Such as shall be necessary for its accommodation in the transaction
5 of its business; provided that before the purchase of real estate for any such
6 purpose, the approval of the director of the department of insurance must be first
7 had and obtained, and except with the approval of the director, the value of such
8 real estate, together with all appurtenances thereto, purchased for such purpose
9 shall not exceed twenty percent of the insurance company's capital and surplus
10 as shown by its last annual statement; or

11 (2) Such as shall have been mortgaged in good faith by way of security for
12 loans previously contracted, or for moneys due; or

13 (3) Such as shall have been conveyed to it in satisfaction of debts
14 contracted in the course of its dealings; or

15 (4) Such as shall have been purchased at sales upon the judgments,
16 decrees or mortgages obtained or made for such debts; or

17 (5) Such as shall be necessary and proper for carrying on its legitimate
18 business under the provisions of the Urban Redevelopment Corporations Act; or

19 (6) Such as shall have been acquired under the provisions of the Urban
20 Redevelopment Corporations Act permitting such company to purchase, own, hold
21 or convey real estate; or

22 (7) Such real estate, or any interest therein, as may be acquired or held
23 by it by purchase, lease or otherwise, as an investment for the production of
24 income, which real estate or interest therein may thereafter be held, improved,
25 developed, maintained, managed, leased, sold or conveyed by it as real estate
26 necessary and proper for carrying on its legitimate business; or

27 (8) A reciprocal or interinsurance exchange may, in its own name,
28 purchase, sell, mortgage, hold, encumber, lease, convey, or otherwise affect the
29 title to real property for the purposes and objects of the reciprocal or
30 interinsurance exchange. Such deeds, notes, mortgages or other documents
31 relating to real property may be executed by the attorney in fact of the reciprocal

32 or interinsurance exchange. This provision shall be retroactive and shall apply
33 to real estate owned or sold by a reciprocal insurer prior to August 28, 1990.

34 2. The investments acquired under subdivision (7) of subsection 1 of this
35 section may be in either existing or new business or industrial properties, or for
36 new residential properties or new housing purposes.

37 3. Provided, no such insurance company shall invest more than ten
38 percent of its admitted assets, as shown by its last annual statement preceding
39 the date of acquisition, as filed with the director of the department of insurance
40 of the state of Missouri, in the total amount of real estate acquired under
41 subdivision (7) of subsection 1, nor more under subdivision (7) of subsection 1
42 than one percent of its admitted assets or ten percent of its capital and surplus,
43 whichever is greater, in any one property, nor more under subdivision (7) of
44 subsection 1 than one percent of its admitted assets or ten percent of its capital
45 and surplus, whichever is greater, in total properties leased or rented to any one
46 individual, partnership or corporation.

47 4. It shall not be lawful for any company incorporated as aforesaid to
48 purchase, hold or convey real estate in any other case or for any other purpose;
49 and all such real estate acquired in payment of a debt, by foreclosure or
50 otherwise, and real estate exchanged therefor, shall be sold and disposed of
51 within ten years after such company shall have acquired absolute title to the
52 same, unless the company owning such real estate or interest therein shall elect
53 to hold it pursuant to subdivision (7) of subsection 1.

54 5. The director of the department of insurance may, for good cause shown,
55 extend the time for holding such real estate acquired in paying of a debt, by
56 foreclosure or otherwise, and real estate exchanged therefor, and not held by the
57 company under subdivision (7) of subsection 1, for such period as he may find to
58 be to the best interests of the policyholders of said company.

59 6. If a life insurance company depositing under section 376.170, RSMo,
60 becomes the owner of real estate pursuant to this section, the company may
61 execute its own deed for the real estate to the director of the department of
62 insurance, as trustee. The deed may be deposited with the director as proper
63 security, under and according to the provisions of sections 376.010 to 376.670,
64 RSMo, the value to be subject to the approval of the director.

65 **7. This section shall not apply to an insurer organized under**
66 **chapter 376, RSMo.**

375.340. 1. In all cases in which life insurance companies, benefit

2 societies or other associations doing business in this state shall have legally
3 acquired by foreclosure or in payment of a debt previously contracted any real
4 estate or personal property situated in this state or elsewhere, said company,
5 society or association may upon the sale of said property take in payment or part
6 payment thereof the stocks or bonds of any company or corporation purchasing
7 said property and may exchange any real estate acquired in foreclosure or in
8 payment of debts, in whole or in part, for other real estate.

9 **2. This section shall not apply to an insurer organized under**
10 **chapter 376, RSMo.**

375.345. 1. As used in this section, the following words and terms mean:

2 (1) "Admitted assets", assets permitted to be reported as admitted assets
3 on the statutory financial statement of the insurance company most recently
4 required to be filed with the director, but excluding assets of separate accounts,
5 the investments of which are not subject to the provisions of law governing the
6 general investment account of the insurance company;

7 (2) "Cap", an agreement obligating the seller to make payments to the
8 buyer, with each payment based on the amount by which a reference price, level,
9 performance, or value of one or more underlying interests exceeds a
10 predetermined number, sometimes called the strike rate or strike price;

11 (3) "Collar", an agreement to receive payments as the buyer of an option,
12 cap, or floor and to make payments as the seller of a different option, cap, or
13 floor;

14 (4) "Counterparty exposure amount":

15 (a) The amount of credit risk attributable to an over-the-counter
16 derivative instrument. The amount of credit risk equals:

17 a. The market value of the over-the-counter derivative instrument if the
18 liquidation of the derivative instrument would result in a final cash payment to
19 the insurance company; or

20 b. Zero if the liquidation of the derivative instrument would not result in
21 a final cash payment to the insurance company;

22 (b) If over-the-counter derivative instruments are entered into under a
23 written master agreement which provides for netting of payments owed by the
24 respective parties, and the domicile of the counterparty is either within the
25 United States or within a foreign jurisdiction listed in the Purposes and
26 Procedures of the Securities Valuation Office as eligible for netting, the net
27 amount of credit risk shall be the greater of zero or the net sum of:

28 a. The market value of the over-the-counter derivative instruments
29 entered into under the agreement, the liquidation of which would result in a final
30 cash payment to the insurance company; and

31 b. The market value of the over-the-counter derivative instruments
32 entered into under the agreement, the liquidation of which would result in a final
33 cash payment by the insurance company to the business entity;

34 (c) For open transactions, market value shall be determined at the end of
35 the most recent quarter of the insurance company's fiscal year and shall be
36 reduced by the market value of acceptable collateral held by the insurance
37 company or placed in escrow by one or both parties;

38 (5) "Derivative instrument", an agreement, option, instrument, or a series
39 or combination thereof that makes, takes delivery of, assumes, relinquishes, or
40 makes a cash settlement in lieu of a specified amount of one or more underlying
41 interests, or that has a price, performance, value, or cash flow based primarily
42 upon the actual or expected price, level, performance, value or cash flow of one
43 or more underlying interests. Derivative instruments also include options,
44 warrants used in a hedging transaction and not attached to another financial
45 instrument, caps, floors, collars, swaps, forwards, futures and any other
46 agreements, options or instruments substantially similar thereto, and any other
47 agreements, options, or instruments permitted under rules or orders promulgated
48 by the director;

49 (6) "Derivative transaction", a transaction involving the use of one or more
50 derivative instruments;

51 (7) "Director", the director of the department of insurance of this state;

52 (8) "Floor", an agreement obligating the seller to make payments to the
53 buyer in which each payment is based on the amount by which a predetermined
54 number, sometimes called the floor rate or price, exceeds a reference price, level,
55 performance, or value of one or more underlying interests;

56 (9) "Forward", an agreement other than a future to make or take delivery
57 of, or effect a cash settlement based on the actual or expected price, level,
58 performance or value of, one or more underlying interests, but not including spot
59 transactions effected within customary settlement periods, when issued purchases
60 or other similar cash market transactions;

61 (10) "Future", an agreement traded on an exchange to make or take
62 delivery of, or effect a cash settlement based on the actual or expected price, level,
63 performance or value of one or more underlying interests and which includes an

64 insurance future;

65 (11) "Hedging transaction", a derivative transaction that is entered into
66 and maintained to reduce:

67 (a) The risk of economic loss due to a change in the value, yield, price,
68 cash flow or quantity of assets or liabilities that the insurance company has
69 acquired or incurred or anticipates acquiring or incurring;

70 (b) The currency exchange rate risk or the degree of exposure as to assets
71 or liabilities that the insurance company has acquired or incurred or anticipates
72 acquiring or incurring; or

73 (c) Risk through such other derivative transactions as may be specified
74 to constitute hedging transactions by rules or orders adopted by the director;

75 (12) "Income generation transaction":

76 (a) A derivative transaction involving the writing of covered call options,
77 covered put options, covered caps or covered floors that is intended to generate
78 income or enhance return; or

79 (b) Such other derivative transactions as may be specified to constitute
80 income generation transactions in rules or orders adopted by the director;

81 (13) "Initial margin", the amount of cash, securities or other consideration
82 initially required to be deposited to establish a futures position;

83 (14) "NAIC", the National Association of Insurance Commissioners;

84 (15) "Option", an agreement giving the buyer the right to buy or receive,
85 sell or deliver, enter into, extend, terminate or effect a cash settlement based on
86 the actual or expected price, level, performance or value of one or more
87 underlying interests;

88 (16) "Over-the-counter derivative instrument", a derivative instrument
89 entered into with a business entity other than through an exchange or
90 clearinghouse;

91 (17) "Potential exposure", the amount determined in accordance with the
92 NAIC Annual Statement Instructions;

93 (18) "Replication transaction", a derivative transaction effected either
94 separately or in conjunction with cash market investments included in the
95 insurer's investment portfolio and intended to replicate the investment
96 characteristic of another authorized transaction, investment or instrument or to
97 operate as a substitute for cash market transactions. A derivative transaction
98 that is entered into as a hedging transaction or an income generation transaction
99 shall not be considered a replication transaction;

100 (19) "SVO", the Securities Valuation Office of the NAIC or any successor
101 office established by the NAIC;

102 (20) "Swap", an agreement to exchange or to net payments at one or more
103 times based on the actual or expected price, level, performance or value of one or
104 more underlying interests;

105 (21) "Underlying interest", the assets, liabilities, other interests, or a
106 combination thereof underlying a derivative instrument, such as any one or more
107 securities, currencies, rates, indices, commodities or derivative instruments;

108 (22) "Warrant", an instrument that gives the holder the right to purchase
109 an underlying financial instrument at a given price and time or at a series of
110 prices and times outlined in the warrant agreement.

111 2. An insurance company, **including those organized under chapter**
112 **376, RSMo**, may, directly or indirectly through an investment subsidiary, engage
113 in derivative transactions pursuant to this section under the following conditions:

114 (1) In general:

115 (a) An insurance company may use derivative instruments pursuant to
116 this chapter to engage in hedging transactions and certain income generation
117 transactions;

118 (b) Upon request, an insurance company shall demonstrate to the director
119 the intended hedging characteristics and the ongoing effectiveness of the
120 derivative transaction or combination of the transactions through cash flow
121 testing or other appropriate analyses;

122 (2) An insurance company shall only maintain its position in any
123 outstanding derivative instrument used as part of a hedging transaction for as
124 long as the hedging transaction continues to be effective;

125 (3) An insurance company may enter into hedging transactions if as a
126 result of and after giving effect to the transaction:

127 (a) The aggregate statement value of options, caps, floors and warrants
128 not attached to another financial instrument purchased and used in hedging
129 transactions then engaged in by the insurer does not exceed seven and one-half
130 percent of its admitted assets;

131 (b) The aggregate statement value of options, caps and floors written in
132 hedging transactions then engaged in by the insurer does not exceed three
133 percent of its admitted assets; and

134 (c) The aggregate potential exposure of collars, swaps, forwards and
135 futures used in hedging transactions then engaged in by the insurer does not

136 exceed six and one-half percent of its admitted assets;

137 (4) An insurance company may only enter into the following types of
138 income generation transactions if as a result of and after giving effect to an
139 income generation transaction, the aggregate statement value of the fixed income
140 assets that are subject to call or that generate the cash flows for payments under
141 the caps or floors, plus the face value of fixed income securities underlying a
142 derivative instrument subject to call, plus the amount of the purchase obligations
143 under the puts, shall not exceed ten percent of its admitted assets:

144 (a) Sales of covered call options on noncallable fixed income securities,
145 callable fixed income securities if the option expires by its terms prior to the end
146 of the noncallable period, or derivative instruments based on fixed income
147 securities;

148 (b) Sales of covered call options on equity securities if the insurance
149 company holds in its portfolio or can immediately acquire through the exercise of
150 options, warrants or conversion rights already owned, the equity securities
151 subject to call during the complete term of the call option sold;

152 (c) Sales of covered puts on investments that the insurance company is
153 permitted to acquire under the applicable insurance laws of the state, if the
154 insurance company has escrowed or entered into a custodian agreement
155 segregating cash or cash equivalents with a market value equal to the amount of
156 its purchase obligations under the put during the complete term of the put option
157 sold; or

158 (d) Sales of covered caps or floors if the insurance company holds in its
159 portfolio the investments generating the cash flow to make the required payments
160 under the caps or floors during the complete term that the cap or floor is
161 outstanding;

162 (5) An insurance company may use derivative instruments for replication
163 transactions only after the director promulgates reasonable rules that set forth
164 methods of disclosure, reserving for risk-based capital, and determining the asset
165 valuation reserve for these instruments. Any asset being replicated is subject to
166 all the provisions and limitations on the making thereof specified in this chapter
167 and chapters 376 and 379, RSMo, with respect to investments by the insurer as
168 if the transaction constituted a direct investment by the insurer in the replicated
169 asset;

170 (6) An insurance company shall include all counterparty exposure
171 amounts in determining compliance with this state's single-entity investment

172 limitations;

173 (7) The director may approve, by rule or order, additional transaction
174 conditions involving the use of derivative instruments for other risk management
175 purposes.

176 3. Written investment policies and record-keeping procedures shall be
177 approved by the board of directors of the insurance company or by a committee
178 authorized by such board before the insurance company may engage in the
179 practices and activities authorized by this section. These policies and procedures
180 must be specific enough to define and control permissible and suitable investment
181 strategies with regard to derivative transactions with a view toward the
182 protection of the policyholders. The minutes of any such committee shall be
183 recorded and regular reports of such committee shall be submitted to the board
184 of directors.

185 4. The director may promulgate reasonable rules and regulations
186 pursuant to the provisions of chapter 536, RSMo, not inconsistent with this
187 section and any other insurance laws of this state, establishing standards and
188 requirements relating to practices and activities authorized in this section,
189 including, but not limited to, rules which impose financial solvency standards,
190 valuation standards, and reporting requirements.

375.445. 1. [When upon investigation the director finds that] **It is**
2 **unlawful for** any **insurance** company transacting business [in] **under the**
3 **laws of** this state [has conducted] **to:**

4 (1) **Conduct** its business fraudulently[, is not carrying];

5 (2) **Fail to carry** out its contracts in good faith[, or is]; **or**

6 (3) Habitually and as a matter of business practice compelling claimants
7 under policies or liability judgment creditors of the insured to either accept less
8 than the amount due under the terms of the policy or resort to litigation against
9 the company to secure payment of the amount due[, and that a proceeding in
10 respect thereto would be in the interest of the public, he shall issue and serve
11 upon the company a statement of the charges in that respect and a notice of a
12 hearing thereon].

13 2. [If after the hearing the director shall determine that the company has
14 fraudulently conducted its business as defined in this section, he shall order the
15 company to cease and desist from the fraudulent practice and may suspend the
16 company's certificate of authority for a period not to exceed thirty days and may
17 in addition order a forfeiture to the state of Missouri of a sum not to exceed one

18 thousand dollars, which forfeiture may be recovered by a civil action brought by
19 and in the name of the director of insurance. The civil action may be brought in
20 the circuit court of Cole County or, at the option of the director of insurance, in
21 another county which has venue of an action against the person, partnership or
22 corporation under other provisions of law] **If the director determines that a**
23 **person has engaged, is engaging in, or has taken a substantial step**
24 **toward engaging in an act, practice or course of business constituting**
25 **a violation of this section or a rule adopted or order issued pursuant**
26 **thereto, or that a person has materially aided or is materially aiding an**
27 **act, practice, omission, or course of business constituting a violation of**
28 **this section or a rule adopted or order issued pursuant thereto, the**
29 **director may issue such administrative orders as authorized under**
30 **section 374.046, RSMo. Each practice in violation of this section is a**
31 **level two violation under section 374.049, RSMo. Each act as a part of**
32 **a practice does not constitute a separate violation under section**
33 **374.049, RSMo. The director [of insurance] may also suspend or revoke the**
34 **license [of an insurer or agent] or certificate of authority of such person for**
35 **any [such] willful violation.**

36 **3. If the director believes that a person has engaged, is engaging**
37 **in, or has taken a substantial step toward engaging in an act, practice**
38 **or course of business constituting a violation of this section or a rule**
39 **adopted or order issued pursuant thereto, or that a person has**
40 **materially aided or is materially aiding an act, practice, omission, or**
41 **course of business constituting a violation of this section or a rule**
42 **adopted or order issued pursuant thereto, the director may maintain**
43 **a civil action for relief authorized under section 374.048, RSMo. Each**
44 **practice violation of this section is a level two violation under section**
45 **374.049, RSMo. Each act as part of a practice does not constitute a**
46 **separate violation under section 374.049, RSMo.**

375.480. 1. When any company, which has on deposit the securities
2 named in [sections] **section 376.170 [and 376.300], RSMo, with the director of**
3 **the insurance department, shall desire to relinquish and cease its business in this**
4 **state, said director shall, upon application of such company, under the oath of the**
5 **president or vice president and secretary or assistant secretary, give notice of**
6 **such intention in any newspaper of general circulation published in the county**
7 **or city in which said company is located, if it is a company of this state, or in**

8 some newspaper published in the city of St. Louis, if it is a company of another
9 state or government, at least twice a week for six weeks.

10 2. After such publication he shall deliver up and transfer to said company
11 the securities held by him and belonging to the company; but before making such
12 transfer, the director shall be satisfied, by an examination of the books and
13 papers of such company, to be made by himself or some competent person to be
14 appointed by him, or by the oath of the acting president and secretary or
15 assistant secretary of said company if it be a company organized under the laws
16 of this state, that all debts and liabilities of every kind that are due, or may
17 become due, upon all contracts or agreements made with the policyholders in said
18 company, or in any company reinsured by said company, if the deposit is that of
19 a reinsured company and is held for the security of the policyholders of said
20 reinsured company under sections 375.010 to 375.920, are released, satisfied or
21 extinguished; or if it be a company not organized under the laws of this state,
22 that all debts and liabilities of every kind, whether fixed or contingent, due or
23 that may become due to this state or to any county or municipality or citizen
24 thereof, are released, satisfied or extinguished; and the said director may, from
25 time to time, authorize the delivery in the manner aforesaid, to such company or
26 its assigns, of any portion of such securities, on being satisfied in the manner and
27 form aforesaid, that all debts and liabilities of every kind as aforesaid are less
28 than one-half the amount of the said securities which are retained.

375.532. 1. The capital, reserve and surplus of a domestic insurer may
2 be invested in bonds, notes or other evidences of indebtedness, or preferred or
3 guaranteed stocks or shares, issued, assumed or guaranteed by an institution
4 organized under the laws of the United States, any state, territory or possession
5 of the United States, or the District of Columbia, if such bonds, notes or other
6 evidences of indebtedness, or preferred or guaranteed stocks or shares, shall carry
7 at least the second highest designation or quality rating conferred by the
8 Securities Valuation Office of the National Association of Insurance
9 Commissioners, or some similar or equivalent rating by a nationally recognized
10 rating agency which has been approved by the director.

11 2. As used in this section, the term "institution" means a corporation, a
12 joint stock company, an association, a trust, a business partnership, a business
13 joint venture or similar entity.

14 **3. This section shall not apply to an insurer organized under**
15 **chapter 376, RSMo.**

375.534. 1. In addition to other foreign investments permitted by Missouri law for the type or kind of insurance company involved, the capital, reserves and surplus of all insurance companies of whatever kind and character organized under the laws of this state, having admitted assets of not less than one hundred million dollars, may be invested in securities, investments and deposits issued, guaranteed or assumed by a foreign government or foreign corporation, or located in a foreign country, whether denominated in United States dollars or in foreign currency, subject to the following conditions:

(1) Such securities, investments and deposits shall be of substantially the same kind, class and quality of like United States investments eligible for investment by an insurance company under Missouri law;

(2) An insurance company shall not invest or deposit in the aggregate more than five percent of its admitted assets under this section, except that an insurance company may reinvest or redeposit any income or profits generated by investments permitted under this section; and

(3) Such securities, investments and deposits shall be aggregated with United States investments of the same class in determining compliance with percentage limitations imposed under Missouri law for investments in that class for the type or kind of insurance company involved.

2. This section shall not apply to an insurer organized under chapter 376, RSMo.

375.720. 1. Whenever, by chapter 375, or by any other law of this state, the director is authorized or required to take possession of any of the general assets of any insurer, **it is unlawful for** any person or company [who shall] to knowingly neglect or refuse to deliver to the director, on [his] order or demand **of the director**, any books, papers, evidences of title or debt, or any property belonging to any such insurer in its, his or their possession, or under his, its or their control[, shall be guilty of a class C felony].

2. If the director determines that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, the director may issue such administrative orders as authorized under section 374.046, RSMo. A

16 violation of this section is a level three violation under section 374.049,
17 RSMo. The director may also suspend or revoke the license or
18 certificate of authority of such person for any willful violation.

19 3. If the director believes that a person has engaged, is engaging
20 in, or has taken a substantial step toward engaging in an act, practice
21 or course of business constituting a violation of this section or a rule
22 adopted or order issued pursuant thereto, or that a person has
23 materially aided or is materially aiding an act, practice, omission, or
24 course of business constituting a violation of this section or a rule
25 adopted or order issued pursuant thereto, the director may maintain
26 a civil action for relief authorized under section 374.048, RSMo. A
27 violation of this section is a level three violation under section 374.049,
28 RSMo.

29 4. Any person who knowingly engages in any act, practice,
30 omission, or course of business in violation of this section is guilty of
31 a class C felony. If the offender holds a license or certificate of
32 authority under the insurance laws of this state, the court imposing
33 sentence shall order the director to revoke such license.

34 5. The director may refer such evidence as is available
35 concerning violations of this section to the proper prosecuting
36 attorney, who with or without a criminal reference, or the attorney
37 general under section 27.030, RSMo, may institute the appropriate
38 criminal proceedings.

39 6. Nothing in this section shall limit the power of the state to
40 punish any person for any conduct that constitutes a crime under any
41 other state statute.

375.777. 1. The director shall:

2 (1) Notify the association of the existence of an insolvent insurer not later
3 than three days after he receives notice of the determination of the insolvency;

4 (2) Upon request of the board of directors, provide the association with a
5 statement of the net direct written premiums of each member insurer; and

6 (3) Notify the agents of the insolvent insurer of the determination of
7 insolvency and of the insureds' rights under sections 375.771 to 375.779. Such
8 notification shall be by first class mail at their last known address, where
9 available, but if sufficient information for notification by mail is not available,
10 notice by publication in a newspaper of general circulation shall be sufficient.

11 2. The director may[:

12 (1)] require each agent of the insolvent insurer to give prompt written
13 notice, by first class mail, at the insured's last known address, to each insured of
14 the insolvent insurer for whom he was agent of record, provided the agent has
15 received the notification of subsection 1 of this section[; and

16 (2) Suspend or revoke, after notice and hearing, the certificate of authority
17 to transact insurance in this state of].

18 **3. It is unlawful for** any member insurer [which fails] **to fail** to pay an
19 assessment when due or [fails] **fail** to comply with the plan of operation. [As an
20 alternative, the director may levy an administrative penalty on any member
21 insurer which fails to pay an assessment when due. Such administrative penalty
22 shall not exceed five percent of the unpaid assessment per month, except that no
23 administrative penalty shall be less than one hundred dollars per month.

24 **3. Any final action or order of the director under this section shall be**
25 **subject to judicial review in the circuit court of Cole County] Every day in**
26 **which the member insurer fails to pay is a separate violation.**

27 **4. If the director determines that a person has engaged, is**
28 **engaging in, or has taken a substantial step toward engaging in an act,**
29 **practice or course of business constituting a violation of this section or**
30 **a rule adopted or order issued pursuant thereto, or that a person has**
31 **materially aided or is materially aiding an act, practice, omission, or**
32 **course of business constituting a violation of this section or a rule**
33 **adopted or order issued pursuant thereto, the director may issue such**
34 **administrative orders as authorized under section 374.046, RSMo. A**
35 **violation of this section is a level two violation under section 374.049,**
36 **RSMo. The director may also suspend or revoke the license or**
37 **certificate of authority of such person for any willful violation.**

38 **5. If the director believes that a person has engaged, is engaging**
39 **in, or has taken a substantial step toward engaging in an act, practice**
40 **or course of business constituting a violation of this section or a rule**
41 **adopted or order issued pursuant thereto, or that a person has**
42 **materially aided or is materially aiding an act, practice, omission, or**
43 **course of business constituting a violation of this section or a rule**
44 **adopted or order issued pursuant thereto, the director may maintain**
45 **a civil action for relief authorized under section 374.048, RSMo. A**
46 **violation of this section is a level two violation under section 374.049,**
47 **RSMo.**

375.780. [Every violation of] 1. **A person commits a crime if he or**
2 **she willfully violates** any of the provisions of [sections 375.010 to 375.920] **this**
3 **chapter. If** not otherwise specifically provided for [shall be deemed a
4 misdemeanor, and shall subject the individual, association of individuals or
5 corporation violating the same to a penalty of not less than fifty nor more than
6 five hundred dollars for each offense; such penalty may be recovered and sued for
7 against corporations or associations in the manner provided and by any of the
8 officers designated in section 375.310, and against individuals by civil action, by
9 information or by indictment, and an attorney's fee of twenty-five dollars shall be
10 taxed as costs against the defendant, as in said section; all fines and penalties
11 recovered under sections 375.010 to 375.920 shall be turned into the school fund,
12 as provided by law for other fines and penalties] , **the crime is a class B**
13 **misdemeanor.**

14 **2. The director may refer such evidence as is available**
15 **concerning violations of this section to the proper prosecuting**
16 **attorney, who with or without a criminal reference, or the attorney**
17 **general under section 27.030, RSMo, may institute the appropriate**
18 **criminal proceedings.**

19 **3. Nothing in this section shall limit the power of the state to**
20 **punish any person for any conduct that constitutes a crime under any**
21 **other state statute.**

375.786. 1. It [shall be] is unlawful for any insurance company to
2 transact insurance business in this state, as set forth in subsection 2, without a
3 certificate of authority from the director; provided, however, that this section
4 shall not apply to:

- 5 (1) The lawful transaction of insurance as provided in chapter 384, RSMo;
- 6 (2) The lawful transaction of reinsurance by insurance companies;
- 7 (3) Transactions in this state involving a policy lawfully solicited, written
8 and delivered outside of this state covering only subjects of insurance not
9 resident, located or expressly to be performed in this state at the time of issuance,
10 and which transactions are subsequent to the issuance of such policy;
- 11 (4) Attorneys acting in the ordinary relation of attorney and client in the
12 adjustment of claims or losses;
- 13 (5) Transactions in this state involving group life and group sickness and
14 accident or blanket sickness and accident insurance or group annuities where the
15 master policy of such groups was lawfully issued and delivered in and pursuant

16 to the laws of a state in which the insurance company was authorized to do an
17 insurance business, to a group organized for purposes other than the procurement
18 of insurance, and where the policyholder is domiciled or otherwise has a bona fide
19 situs;

20 (6) Transactions in this state involving any policy of insurance or annuity
21 contract issued prior to August 13, 1972;

22 (7) Transactions in this state relative to a policy issued or to be issued
23 outside this state involving insurance on vessels, craft or hulls, cargoes, marine
24 builder's risk, marine protection and indemnity or other risk, including strikes
25 and war risks commonly insured under ocean or wet marine forms of policy;

26 (8) Except as provided in chapter 384, RSMo, transactions in this state
27 involving contracts of insurance issued to one or more industrial insureds;
28 provided that nothing herein shall relieve an industrial insured from taxation
29 imposed upon independently procured insurance. An "industrial insured" is
30 hereby defined as an insured:

31 (a) Which procures the insurance of any risk or risks other than life,
32 health and annuity contracts by use of the services of a full-time employee acting
33 as an insurance manager or buyer or the services of [a regularly and continuously
34 retained qualified insurance consultant] **an insurance producer whose**
35 **services are wholly compensated by such insured and not by the**
36 **insurer;**

37 (b) Whose aggregate annual premiums for insurance excluding workers'
38 compensation insurance premiums total at least [twenty-five] **one hundred**
39 thousand dollars; and

40 (c) Which has at least twenty-five full-time employees;

41 (9) Transactions in this state involving life insurance, health insurance
42 or annuities provided to educational or religious or charitable institutions
43 organized and operated without profit to any private shareholder or individual
44 for the benefit of such institutions and individuals engaged in the service of such
45 institutions, provided that any company issuing such contracts under this
46 paragraph shall:

47 (a) File a copy of any policy or contract issued to Missouri residents with
48 the director;

49 (b) File a copy of its annual statement prepared pursuant to the laws of
50 its state of domicile, as well as such other financial material as may be requested,
51 with the director; and

52 (c) Provide, in such form as may be acceptable to the director, for the
53 appointment of the director as its true and lawful attorney upon whom may be
54 served all lawful process in any action or proceeding against such company
55 arising out of any policy or contract it has issued to, or which is currently held
56 by, a Missouri citizen, and process so served against such company shall have the
57 same form and validity as if served upon the company;

58 (10) Transactions in this state involving accident, health, personal effects,
59 liability or any other travel or auto-related products or coverages provided or sold
60 by a rental company after January 1, 1994, to a renter in connection with and
61 incidental to the rental of motor vehicles.

62 2. Any of the following acts in this state effected by mail or otherwise by
63 or on behalf of an unauthorized insurance company is deemed to constitute the
64 transaction of an insurance business in this state: (The venue of an act
65 committed by mail is at the point where the matter transmitted by mail is
66 delivered and takes effect. Unless otherwise indicated, the term "insurance
67 company" as used in sections 375.786 to 375.790 includes all corporations,
68 associations, partnerships and individuals engaged as principals in the business
69 of insurance and also includes interinsurance exchanges and mutual benefit
70 societies.)

71 (1) The making of or proposing to make an insurance contract;

72 (2) The making of or proposing to make, as guarantor or surety, any
73 contract of guaranty or suretyship as a vocation and not merely incidental to any
74 other legitimate business or activity of the guarantor or surety;

75 (3) The taking or receiving of any application for insurance;

76 (4) The receiving or collection of any premium, commission, membership
77 fees, assessments, dues or other consideration for any insurance or any part
78 thereof;

79 (5) The issuance or delivery of contracts of insurance to residents of this
80 state or to persons authorized to do business in this state;

81 (6) Directly or indirectly acting as an agent for or otherwise representing
82 or aiding on behalf of another any person or insurance company in the
83 solicitation, negotiation, procurement or effectuation of insurance or renewals
84 thereof or in the dissemination of information as to coverage or rates, or
85 forwarding of applications, or delivery of policies or contracts, or inspection of
86 risks, a fixing of rates or investigation or adjustment of claims or losses or in the
87 transaction of matters subsequent to effectuation of the contract and arising out

88 of it, or in any other manner representing or assisting a person or insurance
89 company in the transaction of insurance with respect to subjects of insurance
90 resident, located or to be performed in this state. The provisions of this
91 subsection shall not operate to prohibit full-time salaried employees of a corporate
92 insured from acting in the capacity of an insurance manager or buyer in placing
93 insurance in behalf of such employer;

94 (7) The transaction of any kind of insurance business specifically
95 recognized as transacting an insurance business within the meaning of the
96 statutes relating to insurance;

97 (8) The transacting or proposing to transact any insurance business in
98 substance equivalent to any of the foregoing in a manner designed to evade the
99 provisions of the statutes.

100 3. (1) The failure of an insurance company transacting insurance
101 business in this state to obtain a certificate of authority shall not impair the
102 validity of any act or contract of such insurance company and shall not prevent
103 such insurance company from defending any action at law or suit in equity in any
104 court of this state, but no insurance company transacting insurance business in
105 this state without a certificate of authority shall be permitted to maintain an
106 action in any court of this state to enforce any right, claim or demand arising out
107 of the transaction of such business until such insurance company shall have
108 obtained a certificate of authority.

109 (2) In the event of failure of any such unauthorized insurance company
110 to pay any claim or loss within the provisions of such insurance contract, any
111 person who assisted or in any manner aided directly or indirectly in the
112 procurement of such insurance contract shall be liable to the insured for the full
113 amount of the claim or loss in the manner provided by the provisions of such
114 insurance contract.

115 **4. If the director determines that a person has engaged, is**
116 **engaging in, or has taken a substantial step toward engaging in an act,**
117 **practice or course of business constituting a violation of this section or**
118 **a rule adopted or order issued pursuant thereto, or that a person has**
119 **materially aided or is materially aiding an act, practice, omission, or**
120 **course of business constituting a violation of this section or a rule**
121 **adopted or order issued pursuant thereto, the director may issue such**
122 **administrative orders as authorized under section 374.046, RSMo. A**
123 **violation of this section is a level four violation under section 374.049,**

124 **RSMo.**

125 **5. If the director believes that a person has engaged, is engaging**
126 **in, or has taken a substantial step toward engaging in an act, practice**
127 **or course of business constituting a violation of this section or a rule**
128 **adopted or order issued pursuant thereto, or that a person has**
129 **materially aided or is materially aiding an act, practice, omission, or**
130 **course of business constituting a violation of this section or a rule**
131 **adopted or order issued pursuant thereto, the director may maintain**
132 **a civil action for relief authorized under section 374.048, RSMo. A**
133 **violation of this section is a level four violation under section 374.049,**
134 **RSMo.**

135 **6.** Any person who transacts insurance business without a certificate of
136 authority, as provided in this section, is guilty of a class C felony.

137 **7. The director may refer such evidence as is available**
138 **concerning violations of this chapter to the proper prosecuting**
139 **attorney, who with or without a criminal reference, or the attorney**
140 **general under section 27.030, RSMo, may institute the appropriate**
141 **criminal proceedings.**

142 **8. Nothing in this section shall limit the power of the state to**
143 **punish any person for any conduct that constitutes a crime in any other**
144 **state statute.**

375.881. [1.] The director may revoke or suspend the certificate of
2 authority of a foreign insurance company [or may by order require the insurance
3 company to pay to the people of the state of Missouri a penalty in a sum not
4 exceeding five hundred dollars and upon failure of the insurance company to pay
5 the penalty within twenty days after the mailing of the order, postage prepaid,
6 certified, and addressed to the last known place of business of the insurance
7 company, unless the order is stayed by an order of a court of competent
8 jurisdiction, the director of insurance may revoke or suspend the license of the
9 insurance company for any period of time] **under section 374.047, RSMo, or**
10 **issue such administrative orders as appropriate under section 374.046,**
11 **RSMo, whenever he finds that the company**

12 (1) Is insolvent;

13 (2) Fails to comply with the requirements for admission in respect to
14 capital, the investment of its assets or the maintenance of deposits in this or
15 other state or fails to maintain the surplus which similar domestic companies

16 transacting the same kinds of business are required to maintain;

17 (3) Is in such a financial condition that its further transaction of business
18 in this state would be hazardous to policyholders and creditors in this state and
19 to the public;

20 (4) Has refused or neglected to pay a valid final judgment against the
21 company within thirty days after the rendition of the judgment;

22 (5) Has refused to submit to the jurisdiction of a court of this state upon
23 the grounds of diversity of citizenship in a cause of action arising out of business
24 transacted, acts done, or contracts made in this state by the foreign insurance
25 company;

26 (6) Has violated any law of this state or has in this state violated its
27 charter or exceeded its corporate powers;

28 (7) Has refused to submit its books, papers, accounts, records, or affairs
29 to the reasonable inspection or examination of the director, his actuaries,
30 deputies or examiners;

31 (8) Has an officer who has refused upon reasonable demand to be
32 examined under oath touching its affairs;

33 (9) Fails to file its annual statement within thirty days after the date
34 when it is required by law to file the statement;

35 (10) Fails to file with the director a copy of an amendment to its charter
36 or articles of association within thirty days after the effective date of the
37 amendment;

38 (11) Fails to file with the director copies of the agreement and certificate
39 of merger and the financial statements of the merged companies, if required,
40 within thirty days after the effective date of the merger;

41 (12) Fails to pay any fees, taxes or charges prescribed by the laws of this
42 state within thirty days after they are due and payable; provided, however, that
43 in case of objection or legal contest the company shall not be required to pay the
44 tax until thirty days after final disposition of the objection or legal contest;

45 (13) Fails to file any report for the purpose of enabling the director to
46 compute the taxes to be paid by the company within thirty days after the date
47 when it is required by law to file the report;

48 (14) Has had its corporate existence dissolved or its certificate of authority
49 revoked in the state or country in which it was organized;

50 (15) Has had all its risks reinsured in their entirety in another company;

51 or

52 (16) Has ceased to transact the business of insurance in this state for a
53 period of one year.

54 [2. The director shall not revoke or suspend the certificate of authority of
55 a foreign insurance company until he has given the company at least twenty days'
56 notice of the revocation or suspension and of the grounds therefor and has
57 afforded the company an opportunity for a hearing.]

375.940. [1.] Whenever the director shall have reason to believe that any
2 person or insurer has been engaged or is engaging in this state in any unfair
3 method of competition or any unfair or deceptive act or practice **in violation of**
4 **sections 375.930 to 375.948**, and that a proceeding by [him] **the director** in
5 respect thereto would be to the interest of the public, [he] **the director** shall
6 issue and serve upon such person or insurer a statement of the charges [in that
7 respect and a notice of hearing thereon to be held at a time and place fixed in the
8 notice which shall not be less than twenty days after the date of service thereof.

9 2. At the time and place fixed for such hearing, such person or insurer
10 shall have an opportunity to be heard to show cause why an order should not be
11 made by the director requiring such person or insurer to cease and desist from
12 the acts, methods or practices so complained of. Upon good cause shown, the
13 director shall permit any person to intervene, appear and be heard at such
14 hearing by counsel or in person. Nothing herein shall preclude the informal
15 disposition of any case by stipulation, consent order, or default, or by agreed
16 settlement where such settlement is in conformity with law.

17 3. Nothing contained in sections 375.930 to 375.948 shall require the
18 observance at any such hearing of formal rules of pleading or evidence.

19 4. Upon such hearing, the director shall have power to examine and
20 cross-examine witnesses, receive oral and documentary evidence, administer
21 oaths, subpoena witnesses and compel their attendance, and require the
22 production of books, papers, records, correspondence and all other written
23 instruments or documents which he deems relevant to the inquiry. The director,
24 upon any such hearing, shall cause to be made a record of all the evidence and
25 all the proceedings had at such hearing. In case of a refusal of any person to
26 comply with any subpoena issued hereunder or to testify with respect to any
27 matter concerning which he may be lawfully interrogated, the circuit court of Cole
28 County or the county where such party resides, or may be found, on application
29 of the director, may issue an order requiring such person to comply with such
30 subpoena and to testify; and any failure to obey any such order of the court may

31 be punished by the court as a contempt thereof.

32 5. Statements of charges, notices, orders, and other processes of the
33 director under sections 375.930 to 375.948 may be served by anyone duly
34 authorized by the director either in the manner provided by law for service of
35 process in civil actions, or by registering or certifying and mailing a copy thereof
36 to the person affected by such statement, notice, order, or other process at his or
37 its residence or principal office or place of business. The verified return by the
38 person so serving such statement, notice, order or other process, setting forth the
39 manner of such service, shall be proof of the same, and the return postcard
40 receipt for such statement, notice, order or other process, registered and mailed
41 as aforesaid, shall be proof of the service of the same] **under the procedures**
42 **set forth in section 374.046, RSMo.**

375.942. 1. [If, after such hearing, the director determines that the
2 person charged has engaged in an unfair method of competition or in an unfair
3 or deceptive act or practice prohibited by section 375.934 or 375.937, he shall
4 reduce his findings to writing and shall issue and cause to be served upon the
5 person charged with the violation a copy of such findings and an order requiring
6 such person to cease and desist from engaging in such method of competition, act
7 or practice, and thereafter the director may, at his discretion, order one or more
8 of the following:

9 (1) Payment of a monetary penalty of not more than one thousand dollars
10 for each violation but not to exceed an aggregate penalty of one hundred thousand
11 dollars in any twelve-month period unless the violation was committed flagrantly
12 and in conscious disregard of section 375.934 or 375.937, in which case the
13 penalty shall be not more than twenty-five thousand dollars for each violation but
14 not to exceed an aggregate penalty of two hundred fifty thousand dollars in any
15 twelve-month period;

16 (2) Suspension or revocation of the insurer's license if such insurer knew
17 or reasonably should have known it was in violation of section 375.934 or 375.937.

18 2. Until the expiration of the time allowed under section 375.944 for filing
19 a petition for judicial review, if no such petition has been duly filed within such
20 time or, if a petition for review has been filed within such time, then until the
21 transcript of the record in the proceeding has been filed in the circuit court of
22 Cole County, the director may at any time, upon such notice and in such manner
23 as he shall deem proper, modify or set aside in whole or in part any order issued
24 by him under this section.

25 3. After the expiration of the time allowed for filing such a petition for
26 review, if no such petition has been duly filed within such time, the director may
27 at any time, after notice and opportunity for hearing, reopen and alter, modify or
28 set aside, in whole or in part, any order issued by him under this section,
29 whenever in his opinion conditions of fact or of law have so changed as to require
30 such action or if the public interest shall so require.

31 4. Nothing contained in sections 375.930 to 375.948 shall be construed to
32 prohibit the director and the person from agreeing to a voluntary forfeiture with
33 or without proceedings being instituted. Any sum so agreed upon shall be paid
34 into the school fund as provided by law for other fines and penalties] **If the**
35 **director determines that an insurer has engaged, is engaging, or has**
36 **taken a substantial step toward engaging in an act, practice, or course**
37 **of business constituting a violation of sections 375.930 to 375.948 or a**
38 **rule adopted or order issued pursuant thereto, or that a person has**
39 **materially aided or is materially aiding a practice constituting a**
40 **violation of sections 375.930 to 375.948 or a rule adopted or order issued**
41 **pursuant thereto, the director may issue such administrative orders as**
42 **authorized under section 374.046, RSMo. Each practice in violation of**
43 **section 375.934 is a level two violation under section 374.049,**
44 **RSMo. Each act as part of a trade practice does not constitute a**
45 **separate violation under section 374.049, RSMo. The director may also**
46 **suspend or revoke the license or certificate of authority of an insurer**
47 **for any willful violation.**

48 2. If the director believes that an insurer has engaged, is
49 engaging in, or has taken a substantial step toward engaging in an act,
50 practice or course of business constituting a violation of sections
51 375.930 to 375.948 or a rule adopted or order issued pursuant thereto,
52 or that a person has materially aided or is materially aiding an act,
53 practice, omission, or course of business conduct constituting a
54 violation of sections 375.930 to 375.948 or a rule adopted or order issued
55 pursuant thereto, the director may maintain a civil action for relief
56 authorized under section 374.048, RSMo. Each practice in violation of
57 section 375.934 is a level two violation under section 374.049,
58 RSMo. Each act as part of a trade practice does not constitute a
59 separate violation under section 374.049, RSMo.

 375.946. [Any person who violates] **It is unlawful for any person to**
2 **violate any provision of a cease and desist order of the director under section**

3 375.942[, while such order is in effect, may, after notice and hearing, and upon
4 order of the director, be subject to either or both of the following:

5 (1) A monetary penalty of not more than twenty-five thousand dollars for
6 each and every act or violation not to exceed an aggregate amount of two hundred
7 fifty thousand dollars pursuant to any such hearing; or

8 (2) Suspension or revocation of such person's license or certificate of
9 authority]. **The director may institute an action under sections 374.046
10 and 374.047, RSMo, as necessary to enforce any such order.**

375.994. 1. Department investigators shall have the power to serve
2 subpoenas issued for the examination, investigation, and trial of all offenses
3 determined by their investigations.

4 2. It is unlawful for any person to interfere, either by abetting or assisting
5 such resistance or otherwise interfering, with department investigators in the
6 duties imposed upon them by law or department rule.

7 3. Any moneys, or other property which is awarded to the department as
8 costs of investigation, or as a fine, shall be credited to the [department of]
9 insurance dedicated fund created by section 374.150, RSMo.

10 4. **If the director determines that a person has engaged, is**
11 **engaging in, or has taken a substantial step toward engaging in an act,**
12 **practice or course of business constituting a violation of section 375.991**
13 **or a rule adopted or order issued pursuant thereto, or that a person has**
14 **materially aided or is materially aiding an act, practice, omission, or**
15 **course of business constituting a violation of section 375.991 or a rule**
16 **adopted or order issued pursuant thereto, the director may issue such**
17 **administrative orders as authorized under section 374.046, RSMo. A**
18 **violation of any of these sections is a level two violation under section**
19 **374.049, RSMo. The director may also suspend or revoke the license or**
20 **certificate of authority of such person for any willful violation.**

21 5. **If the director believes that a person has engaged, is engaging**
22 **in, or has taken a substantial step toward engaging in an act, practice**
23 **or course of business constituting a violation of section 375.991 or a**
24 **rule adopted or order issued pursuant thereto, or that a person has**
25 **materially aided or is materially aiding an act, practice, omission, or**
26 **course of business constituting a violation of section 375.991 or a rule**
27 **adopted or order issued pursuant thereto, the director may maintain**
28 **a civil action for relief authorized under section 374.048, RSMo. A**

29 **violation of any of these sections is a level two violation under section**
30 **374.049, RSMo.**

31 **6.** Nothing in this section shall be construed as prohibiting the
32 department of insurance from regulating unfair or fraudulent trade practices as
33 provided for in sections 375.930 to 375.948.

34 [5. In the event] **7.** If the director determines that a person regulated
35 under this chapter has conducted its business fraudulently with respect to
36 sections 375.991 to 375.994, or has as a matter of business practice abused its
37 rights under said sections, such conduct shall [be considered] **constitute** either
38 an unfair trade practice under the provisions of sections 375.930 to 375.948 or an
39 unfair claims settlement practice under the provisions of sections 375.1000 to
40 375.1018. [The director shall have the power and authority, pursuant to the
41 unfair trade practices act and the unfair claims settlement practices act to subject
42 such persons to the monetary penalty or suspend or revoke such person's license
43 or certificate of authority, under such acts.]

375.1010. 1. [Whenever the director shall have reason to believe that any
2 insurer has been engaged or is engaging in this state in any improper claims
3 practice, and that a proceeding by him in respect thereto would be to the interest
4 of the public, he shall issue and serve upon such person or insurer a statement
5 of the charges in that respect and a notice of hearing thereon to be held at a time
6 and place fixed in the notice which shall not be less than twenty days after the
7 date of service thereof.

8 2. At the time and place fixed for such hearing, such insurer shall have
9 an opportunity to be heard to show cause why an order should not be made by the
10 director requiring such insurer to cease and desist from the acts, methods or
11 practices so complained of. Upon good cause shown, the director shall permit any
12 person to intervene, appear and be heard at such hearing by counsel or in
13 person. Nothing in sections 375.1000 to 375.1018 shall preclude the informal
14 disposition of any case by stipulation, consent order, or default, or by agreed
15 settlement where such settlement is in conformity with law.

16 3. Nothing contained in sections 375.1000 to 375.1018 shall require the
17 observance at any such hearing of formal rules of pleading or evidence.

18 4. Upon such hearing, the director may examine and cross-examine
19 witnesses, receive oral and documentary evidence, administer oaths, subpoena
20 witnesses and compel their attendance, and require the production of books,
21 papers, records, correspondence and all other written instruments or documents

22 which he deems relevant to the inquiry. The director, upon any such hearing,
23 shall cause to be made a record of all the evidence and all the proceedings had
24 at such hearing. In case of a refusal of any person to comply with any subpoena
25 issued hereunder or to testify with respect to any matter concerning which he
26 may be lawfully interrogated, the circuit court of Cole County or the county where
27 such party resides, or may be found, on application of the director, may issue an
28 order requiring such person to comply with such subpoena and to testify; and any
29 failure to obey any such order of the court may be punished by the court as a
30 contempt thereof.

31 5. Statements of charges, notices, orders, and other processes of the
32 director under sections 375.1000 to 375.1018 may be served by anyone duly
33 authorized by the director either in the manner provided by law for service of
34 process in civil actions, or by registering or certifying and mailing a copy thereof
35 to the person affected by such statement, notice, order, or other process at his or
36 its residence or principal office or place of business. The verified return by the
37 person so serving such statement, notice, order or other process, setting forth the
38 manner of such service, shall be proof of the same, and the return postcard
39 receipt for such statement, notice, order or other process, registered and mailed
40 as aforesaid, shall be proof of the service of the same] **If the director**
41 **determines that a person has engaged, is engaging in, or has taken a**
42 **substantial step toward engaging in an act, practice or course of**
43 **business constituting a violation of sections 375.1000 to 375.1018 or a**
44 **rule adopted or order issued pursuant thereto, or that a person has**
45 **materially aided or is materially aiding an act, practice, omission, or**
46 **course of business constituting a violation of sections 375.1000 to**
47 **375.1018 or a rule adopted or order issued pursuant thereto, the**
48 **director may issue such administrative orders as authorized under**
49 **section 374.046, RSMo. Each practice in violation of section 375.1005 is**
50 **a level two violation under section 374.049, RSMo. Each act as part of**
51 **a claims settlement practice does not constitute a separate violation**
52 **under section 374.049, RSMo. The director may also suspend or revoke**
53 **the license or certificate of authority of an insurer for any willful**
54 **violation.**

55 2. **If the director believes that an insurer has engaged, is**
56 **engaging in, or has taken a substantial step toward engaging in an act,**
57 **practice or course of business constituting a violation of sections**

58 **375.1000 to 375.1018 or a rule adopted or order issued pursuant thereto,**
59 **or that a person has materially aided or is materially aiding an act,**
60 **practice, omission, or course of business constituting a violation of**
61 **sections 375.1000 to 375.1018 or a rule adopted or order issued pursuant**
62 **thereto, the director may maintain a civil action for relief authorized**
63 **under section 374.048, RSMo. Each practice in violation of section**
64 **375.1005 is a level two violation under section 374.049, RSMo. Each act**
65 **as part of a claims settlement practice does not constitute a separate**
66 **violation under section 374.049, RSMo.**

375.1014. 1. [Any person, including any person who has been permitted
2 to intervene, who is aggrieved by a final order or decision of the director shall be
3 entitled to judicial review thereof.

4 2. The court shall make and enter upon the pleadings evidence and
5 proceedings set forth in the transcript a degree modifying, affirming or reversing
6 the order of the director, in whole or in part. To the extent that the order of the
7 director is affirmed, the court shall thereupon issue its own order commanding
8 obedience to the terms of such order of the director. If either party shall apply
9 to the court for leave to adduce additional evidence, and shall show to the
10 satisfaction of the court that such additional evidence is material and that there
11 were reasonable grounds for the failure to adduce such evidence in the proceeding
12 before the director, the court may order such additional evidence to be taken
13 before the director and to be adduced upon the hearing in such manner and upon
14 such terms and conditions as the court may deem proper. The director may
15 modify his findings of fact, or make new findings by reason of the additional
16 evidence so taken, and he shall file such modified or new findings which are
17 supported by evidence on the record and his recommendation, if any, for the
18 modification or setting aside of his original order, with the return of such
19 additional evidence.

20 3. An order issued by the director under section 375.1012 shall become
21 final:

22 (1) Upon the expiration of the time allowed for filing a petition for review
23 if no such petition has been duly filed within such time; except that the director
24 may thereafter modify or set aside his order to the extent provided in subsection
25 2 of section 375.1012; or

26 (2) Upon the final decision of the court if the court directs that the order
27 of the director be affirmed or the petition for review dismissed.

28 4.] **A final order issued by the director under sections 375.1000**
29 **to 375.1018 is subject to judicial review in accordance with the**
30 **provisions of chapter 536, RSMo, in the circuit court of Cole County.**

31 2. No order of the director under section 375.942 or order of a court to
32 enforce the same shall in any way relieve or absolve any person affected by such
33 order from any liability under any other laws of this state.

 375.1016. [Any person who violates] **It is unlawful for any person to**
2 **violate any provision of** a cease and desist order of the director under section
3 375.1012, [while such order is in effect, may, after notice and hearing, and upon
4 order of the director, be subject to either or both of the following:

5 (1) A monetary penalty of not more than twenty-five thousand dollars for
6 each and every act or violation not to exceed an aggregate amount of two hundred
7 fifty thousand dollars pursuant to any such hearing; or

8 (2) Suspension or revocation of such person's license or certificate of
9 authority] **and the director may institute an action under sections**
10 **374.046 and 374.047, RSMo, as necessary to enforce any such order.**

 375.1070. 1. Sections 375.1070 to 375.1075 may be cited as the
2 "Investments in Medium and Lower Quality Obligations Law".

3 2. **Sections 375.1070 to 375.1075 shall not apply to an insurer**
4 **organized under chapter 376, RSMo.**

 375.1072. As used in sections 375.1070 to 375.1075, the following terms
2 mean:

3 (1) "Admitted assets", the amount thereof as of the last day of the most
4 recently concluded annual statement year, computed in the same manner as
5 admitted assets in [sections 376.300 to 376.309, RSMo, for life insurers and]
6 section 379.080, RSMo, for insurers other than life;

7 (2) "Aggregate amount of medium to lower quality obligations", the
8 aggregate statutory statement value thereof;

9 (3) "Institution", a corporation, a joint-stock company, an association, a
10 trust, a business partnership, a business joint venture or similar entity;

11 (4) "Medium to lower quality obligations", obligations which are rated
12 three, four, five and six by the Securities Valuation Office of the National
13 Association of Insurance Commissioners.

 375.1075. 1. No domestic insurer shall acquire, directly or indirectly, any
2 medium or lower quality obligation of any institution if, after giving effect to any
3 such acquisition, the aggregate amount of all medium and lower quality

4 obligations then held by the domestic insurer would exceed twenty percent of its
5 admitted assets, and no more than ten percent of its admitted assets consists of
6 obligations rated four, five or six by the Securities Valuation Office, and no more
7 than three percent of its admitted assets consists of obligations rated five or six
8 by the Securities Valuation Office, and no more than one percent of its admitted
9 assets consists of obligations rated six by the Securities Valuation
10 Office. Attaining or exceeding the limit of any one category shall not preclude an
11 insurer from acquiring obligations in other categories subject to the specific and
12 multicategory limits.

13 2. The provisions of this section shall not prohibit a domestic insurer from
14 acquiring any obligations which it has committed to acquire if the insurer would
15 have been permitted to acquire that obligation pursuant to this section on the
16 date on which such insurer committed to purchase that obligation.

17 3. Notwithstanding the other provisions of this section, a domestic insurer
18 may acquire an obligation of an institution in which the insurer already has one
19 or more obligations, if the obligation is acquired in order to protect an investment
20 previously made in the obligations of the institution, provided that all such
21 acquired obligations shall not exceed one-half of one percent of the insurer's
22 admitted assets.

23 4. The board of directors of any domestic insurance company which
24 acquires or invests in, directly or indirectly, medium or lower quality obligations
25 of any institution shall adopt a written plan for the making of such
26 investments. The plan, in addition to guidelines with respect to the quality of the
27 obligations invested in, shall contain diversification standards including, but not
28 limited to, standards for issuer, industry, duration, liquidity and geographic
29 location.

30 5. No investments in excess of the limitations provided by this act shall
31 be recognized as an asset of the insurer pursuant to [section 376.307, RSMo, and]
32 section 379.080, RSMo.

375.1135. 1. [A reinsurance intermediary, insurer or reinsurer found by
2 the director, after a hearing conducted in accordance with chapter 536, RSMo, to
3 be in violation of any provisions of sections 375.1110 to 375.1140, shall:

4 (1) For each separate violation, pay a penalty in an amount not exceeding
5 five thousand dollars;

6 (2) Be subject to revocation or suspension of its license; and

7 (3) **If the director determines that a reinsurance intermediary,**

8 insurer, or reinsurer has engaged, is engaging in, or has taken a
9 substantial step toward engaging in an act, practice or course of
10 business constituting a violation of sections 375.1110 to 375.1140 or a
11 rule adopted or order issued pursuant thereto, or that a person has
12 materially aided or is materially aiding an act, practice, omission, or
13 course of business constituting a violation of sections 375.1110 to
14 375.1140 or a rule adopted or order issued pursuant thereto, the
15 director may issue such administrative orders as authorized under
16 section 374.046, RSMo. A violation of any of these sections is a level
17 two violation under section 374.049, RSMo. The director may also
18 suspend or revoke the license or certificate of authority of a
19 reinsurance intermediary, insurer, or reinsurer for any willful
20 violation.

21 2. If the director believes that a reinsurance intermediary,
22 insurer, or reinsurer has engaged, is engaging in, or has taken a
23 substantial step toward engaging in an act, practice or course of
24 business constituting a violation of sections 375.1110 to 375.1140 or a
25 rule adopted or order issued pursuant thereto, or that a person has
26 materially aided or is materially aiding an act, practice, omission, or
27 course of business constituting a violation of sections 375.1110 to
28 375.1140 or a rule adopted or order issued pursuant thereto, the
29 director may maintain a civil action for relief authorized under section
30 374.048, RSMo. A violation of any of these sections is a level two
31 violation under section 374.049, RSMo.

32 3. In addition to any other relief authorized by sections 374.046
33 and 374.047, RSMo, if a violation was committed by the reinsurance
34 intermediary, such reinsurance intermediary shall make restitution to the
35 insurer, reinsurer, rehabilitator or liquidator of the insurer or reinsurer for the
36 net losses incurred by the insurer or reinsurer attributable to such violation.

37 [2. The decision, determination or order of the director pursuant to
38 subsection 1 of this section shall be subject to judicial review pursuant to sections
39 536.100 to 536.140, RSMo.

40 3. Nothing contained in this section shall affect the right of the director
41 to impose any other penalties provided by law.]

42 4. Nothing contained in sections 375.1110 to 375.1140 is intended to or
43 shall in any manner limit or restrict the rights of policyholders, claimants,
44 creditors or other third parties or confer any rights to such persons.

375.1156. 1. Any officer, manager, director, trustee, owner, employee or agent of any insurer, or any other persons with authority over or in charge of any segment of the insurer's affairs, shall cooperate with the director or any receiver in any proceeding under sections 375.1150 to 375.1246 or any investigation preliminary to the proceeding. The term "person" as used in this section, shall include any person who exercises control directly or indirectly over activities of the insurer through any holding company or other affiliate of the insurer. "To cooperate" shall include, but shall not be limited to, the following:

(a) To reply promptly in writing to any inquiry from the director requesting such a reply; and

(b) To make available to the director any books, accounts, documents, or other records or information or property of or pertaining to the insurer and in its possession, custody or control.

2. [No person shall] **It is unlawful for any person included in subsection 1 of this section** to obstruct or interfere with the director in the conduct of any delinquency proceeding or any investigation preliminary or incidental thereto.

3. This section shall not be construed to abridge otherwise existing legal rights, including the right to resist a petition for liquidation or other delinquency proceedings, or other orders.

4. [Any person included within subsection 1 of this section who fails to cooperate with the director, or any person who knowingly obstructs or interferes with the director in the conduct of any delinquency proceeding or any investigation preliminary or incidental thereto, or who knowingly violates any order the director issued validly under sections 375.1150 to 375.1246 shall be guilty of a class A misdemeanor, and, in addition thereto, after a hearing, shall be subject to the imposition by the director of an administrative penalty not to exceed ten thousand dollars for each occurrence or violation and shall be subject further to the revocation or suspension of any insurance licenses issued by the director. Moneys collected pursuant to the imposition of such administrative penalties shall be transferred to the state treasurer and deposited to the general revenue fund.

5.] In any proceeding under sections 375.1150 to 375.1246, the director and his deputies shall be responsible on their official bonds for the faithful performance of their duties. If the court deems it desirable for the protection of the assets, it may at any time require an additional bond from the director or his

37 deputies, and such bonds shall be paid for out of the assets of the insurer as a
38 cost of administration.

375.1160. 1. As used in this section:

2 (1) "Exceeded its powers" means one or more of the following conditions:

3 (a) The insurer has refused to permit examination of its books, papers,
4 accounts, records or affairs by the director, his deputy, employees or duly
5 commissioned examiners;

6 (b) A domestic insurer has unlawfully removed from this state or is unable
7 to produce books, papers, accounts or records necessary for an examination of the
8 insurer;

9 (c) The insurer has failed to promptly comply with the applicable financial
10 reporting statutes or rules and requests relating thereto;

11 (d) The insurer has neglected or refused to observe an order of the
12 director to make good, within the time prescribed by law, any prohibited
13 deficiency in its capital, capital stock or surplus;

14 (e) The insurer is continuing to transact insurance or write business after
15 its license has been revoked or suspended by the director;

16 (f) The insurer, by contract or otherwise, has unlawfully or has in
17 violation of an order of the director or has without first having obtained written
18 approval of the director if approval is required by law:

19 a. Totally reinsured its entire outstanding business, or

20 b. Merged or consolidated substantially its entire property or business
21 with another insurer;

22 (g) The insurer engaged in any transaction in which it is not authorized
23 to engage under the laws of this state;

24 (h) A domestic insurer has committed or engaged in, or is about to commit
25 or engage in, any act, practice or transaction that would subject it to delinquency
26 proceedings under sections 375.1150 to 375.1246; or

27 (i) The insurer refused to comply with a lawful order of the director;

28 (2) "Consent" means agreement to administrative supervision by the
29 insurer.

30 2. (1) An insurer may be subject to administrative supervision by the
31 director if upon examination or at any other time it appears in the director's
32 discretion that:

33 (a) The insurer's condition renders the continuance of its business
34 hazardous to the public or to its insureds;

35 (b) The insurer exceeded its powers granted under its certificate of
36 authority and applicable law;

37 (c) The insurer has failed to comply with the laws of this state relating to
38 insurance;

39 (d) The business of the insurer is being conducted fraudulently; or

40 (e) The insurer gives its consent.

41 (2) If the director determines that the conditions set forth in subdivision
42 (1) of this subsection exist, the director shall:

43 (a) Notify in writing the insurer of his determination;

44 (b) Furnish to the insurer a written list of his requirements to rescind his
45 determination; and

46 (c) Notify the insurer that it is under the supervision of the director and
47 that the director is applying and effectuating the provisions of this section.

48 (3) The notice of supervision under this subsection and any order issued
49 pursuant to this section shall be served upon the insurer in writing by registered
50 mail. The notice of supervision shall state the conduct, condition or ground upon
51 which the director bases his order.

52 (4) If placed under administrative supervision, the insurer shall have
53 sixty days, or another period of time as designated by the director, to comply with
54 the requirements of the director subject to the provisions of this section. In the
55 event of such insurer's failure to comply with such time periods, the director may
56 institute proceedings under section 375.1165 or 375.1175 to have a rehabilitator
57 or liquidator appointed, or to extend the period of supervision.

58 (5) If it is determined that none of the conditions giving rise to the
59 supervision exist, the director shall release the insurer from supervision.

60 3. (1) Except as set forth in this subsection, all proceedings, hearings,
61 notices, orders, correspondence, reports, records and other information in the
62 possession of the director or the department [of insurance] relating to the
63 supervision of any insurer are confidential except as provided by this section.

64 (2) Personnel of the department [of insurance] shall have access to these
65 proceedings, hearings, notices, orders, correspondence, reports, records or
66 information as permitted by the director.

67 (3) The director may open the proceedings or hearings or disclose the
68 notices, orders, correspondence, reports, records or information to a department,
69 agency or instrumentality of this or another state or the United States if the
70 director determines that the disclosure is necessary or proper for the enforcement

71 of the laws of this or another state of the United States.

72 (4) The director may open the proceedings or hearings or make public the
73 notices, orders, correspondence, reports, records or other information if the
74 director deems that it is in the best interest of the public or in the best interest
75 of the insurer, its insureds, creditors or the general public.

76 (5) This subsection does not apply to hearings, notices, correspondence,
77 reports, records or other information obtained upon the appointment of a receiver
78 for the insurer by a court of competent jurisdiction.

79 4. During the period of supervision, the director or his designated
80 appointee shall serve as the administrative supervisor. The director may provide
81 that the insurer shall not do any of the following things during the period of
82 supervision, without the prior approval of the director or the appointed
83 supervisor:

84 (1) Dispose of, convey or encumber any of its assets or its business in
85 force;

86 (2) Withdraw any of its bank accounts;

87 (3) Lend any of its funds;

88 (4) Invest any of its funds;

89 (5) Transfer any of its property;

90 (6) Incur any debt, obligation or liability;

91 (7) Merge or consolidate with another company;

92 (8) Approve new premiums or renew any policies;

93 (9) Enter into any new reinsurance contract or treaty;

94 (10) Terminate, surrender, forfeit, convert or lapse any insurance policy,
95 certificate or contract, except for nonpayment of premiums due;

96 (11) Write any new or renewal business;

97 (12) Release, pay or refund premium deposits, accrued cash or loan
98 values, unearned premiums, or other reserves on any insurance policy, certificate
99 or contract;

100 (13) Make any material change in management; or

101 (14) Increase salaries and benefits of officers or directors or the
102 preferential payment of bonuses, dividends or other payments deemed
103 preferential.

104 5. Any insurer subject to a supervision order under this section may seek
105 review pursuant to section 536.150, RSMo, of that order within thirty days of the
106 entry of the order of supervision. Such a request for a hearing shall not stay the

107 effect of the order.

108 6. During the period of supervision the insurer may contest an action
109 taken or proposed to be taken by the administrative supervisor specifying the
110 manner in which the action being complained of would not result in improving
111 the condition of the insurer. An insurer may request review pursuant to section
112 536.150, RSMo, of written denial of the insurer's request to reconsider pursuant
113 to this subsection.

114 7. If any person has violated any supervision order issued under this
115 section which as to him was still in effect, the director may [impose an
116 administrative penalty in an amount not to exceed ten thousand dollars for each
117 violation. Moneys collected pursuant to the imposition of such penalties shall be
118 transferred to the state treasurer and deposited to the general revenue fund.

119 8. The director or administrative supervisor may apply for, and any court
120 of general jurisdiction may grant, such restraining orders, preliminary and
121 permanent injunctions, and other orders as may be deemed necessary and proper
122 to enforce a supervision order.

123 **9.] initiate an action under section 375.1161.**

124 8. In the event that any person, subject to the provisions of sections
125 375.1150 to 375.1246, including those persons described in subsection 1 of section
126 375.1156, shall knowingly violate any valid order of the director issued under the
127 provisions of this section and, as a result of such violation, the net worth of the
128 insurer shall be reduced or the insurer shall suffer loss it would not otherwise
129 have suffered, said person shall become personally liable to the insurer for the
130 amount of any such reduction or loss. The director or administrative supervisor
131 is authorized **under subsection 1 of section 375.1161** to bring an action on
132 behalf of the insurer in any court of competent jurisdiction to recover the amount
133 of reduction or loss together with any costs.

134 **[10.] 9.** Nothing contained in sections 375.1150 to 375.1246 shall
135 preclude the director from initiating judicial proceedings to place an insurer in
136 conservation, rehabilitation or liquidation proceedings or other delinquency
137 proceedings, however designated under the laws of this state, regardless of
138 whether the director has previously initiated administrative supervision
139 proceedings under this section against the insurer.

140 **[11.] 10.** The director may adopt reasonable rules necessary for the
141 implementation of this section.

142 **[12.] 11.** Notwithstanding any other provision of law, the director may

143 meet with an administrative supervisor appointed under this section and with the
144 attorney or other representative of the administrative supervisor, without the
145 presence of any other person, at the time of any proceeding or during the
146 pendency of any proceeding held under authority of this section to carry out his
147 duties under this section or for the administrative supervisor to carry out his
148 duties under this section.

149 [13.] **12.** There shall be no liability on the part of, and no cause of action
150 of any nature shall arise against, the director or the department of insurance or
151 its employees or agents for any action taken by them in the performance of their
152 powers and duties under this section.

375.1161. 1. If the director determines that a person has
2 **engaged, is engaging in, or has taken a substantial step toward**
3 **engaging in an act, practice or course of business constituting a**
4 **violation of sections 375.1150 to 375.1246 or a rule adopted or order**
5 **issued pursuant thereto, or that a person has materially aided or is**
6 **materially aiding an act, practice, omission, or course of business**
7 **constituting a violation of sections 375.1150 to 375.1246 or a rule**
8 **adopted or order issued pursuant thereto, the director may issue such**
9 **administrative orders as authorized under section 374.046, RSMo. A**
10 **violation of any of these sections is a level four violation under section**
11 **374.049, RSMo. The director may also suspend or revoke the license or**
12 **certificate of authority of such person for any willful violation.**

13 **2. If the director believes that a person has engaged, is engaging**
14 **in, or has taken a substantial step toward engaging in an act, practice**
15 **or course of business constituting a violation of sections 375.1150 to**
16 **375.1246 or a rule adopted or order issued pursuant thereto, or that a**
17 **person has materially aided or is materially aiding an act, practice,**
18 **omission, or course of business constituting a violation of sections**
19 **375.1150 to 375.1246 or a rule adopted or order issued pursuant thereto,**
20 **the director may maintain a civil action for relief authorized under**
21 **section 374.048, RSMo. A violation of any of these sections is a level**
22 **four violation under section 374.049, RSMo.**

375.1204. 1. [An agent, broker,] A producer, premium finance company,
2 or any other person, other than the insured, responsible for the payment of a
3 premium, shall be obligated to pay any unpaid earned premium due the insurer
4 at the time of the declaration of insolvency as shown on the records of the

5 insurer. The liquidator shall also have the right to recover from such person any
6 part of an unearned premium that represents commission of such person. Credits
7 or setoffs or both shall not be allowed to [an agent, broker,] **a producer** or
8 premium finance company for any amounts advanced to the insurer by the [agent,
9 broker,] **producer** or premium finance company on behalf of, but in the absence
10 of a payment by the insured. An insured shall be obligated to pay any unpaid
11 earned premium due the insurer at the time of the declaration of insolvency, as
12 shown on the records of the insurer.

13 2. [Upon satisfactory evidence of a violation of this section, the director
14 may pursue either one or both of the following courses of action:

15 (1) Suspend or revoke or refuse to renew any licenses issued by the
16 department of insurance to such offending party or parties;

17 (2) Impose an administrative penalty of not more than one thousand
18 dollars for each and every act in violation of this section by said party or parties.
19 All amounts collected as a result of imposition of such administrative penalties
20 shall be paid to the state treasurer for deposit to the general revenue fund.

21 3. Before the director shall take any action as set forth in subsection 2 of
22 this section, he shall give written notice to the person, company, association or
23 exchange accused of violating the law, stating specifically the nature of the
24 alleged violation and fixing a time and place, at least ten days thereafter, when
25 a hearing on the matter shall be held. After such hearing, or upon failure of the
26 accused to appear at such hearing, the director, if he shall find such violation,
27 shall impose such of the penalties under subsection 2 of this section as he deems
28 advisable.

29 4. When the director shall take any action provided by subsection 2 of this
30 section, the party aggrieved may appeal said action to the court within thirty
31 days of the director's decision] **If the director determines that a person has**
32 **engaged, is engaging in, or has taken a substantial step toward**
33 **engaging in an act, practice or course of business constituting a**
34 **violation of this section or a rule adopted or order issued pursuant**
35 **thereto, or that a person has materially aided or is materially aiding an**
36 **act, practice, omission, or course of business constituting a violation of**
37 **this section or a rule adopted or order issued pursuant thereto, the**
38 **director may issue such administrative orders as authorized under**
39 **section 374.046, RSMo. A violation of this section is a level one**
40 **violation under section 374.049, RSMo. The director may also suspend,**

41 **revoke, or refuse to renew any license issued by the director to any**
42 **offending person for any willful violation.**

43 **3. If the director believes that a person has engaged, is engaging**
44 **in, or has taken a substantial step toward engaging in an act, practice**
45 **or course of business constituting a violation of this section or a rule**
46 **adopted or order issued pursuant thereto, or that a person has**
47 **materially aided or is materially aiding an act, practice, omission, or**
48 **course of business constituting a violation of this section or a rule**
49 **adopted or order issued pursuant thereto, the director may maintain**
50 **a civil action for relief authorized under section 374.048, RSMo. A**
51 **violation of this section is a level one violation under section 374.049,**
52 **RSMo.**

375.1306. 1. An employer shall not use any genetic information or genetic
2 test results, as those terms are defined in subdivisions (3) and (4) of section
3 375.1300, of an employee or prospective employee to distinguish between,
4 discriminate against, or restrict any right or benefit otherwise due or available
5 to such employee or prospective employee. The requirements of this section shall
6 not prohibit:

7 (1) Underwriting in connection with individual or group life, disability
8 income or long-term care insurance;

9 (2) Any action required or permissible by law or regulation;

10 (3) Action taken with the written permission of an employee or
11 prospective employee or such person's authorized representative; or

12 (4) The use of genetic information when such information is directly
13 related to a person's ability to perform assigned job responsibilities.

14 **2. [Any person who violates the provisions of this section shall be fined**
15 **not more than five hundred dollars for each violation of this section] If the**
16 **director determines that a person has engaged, is engaging in, or has**
17 **taken a substantial step toward engaging in an act, practice or course**
18 **of business constituting a violation of this section or a rule adopted or**
19 **order issued pursuant thereto, or that a person has materially aided or**
20 **is materially aiding an act, practice, omission, or course of business**
21 **constituting a violation of this section or a rule adopted or order issued**
22 **pursuant thereto, the director may issue such administrative orders as**
23 **authorized under section 374.046, RSMo. A violation of any of these**
24 **sections is a level two violation under section 374.049, RSMo.**

25 **3. If the director believes that a person has engaged, is engaging**
26 **in, or has taken a substantial step toward engaging in an act, practice**
27 **or course of business constituting a violation of this section or a rule**
28 **adopted or order issued pursuant thereto, or that a person has**
29 **materially aided or is materially aiding an act, practice, omission, or**
30 **course of business constituting a violation of this section or a rule**
31 **adopted or order issued pursuant thereto, the director may maintain**
32 **a civil action for relief authorized under section 374.048, RSMo. A**
33 **violation of any of these sections is a level two violation under section**
34 **374.049, RSMo.**

375.1309. 1. Any person who, in the ordinary course of business, practice
2 of a profession or rendering of a service, creates, stores, receives or furnishes
3 genetic information, as such term is defined in subdivision (3) of section 375.1300,
4 shall hold such information as confidential medical records and shall not disclose
5 such genetic information except pursuant to written authorization of the person
6 to whom such information pertains or to that person's authorized
7 representative. The requirements of this section shall not apply to:

8 (1) Statistical data compiled without reference to the identity of an
9 individual;

10 (2) Health research conducted in accordance with the provisions of the
11 federal common rule protecting the rights and welfare of research participants (45
12 CFR 46 and 21 CFR 50 and 56), or to health research using medical archives or
13 databases in which the identity of individuals is protected from disclosure by
14 coding or encryption, or by removing all identities;

15 (3) The release of such information pursuant to legal or regulatory
16 process; or

17 (4) The release of such information for body identification.

18 2. [Any person who violates the provisions of this section shall be fined
19 not more than five hundred dollars] **If the director determines that a person**
20 **has engaged, is engaging in, or has taken a substantial step toward**
21 **engaging in an act, practice or course of business constituting a**
22 **violation of this section or a rule adopted or order issued pursuant**
23 **thereto, or that a person has materially aided or is materially aiding an**
24 **act, practice, omission, or course of business constituting a violation of**
25 **this section or a rule adopted or order issued pursuant thereto, the**
26 **director may issue such administrative orders as authorized under**

27 section 374.046, RSMo. A violation of any of these sections is a level
28 two violation under section 374.049, RSMo.

29 3. If the director believes that a person has engaged, is engaging
30 in, or has taken a substantial step toward engaging in an act, practice
31 or course of business constituting a violation of this section or a rule
32 adopted or order issued pursuant thereto, or that a person has
33 materially aided or is materially aiding an act, practice, omission, or
34 course of business constituting a violation of this section or a rule
35 adopted or order issued pursuant thereto, the director may maintain
36 a civil action for relief authorized under section 374.048, RSMo. A
37 violation of any of these sections is a level two violation under section
38 374.049, RSMo.

376.170. All life insurance companies organized under the provisions of
2 sections 376.010 to 376.670 shall deposit with the director of the insurance
3 department, in addition to other amounts required by law to be deposited by life
4 insurance companies before such companies are permitted to engage in the
5 business of issuing policies of life insurance and annuity bonds, cash or securities
6 of the kind and type in which life insurance companies are required to invest
7 their funds under [section 376.300] sections 376.291 to 376.307, as same now
8 is or as same may be hereafter amended, in an amount sufficient to equal the net
9 value on all policies or annuity bonds hereafter issued by such companies, the
10 amount thereof to be determined by an evaluation made in accord with the
11 provisions of sections 376.010 to 376.670.

376.190. The director shall annually cause the registered policies and
2 annuity bonds of each company outstanding and in force to be carefully valued,
3 and whenever the total of the actual net value of such policies and annuity bonds
4 exceeds the market value of the securities on deposit, the company issuing such
5 policies or annuity bonds shall immediately deposit sufficient securities of the
6 same kind and type provided for in [section 376.300] sections 376.291 to
7 376.307 to equal the net value of such policies and annuity bonds so that the
8 market value of the securities deposited shall always be equal to the actual net
9 value of the registered policies and annuity bonds issued by such company and
10 still in force[]; provided, however, that bonds and other evidences of debt having
11 a fixed term and rate may be valued in accordance with the provisions of section
12 376.320].

376.280. 1. No joint stock or stock and mutual company formed under the

2 provisions of sections 376.010 to 376.670, or the laws of this state, for any
3 purpose mentioned in section 376.010, shall commence to do business or issue
4 policies unless upon an actual capital of at least six hundred thousand dollars
5 and a surplus of at least six hundred thousand dollars, nor shall any such
6 company commence to do any business unless the full amount of capital stock and
7 surplus named in its charter or articles of association has been paid in and
8 invested in such securities and in accordance with all the provisions as is
9 provided for in [section 376.300] **sections 376.291 to 376.307**, or as the same
10 may be subsequently amended.

11 2. In order to continue writing new business, any stock company organized
12 under the provisions of sections 376.010 to 376.670, or the laws of this state, for
13 any purpose mentioned in section 376.010, shall maintain an actual capital and
14 surplus in the amount required to commence business.

15 3. Any other provision of this section notwithstanding, a joint stock or
16 stock and mutual company licensed to do business in this state on August 13,
17 1982, may renew its license for business specified therein until December 31,
18 1984, by maintaining in lieu of the capital and surplus requirements an actual
19 capital and surplus of at least nine hundred thousand dollars.

20 4. No mutual company formed under the provisions of sections 376.010 to
21 376.670, or of the laws of this state, shall commence or continue to do any
22 business mentioned in section 376.010 until agreement, in writing, with such
23 company shall have been entered into by not less than one hundred persons for
24 assurance upon their own lives, or the lives of other persons for their benefit, nor
25 until it shall have received premiums on the same in cash, to an aggregate
26 amount of not less than six hundred thousand dollars and in addition shall have
27 a surplus of six hundred thousand dollars; provided further, that nothing herein
28 contained shall be so construed as to prohibit any such company from complying
29 with the provisions of sections 362.180 to 362.195, RSMo.

30 5. Any other provision of this section notwithstanding, a mutual company
31 licensed to do business in this state on August 13, 1982, may renew its license for
32 business specified therein until December 31, 1984, by maintaining in lieu of the
33 surplus requirement paid-in premiums in an aggregate amount of not less than
34 nine hundred thousand dollars.

35 6. Violation of any of the provisions of this section by any insurer is
36 grounds for the revocation of its certificate of authority by the director.

376.291. Sections 376.291 to 376.307 shall apply only to

2 investments and investment practices of domestic insurers organized
3 under the provisions of this chapter. Sections 376.291 to 376.307 shall
4 not apply to separate accounts of an insurer except to the extent that
5 the provisions of section 376.309 so provide.

376.292. As used in sections 376.291 to 376.307, the following
2 terms mean:

3 (1) "Acceptable collateral", as to securities lending repurchase
4 and reverse repurchase transactions, any financial assets of a type for
5 which, when taken as collateral by an insurer in such transactions,
6 would permit the subject securities or repurchase agreements, as the
7 case may be, to constitute admitted assets of the insurer under the
8 relevant statutory accounting principles promulgated from time to time
9 by the NAIC as adopted by the director;

10 (2) "Acceptable private mortgage insurance", insurance written
11 by a private insurer protecting a mortgage lender against loss
12 occasioned by a mortgage loan default and issued by a licensed
13 mortgage insurance company with an SVO "1" designation or a rating
14 issued by a nationally recognized statistical rating organization
15 equivalent to an SVO "1" designation that covers losses to an eighty
16 percent loan-to-value ratio;

17 (3) "Accident and health insurance", protection that provides
18 payment of benefits for covered sickness or accidental injury, excluding
19 credit insurance, disability insurance, accidental death and
20 dismemberment insurance, and long-term care insurance;

21 (4) "Accident and health insurer", a licensed life or health insurer
22 or health service corporation whose insurance premiums and required
23 statutory reserves for accident and health insurance constitute at least
24 ninety-five percent of total premium considerations or total statutory
25 required reserves, respectively;

26 (5) "Admitted assets", assets permitted to be reported as admitted
27 assets on the statutory financial statement of the insurer most recently
28 required to be filed with the director but excluding assets of separate
29 accounts;

30 (6) "Affiliate", as to any person, another person that, directly or
31 indirectly through one or more intermediaries controls, is controlled
32 by, or is under common control with the person;

33 (7) "Asset-backed security", a security or other instrument,

34 excluding shares in a mutual fund, evidencing an interest in or the
35 right to receive payments from, or payable from distributions on an
36 asset, a pool of assets, or specifically divisible cash flows which are
37 legally transferred to a trust or another special purpose bankruptcy-
38 remote business entity on the following conditions:

39 (a) The trust or other business entity is established solely for the
40 purpose of acquiring specific types of assets or rights to cash flows,
41 issuing securities and other instruments representing an interest in or
42 right to receive cash flows from those assets or rights, and engaging in
43 activities required to service the assets or rights and any credit
44 enhancement or support features held by the trust or other business
45 entity; and

46 (b) The assets of the trust or other business entity consist solely
47 of interest bearing obligations or other contractual obligations
48 representing the right to receive payment from the cash flow from the
49 assets. However, the existence of credit enhancements, such as letters
50 of credit or guarantees or support features, such as swap agreements,
51 shall not cause a security or other instrument to be ineligible as an
52 asset-backed security;

53 (8) "Business entity", a sole proprietorship, limited liability
54 company, association, partnership, joint stock company, joint venture,
55 mutual fund, trust, joint tendency, or other similar form of business
56 organization, whether organized for-profit or not-for-profit;

57 (9) "Capital and surplus", the sum of the capital and surplus of
58 the insurer required to be shown on the statutory financial statement
59 of the insurer most recently required to be filed with the director;

60 (10) "Cash equivalents", short-term, highly rated, and highly
61 liquid investments or securities readily convertible to known amounts
62 of cash without penalty and so near maturity that they present
63 insignificant risk of change in value. Cash equivalents include
64 government money market mutual funds and class one money market
65 mutual funds. For purposes of this subdivision:

66 (a) "Short-term" means investments with a remaining term to
67 maturity of ninety days or less; and

68 (b) "Highly rated" means an investment rated "P-1" by Moody's
69 Investors Service, Inc., or "A-1" by Standard and Poor's division of The
70 McGraw Hill Companies, Inc., or its equivalent rating by a nationally

71 **recognized statistical rating organization recognized by the SVO;**

72 **(11) "Class one bond mutual fund", a mutual fund that at all times**
73 **qualifies for investment using the bond class one reserve factor under**
74 **the Purpose and Procedures of the Securities Valuation Office or any**
75 **successor publication;**

76 **(12) "Class one money market mutual fund", a money market**
77 **mutual fund that at all times qualifies for investment using the bond**
78 **class one reserve factor under the Purpose and Procedures of the**
79 **Securities Valuation Office or any successor publication;**

80 **(13) "Code", this chapter and chapters 374, 375, and 382, RSMo;**

81 **(14) "Commercial mortgage loan", a loan secured by a mortgage**
82 **other than a residential mortgage loan;**

83 **(15) "Construction loan", a loan less than three years in term**
84 **made for financing the cost of construction of a building or other**
85 **improvement to real estate that is secured by the real estate;**

86 **(16) "Control", the possession, directly or indirectly, of the power**
87 **to direct or cause the direction of the management and policies of a**
88 **person, whether through the ownership of voting securities, by**
89 **contract, other than a commercial contract for goods or**
90 **nonmanagement service, or otherwise, unless the power is the result of**
91 **an official position with or corporate office held by the person. Control**
92 **shall be presumed to exist if a person, directly or indirectly, owns,**
93 **controls, holds with power to vote, or holds proxies representing ten**
94 **percent or more of the voting securities of another person. This**
95 **presumption may be rebutted by a showing that control does not exist**
96 **in fact. The director may determine after furnishing all interested**
97 **persons notice and an opportunity to be heard and making specific**
98 **findings of fact to support the determination that control exists in fact,**
99 **notwithstanding the absence of a presumption to that effect;**

100 **(17) "Credit tenant loan", a mortgage loan which is made**
101 **primarily in reliance on the credit standing of a major tenant,**
102 **structured with an assignment of the rental payments to the lender**
103 **with real estate pledged as collateral in the form of a first lien;**

104 **(18) "Direct" or "directly", in connection with an obligation, the**
105 **designated obligor primarily liable on the instrument representing the**
106 **obligation;**

107 **(19) "Dollar roll transaction", two simultaneous transactions with**

108 different settlement dates no more than ninety-six days apart so that
109 in the transaction with the earlier settlement date an insurer sells to
110 a business entity, and in the other transaction the insurer is obligated
111 to purchase, from the same business entity, substantially similar
112 securities of the following types:

113 (a) Asset-backed securities issued, assumed or guaranteed by the
114 Government National Mortgage Association, the Federal National
115 Mortgage Association, or the Federal Home Loan Mortgage Corporation
116 or their respective successors; and

117 (b) Other asset-backed securities referred to in section 106 of
118 Title I of the Secondary Mortgage Market Enhancement Act of 1984 (15
119 U.S.C. 77r-1), as amended;

120 (20) "Domestic jurisdiction", the United States, Canada, any state,
121 any province of Canada, or any political subdivision of the foregoing;

122 (21) "Equity interest", any of the following that are not rated
123 credit instruments:

124 (a) Common stock;

125 (b) Preferred stock;

126 (c) Trust certificate;

127 (d) Equity investment in an investment company other than a
128 money market mutual fund or a class one bond mutual fund;

129 (e) Investment in a common trust fund of a bank regulated by a
130 federal or state agency;

131 (f) An ownership interest in mineral, oil, or gas to which the
132 rights have been separated from the underlying fee interest in the real
133 estate where the mineral, oil, or gas are located;

134 (g) Instruments which are mandatorily, or at the option of the
135 issuer, convertible to equity;

136 (h) Limited partnership interests and those general partnership
137 interests authorized under subdivision (4) of section 376.294;

138 (i) Member interests in limited liability companies;

139 (j) Warrants or other rights to acquire equity interests that are
140 created by the person that owns or would issue the equity to be
141 acquired; or

142 (k) Instruments that would be rated credit instruments except
143 for the provisions under subdivision (47) of this section;

144 (22) "Foreign currency", currency other than that of a domestic

145 jurisdiction;

146 (23) (a) "Foreign investment", an investment in a foreign
147 jurisdiction or an investment in a person, real estate, or asset
148 domiciled in a foreign jurisdiction that is substantially of the same type
149 as those eligible for investment under this chapter other than under
150 section 376.304. An investment shall not be deemed foreign if the
151 issuing person, qualified primary credit source, or qualified guarantor
152 is a domestic jurisdiction or a person domiciled in a domestic
153 jurisdiction unless:

154 a. The issuing person is a shell business entity; and

155 b. The investment is not assumed, accepted, guaranteed, or
156 insured or otherwise backed by a domestic jurisdiction, or a person
157 that is not a shell business entity domiciled in a domestic jurisdiction;

158 (b) For purposes of this definition:

159 a. "Shell business entity" means a business entity having no
160 economic substance except as a vehicle for owning interests in assets
161 issued, owned, or previously owned by a person domiciled in a foreign
162 jurisdiction;

163 b. "Qualified guarantor" means a guarantor against which an
164 insurer has a direct claim for full and timely payment, evidenced by a
165 contractual right for which an enforcement action can be brought in a
166 domestic jurisdiction;

167 c. "Qualified primary credit score" means the credit score to
168 which an insurer looks for payment as to an investment and against
169 which an insurer has a direct claim for full and timely payment
170 evidenced by a contractual right for which an enforcement action can
171 be brought in a domestic jurisdiction;

172 (24) "Foreign jurisdiction", a jurisdiction other than a domestic
173 jurisdiction;

174 (25) "Government money market mutual fund", a money market
175 mutual fund that at all times:

176 (a) Invests only in obligations issued, guaranteed, or insured by
177 the federal government of the United States or collateralized
178 repurchase agreements composed of these obligations; and

179 (b) Qualifies for investment without a reserve under the
180 Purposes and Procedures of the Securities Valuation Office or any
181 successor publication;

- 182 **(26) "Government sponsored enterprise", a:**
183 **(a) Government agency; or**
184 **(b) Corporation, limited liability company, association,**
185 **partnership, joint stock company, joint venture, trust, or other entity**
186 **or instrumentality organized under the laws of any domestic**
187 **jurisdiction to accomplish a public policy or other governmental**
188 **purpose;**
- 189 **(27) "Guaranteed" or "insured", in connection with an obligation**
190 **acquired under this chapter, the guarantor or insurer has agreed to:**
191 **(a) Perform or insure the obligation of the obligor or purchase**
192 **the obligation; or**
193 **(b) Be unconditionally obligated until the obligation is repaid to**
194 **maintain in the obligor a minimum net worth, fixed charge coverage,**
195 **stockholders' equity or sufficient liquidity to enable the obligor to pay**
196 **the obligation in full;**
- 197 **(28) "High grade investment", a rated credit instruments rated**
198 **"1", "2", "P1", "P2", "PSF1", or "PSF2" by the SVO;**
- 199 **(29) "Investment company", an investment company as defined in**
200 **section 3(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-1), as**
201 **amended, and a person described in section 3(c) of that Act;**
- 202 **(30) "Investment company series", an investment portfolio of an**
203 **investment company that is organized as a series company and to**
204 **which assets of the investment company have been specifically**
205 **allocated;**
- 206 **(31) "Investment subsidiary", a subsidiary of an insurer engaged**
207 **or organized to engage exclusively in the ownership and management**
208 **of assets authorized as investments for the insurer if such subsidiary**
209 **limits its investment in any asset so that its investments will not cause**
210 **the amount of the total investment of the insurer to exceed any of the**
211 **investment limitation or avoid any other provisions of this chapter**
212 **applicable to the insurer. As used in this subdivision, the total**
213 **investment insurer shall include:**
- 214 **(a) Direct investment by the insurer in an asset; and**
215 **(b) The insurer's proportionate share of an investment in an**
216 **asset by an investment subsidiary of the insurer which shall be**
217 **calculated by multiplying the amount of the subsidiary's investment by**
218 **the percentage of the insurer's ownership interest in the subsidiary;**

219 (32) "Investment strategy", the techniques and methods used by
220 an insurer to meet its investment objectives, such as active bond
221 portfolio management, passive bond portfolio management, interest
222 rate anticipation, growth investing, and value investing;

223 (33) "Letter of credit", a clean, irrevocable, and unconditional
224 letter of credit issued or confirmed by and payable and presentable at
225 a financial institution on the list of financial institutions meeting the
226 standards for issuing letters of credit under the Purposes and
227 Procedures of the Securities Valuation Office or any successor
228 publication. To constitute applicable collateral for the purposes of
229 section 376.303, a letter of credit shall have an expiration date beyond
230 the term of the subject transaction;

231 (34) "Limited liability company", a business organization,
232 excluding partnerships and ordinary business corporations, organized
233 or operating under the laws of the United States or any state thereof
234 that limits the personal liability of investors to the equity investment
235 of the investor in the business entity;

236 (35) "Lower grade investment", a rated credit instrument rated
237 "4", "5", "6", "P4", "P5", "P6", "PSF4", "PSF5", or "PSF6" by the SVO;

238 (36) "Market value":

239 (a) As to cash and credit, the amounts thereof; and

240 (b) As to a security as of any date, the price for the security in
241 that date obtained from a generally recognized source or the most
242 recent quotation from a source, or to the extent no generally
243 recognized source exists, the price for the security reasonably as
244 determined by the insurer plus accrued but unpaid income thereon to
245 the extent not included in the price as of that date;

246 (37) "Medium grade investment", a rated credit instrument rated
247 "3", "P3", or "PSF3" by the SVO;

248 (38) "Money market mutual fund", a mutual fund that meets the
249 conditions of 17 C.F.R. 270.2a-7 under the Investment Company Act of
250 1940 (15 U.S.C. 80a-1 et seq.), as amended or renumbered;

251 (39) "Mortgage loan", an obligation secured by a mortgage, deed
252 of trust, trust deed, or other consensual lien on real estate;

253 (40) "Multilateral development bank", an international
254 development organization of which the United States is a member;

255 (41) "Mutual fund", an investment company or in the case of an

256 investment company that is organized as a series company, an
257 investment company series, that in either case is registered with the
258 United States Securities and Exchange Commission under the
259 Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.), as amended;

260 (42) "NAIC", the National Association of Insurance
261 Commissioners;

262 (43) "Obligation", a bond, note, debenture, trust certificate,
263 including an equipment trust certificate, production payment,
264 negotiable bank certificate of deposit, bankers' acceptance, credit
265 tenant loan, loan secured by financing net leases, and other evidence
266 of indebtedness for the payment of money, or participations,
267 certificates, or other evidence of an interest in any of the foregoing,
268 whether constituting a general obligation of the issuer or payable only
269 out of certain revenues or certain funds pledged or otherwise dedicated
270 for payment;

271 (44) "Person", an individual, a business entity, a multilateral
272 development bank, or a government or quasi-government body, such as
273 a political subdivision or a government sponsored enterprise;

274 (45) "Preferred stock", preferred, preference, or guaranteed stock
275 of a business entity authorized to issue the stock that has a preference
276 in liquidation over the common stock of the business entity;

277 (46) "Qualified business entity", a business entity that is:

278 (a) An issuer of obligations or preferred stock that are rated "1"
279 or "2" by the SVO or an issuer of obligations, preferred stock, or
280 derivative instruments that are rated the equivalent of "1" or "2" by the
281 SVO or the equivalent by a nationally recognized statistical rating
282 organization recognized by the SVO;

283 (b) A primary dealer in the United States government securities
284 recognized by the Federal Reserve Bank of New York; or

285 (c) With respect to section 376.303, an affiliate of an entity that
286 is a qualified business entity under paragraph (a) or (b) of this
287 subdivision whose arrangement with the insurer is guaranteed by the
288 affiliated entity that is a qualified business entity under paragraph (a)
289 or (b) of this subdivision;

290 (47) "Rated credit instrument":

291 (a) An obligation or other instrument which gives its holder a
292 contractual right to receive cash or another rated credit instrument

293 from another entity if the instrument:

294 a. Is rated or required to be rated by the SVO;

295 b. In the case of an instrument with a maturity of three hundred
296 ninety-seven days or less, is issued, guaranteed, or insured by an entity
297 that is rated by or another instrument of such entity is rated by the
298 SVO or by a nationally recognized statistical rating organization
299 recognized by the SVO;

300 c. In the case of an instrument with a maturity of ninety days or
301 less, is issued, assumed, accepted, guaranteed, or insured by a qualified
302 bank;

303 d. Is a share of a class one bond mutual fund; or

304 e. Is a share of a money market mutual fund;

305 (b) "Rated credit instrument" shall not mean:

306 a. An instrument that is mandatorily, or at the option of the
307 issuer, convertible to an equity interest; or

308 b. A security that has a par value and whose terms provide that
309 the issuer's net obligation to repay all or part of the security's par
310 value is determined by reference to the performance of an equity, a
311 commodity, a foreign currency, or an index of equities, commodities,
312 foreign currencies, or combination thereof;

313 (48) "Real estate":

314 (a) Real property;

315 (b) Interests in real property, such as leaseholds, mineral, oil,
316 and gas that have not been separated from the underlying fee interest;

317 (c) Improvements and fixtures located on or in real property;

318 and

319 (d) The seller's equity in a contract providing for a deed of real
320 estate;

321 As to a mortgage on a leasehold estate, real estate shall include the
322 leasehold estate only if it has an unexpired term, including renewal
323 options exercisable at the option of the lessee extending beyond the
324 scheduled maturity date of the obligation that is secured by a mortgage
325 on a leasehold estate by a period equal to at least twenty percent of the
326 original term of the obligation or ten years, whichever is greater;

327 (49) "Repurchase transaction", a transaction in which an insurer
328 purchases securities from a business entity that is obligated to
329 repurchase the purchased securities or substantially the same

330 securities from the insurer at a specified price within a specified
331 period of time or on demand;

332 (50) "Required liabilities", total liabilities required to be reported
333 on the statutory financial statement of the insurer most recently
334 required to be filed with the director;

335 (51) "Residential mortgage loan", a loan primarily secured by a
336 mortgage on real estate improved with a one-to-four family residence;

337 (52) "Reverse repurchase transaction", a transaction in which an
338 insurer sells substantially the same securities to a business entity and
339 is obligated to repurchase the sold securities or substantially the same
340 securities from the business entity at a specified price within a
341 specified period of time or upon demand;

342 (53) "Secured location", the contiguous real estate owned by one
343 person;

344 (54) "Securities lending transaction", a transaction in which
345 securities are loaned by an insurer to a business entity that is obligated
346 to return the loaned securities or substantially the same securities to
347 the insurer within a specified period of time or upon demand;

348 (55) "Series company", an investment company that is organized
349 as series company, as defined in Rule 18f-2 under the Investment
350 Company Act of 1940 (15 U.S.C. 80a-1 et seq.), as amended;

351 (56) "Sinking fund stock", preferred stock that:

352 (a) Is subject to a mandatory sinking fund or similar
353 arrangement that will provide for the redemption or open market
354 purchase of the entire issue over a period not longer than forty years
355 from the date of acquisition; and

356 (b) Provides for mandatory sinking fund installments or open
357 market purchases commencing not more than ten and one-half years
358 from the date of issue with the sinking fund installments providing for
359 the purchase or redemption on a cumulative basis commencing ten
360 years from the date of issue of at least two and one-half percent per
361 year of the original number of shares of that issue of preferred stock;

362 (57) "Special rated credit instrument", a rated credit instrument
363 that is:

364 (a) Structured so that if it is held until retired by or on behalf of
365 the issuer, its rate of return based on its purchase cost and any cash
366 flow stream possible under the structure of the transaction may become

367 negative due to reasons other than the credit risk associated with the
368 issuer of the instrument; however, a rated credit instrument shall not
369 be a special rated credit instrument under this paragraph if it is:

370 a. A share in a class one bond mutual fund;

371 b. An instrument other than an asset-backed security with
372 payments of par value fixed as to an amount and timing or callable but
373 in any event payable only at par value or greater and interest or
374 dividend cash flows that are based on a fixed or variable rate
375 determined by reference to a specified rate or index;

376 c. An instrument other than an asset-backed security that has a
377 par value and is purchased at a price no greater than one hundred ten
378 percent of par;

379 d. An instrument, including an asset-backed security, whose rate
380 of return would become negative only as a result of prepayment due to
381 casualty, condemnation, or economic obsolescence of collateral or
382 change of law;

383 e. An asset-backed security that relies on collateral that meets
384 the requirements of subparagraph b. of this paragraph and the par
385 value of which collateral:

386 (i) Is not permitted to be paid sooner than one-half of the
387 remaining term to maturity from the date of acquisition;

388 (ii) Is permitted to be paid prior to maturity only at a premium
389 sufficient to provide a yield to maturity for the investment, considering
390 the amount of prepaid and reinvestment rates at the time of early
391 repayment, at least equal to the yield to maturity of the initial
392 investment; or

393 (iii) Is permitted to be paid prior to maturity at a premium at
394 least equal to the yield of a treasury issue of comparable remaining life;
395 or

396 f. An asset-backed security that relies on cash flow from assets
397 that are not prepayable at any time at par but is not otherwise
398 governed by subparagraph e. of this paragraph if the asset-backed
399 security has a par value reflecting principal payments to be received
400 if held until retired by or on behalf of the issuer and is purchased at a
401 price no greater than one hundred five percent of such par amount;

402 (b) An asset-backed security that:

403 a. Relies on cash flow from assets that are prepayable at par at

404 any time;

405 **b. Does not make payments of par that are fixed as to amount**
406 **and timing; and**

407 **c. Has a negative rate of return at the time of acquisition if a**
408 **prepayment threshold assumption is used with such prepayment**
409 **threshold assumption defined as either:**

410 **(i) Two times the prepayment expectation reported by a**
411 **recognized publicly available source as being the median of**
412 **expectations contributed by broker dealers or other entities except**
413 **insurers engaged in the business of selling or evaluating such securities**
414 **or assets. At the insurer's election, the prepayment expectation used**
415 **in this calculation shall be the prepayment expectation for pass-**
416 **through securities of the Federal National Mortgage Association, the**
417 **Federal Home Loan Mortgage Corporation, the Government National**
418 **Mortgage Association, or for other assets of the same type of assets that**
419 **underlie the asset-backed security in a gross weighted average coupon**
420 **comparable to the gross weighted average coupon of the assets that**
421 **underlie the asset-backed security; or**

422 **(ii) Another prepayment threshold assumption specified by the**
423 **director by regulation;**

424 **(c) For purposes of paragraph (b) of this subdivision, if the asset-**
425 **backed security is purchased in combination with one or more other**
426 **asset-backed securities that are supported by identical underlying**
427 **collateral, the insurer may calculate the rate of return for these**
428 **specific combined asset-backed securities in combination. The insurer**
429 **shall maintain documentation demonstrating that such securities were**
430 **acquired and are continuing to be held in combination;**

431 **(58) "State", a state, territory, or possession of the United States,**
432 **District of Columbia, or the Commonwealth of Puerto Rico;**

433 **(59) "Substantially the same securities", securities that meet all**
434 **criteria for substantially the same securities specified in the NAIC**
435 **Accounting Practices and Procedures Manual, as amended, as adopted**
436 **by the director;**

437 **(60) "Subsidiary", as to any person, an affiliate controlled by such**
438 **person, directly or indirectly, through one or more intermediaries;**

439 **(61) "SVO", the Securities Valuation Office of the NAIC or any**
440 **successor office established by the NAIC;**

441 **(62) "Unrestricted surplus", the amount by which total admitted**
442 **assets exceed one hundred and twenty-five percent of the insurer's**
443 **required liabilities.**

376.293. 1. (1) Insurers may acquire, hold, or invest in
2 **investments or engage in investment practices as set forth in this**
3 **chapter or section 375.345, RSMo. Insurers may also acquire, hold, or**
4 **invest in investments not conforming to the requirements of this**
5 **section that are not otherwise prohibited by this chapter or section**
6 **375.345, RSMo, provided however, that investments not conforming to**
7 **this section shall not be admitted assets. The provisions and**
8 **definitions of terms of section 375.345, RSMo, related to derivative**
9 **transactions shall also apply to investments under this chapter.**

10 **(2) Subject to subdivision (3) of this subsection, an insurer shall**
11 **not acquire or hold an investment as an admitted asset unless at the**
12 **time of acquisition:**

13 **(a) It is eligible for the payment or accrual of interest or**
14 **discount, whether in cash or other forms of income or securities,**
15 **eligible to receive dividends or other distributions or is otherwise**
16 **income producing; or**

17 **(b) It is acquired under section 375.345, RSMo, subsection 3 of**
18 **section 376.302, section 376.303 or 376.307 or under the authority of**
19 **sections of the code other than sections 376.291 to 376.307.**

20 **(3) An insurer may acquire or hold as admitted assets**
21 **investments that do not otherwise qualify, as provided in sections**
22 **376.291 to 376.307, if this insurer has not acquired the assets**
23 **investments for the purpose of circumventing any limitations contained**
24 **in sections 376.291 to 376.307 and if the insurer acquires the**
25 **investments in the following circumstances and complies with the**
26 **provisions of sections 376.291 to 376.307 as to the investments:**

27 **(a) As a payment on account of existing indebtedness or in**
28 **connection with the refinancing, restructuring, or workout of existing**
29 **indebtedness, if taken to protect the insurer's interest in that**
30 **investment;**

31 **(b) As realization of collateral for indebtedness;**

32 **(c) In connection with an otherwise qualified investment or**
33 **investment practice as interest on, or a dividend, or other distribution**
34 **related to the investment or investment practice or in connection with**

35 the refinancing of the investment. In each case, no additional or only
36 nominal consideration is necessary;

37 (d) Under lawful and bona fide agreement of recapitalization or
38 voluntary or involuntary reorganization in connection with an
39 investment held by the insurer; or

40 (e) Under a bulk reinsurance, merger, or consolidation
41 transaction approved by the director if the assets constitute admissible
42 investments for the ceding, merged, or consolidated companies.

43 (4) An investment or portion of an investment acquired by an
44 insurer under subdivision (3) of this subsection shall become a
45 nonadmitted asset three years, or five years in the case of mortgage
46 loans and real estate, from the date of its acquisition unless within that
47 period the investment has become a qualified investment under a
48 section of this chapter other than subdivision (3) of this subsection, but
49 an investment acquired under an agreement of bulk reinsurance,
50 merger, or consolidation may be qualified for a longer period if so
51 provided in the plan for reinsurance, merger, or consolidation as
52 approved by the director. Upon application by the insurer and a
53 showing that the nonadmission of an asset held under subdivision (3)
54 of this subsection would materially injure the interests of the insurer,
55 the director may extend the period of admissibility for an additional,
56 reasonable period of time.

57 (5) Except as provided in subdivisions (6) and (8) of this
58 subsection, an investment shall qualify under this chapter if on the
59 date the insurer committed to acquire the investment or on the date of
60 its acquisition it would have qualified under this chapter. For the
61 purposes of determining limitations contained in this chapter, an
62 insurer shall give appropriate recognition to any commitments to
63 acquire investments.

64 (6) (a) An investment held as an admitted asset by an insurer on
65 August 28, 2007, which qualified under this chapter, or chapter 375,
66 RSMo, shall remain qualified as an admitted asset.

67 (b) Each specific transaction constituting an investment practice
68 of the type described in this chapter that was lawfully entered into by
69 an insurer and was in effect on August 28, 2007, shall continue to be
70 permitted under this chapter until its expiration or termination under
71 its terms, including any expiration or termination after an extension

72 under its terms.

73 (7) Unless otherwise specified, an investment limitation
74 computed on the basis of an insurer's admitted assets or capital and
75 surplus shall relate to the amount required to be shown on the
76 statutory balance sheet of the insurer most recently required to be
77 filed, annual or last quarter, with the director. Solely for the purposes
78 of computing any limitation based upon admitted assets, the insurer
79 shall deduct from the amount of its admitted assets the amount of the
80 liability recorded on such statutory balance sheet for:

81 (a) The return of acceptable collateral received in a reverse
82 repurchase transaction or a securities lending transaction;

83 (b) Cash received in a dollar roll transaction; and

84 (c) The amount reported as borrowed money in such statutory
85 balance sheet to the extent not included in paragraph (b) and this
86 paragraph of this subdivision.

87 (8) An investment qualified, in whole or in part, for acquisition
88 or holding as an admitted asset may be qualified or requalified at the
89 time of acquisition or a later date, in whole or in part, under any
90 section if the relevant conditions contained in the other section are
91 satisfied at the time of the qualification or requalification.

92 (9) An insurer shall maintain documentation demonstrating that
93 investments were acquired in accordance with this chapter.

94 (10) An insurer shall not enter into an agreement to purchase
95 securities in advance of their issuance for resale to the public as part
96 of a distribution of the securities by the issuer or otherwise guarantee
97 the distribution, except that an insurer may acquire privately placed
98 securities with registration rights.

99 (11) Notwithstanding the provisions of this chapter, the director,
100 for good cause, may order an insurer to nonadmit, limit, dispose of,
101 withdraw from, or discontinue an investment or investment
102 practice. The authority of the director under this subsection is in
103 addition to any other authority of the director.

104 2. (1) Within three months after August 28, 2007, an insurer's
105 board of directors shall adopt a written plan for acquiring and holding
106 investments and for engaging in investment practices that specifies
107 guidelines as to the quality, maturity, and diversification of the
108 investments and other specifications, including investment strategies

109 intended to assure that the investments and investment practices are
110 appropriate for the business conducted by the insurer, its liquidity
111 needs, and its capital and surplus. The board shall review and assess
112 the insurer's technical investment and administrative capabilities and
113 expertise before adopting a written plan concerning an investment
114 strategy or investment practice.

115 (2) Investments acquired and held under this chapter and section
116 375.345, RSMo, shall be acquired and held under the supervision and
117 direction of the board of directors of the insurer. The board of
118 directors shall evidence by formal resolution at least annually that it
119 has determined whether all investments have been made in accordance
120 with delegations, standards, limitations, and investment objectives
121 prescribed by the board or a committee of the board charged with the
122 responsibility to direct its investments.

123 (3) On no less than a quarterly basis and more often if deemed
124 appropriate, an insurer's board of directors or committee of the board
125 of directors shall:

126 (a) Receive and review a summary report on the insurer's
127 investment portfolio, its investment activities, and investment practices
128 engaged in under delegated authority in order to determine whether
129 the investment activity of the insurer is consistent with its written
130 plan; and

131 (b) Review and revise, as appropriate, the written plan.

132 (4) In discharging its duties under this section, the board of
133 directors shall require that records of any authorization or approvals,
134 other documentation as the board may require, and reports of any
135 action taken under authority delegated under the plan referred to in
136 subsection 1 of this section shall be made available on a regular basis
137 to the board of directors.

138 (5) In discharging their duties under this section, the directors
139 of an insurer shall perform their duties in good faith and with that
140 degree of care that ordinarily prudent individuals in like positions
141 would use under similar circumstances.

142 (6) If an insurer does not have a board of directors, all
143 references to the board of directors in sections 376.291 to 376.307 shall
144 be deemed to be references to the governing body of the insurer having
145 authority equivalent to that of a board of directors.

376.294. 1. An insurer shall not directly or indirectly:

2 (1) Invest in an obligation or security or make a guarantee for
3 the benefit of or in favor of an officer or director of the insurer except
4 as provided in section 376.295;

5 (2) Invest in an obligation or security, make a guarantee for the
6 benefit of or in favor of, or make other investments in a business entity
7 of which ten percent or more of the voting securities or equity interests
8 are owned directly or indirectly by or for the benefit of one or more
9 officers or directors in the insurer except under a transaction entered
10 into in compliance with section 382.195, RSMo, or provided in section
11 376.295;

12 (3) Engage on its own behalf or through one or more affiliates in
13 a transaction or series of transactions designed to evade the
14 prohibitions of section 375.345, RSMo, and sections 376.291 to 376.307,
15 or section 376.311;

16 (4) Invest in a partnership as a general partner, except that an
17 insurer may make an investment as a general partner:

18 (a) If all other partners in the partnership are subsidiaries of the
19 insurer or other insurance company affiliates of the insurer;

20 (b) For the purpose of:

21 a. Meeting cash calls committed to prior to August 28, 2007;

22 b. Completing those specific projects or activities of the
23 partnership in which the insurer was a general partner as of August 28,
24 2007, that had been undertaken as of that date; or

25 c. Making capital improvements to property owned by the
26 partnership on August 28, 2007, if the insurer was a general partner as
27 of that date; or

28 (c) In accordance with subdivision (3) of subsection 1 of section
29 376.293; or

30 (5) Invest or lend its funds upon the security of shares of its own
31 stock, except as authorized by other provisions of this
32 chapter. However, no such shares shall be admitted assets of the
33 insurer.

34 2. Subdivision (4) of subsection 1 of this section shall not
35 prohibit a subsidiary or other affiliate of the insurer from becoming a
36 general partner.

376.295. 1. (1) Except as provided in subsection 2 of this section,

2 an insurer shall not without written approval of the director, directly
3 or indirectly:

4 (a) Make a loan to or other investment in an officer or director
5 of the insurer or a person in which the officer has any direct or
6 indirect financial interest;

7 (b) Make a guarantee for the benefit of or in favor of an officer
8 or director of the insurer or a person in which the officer or director
9 has any direct or indirect financial interest; or

10 (c) Enter into an agreement for the purchase or sale of property
11 from or to an officer or director of the insurer or a person in which the
12 officer or director has any direct or indirect financial interest.

13 (2) For purposes of this section, an officer or director shall not
14 be deemed to have a financial interest by reason of an interest that is
15 held directly or indirectly through the ownership of equity interests
16 representing less than two percent of all outstanding equity interest
17 issued by a person that is a party to the transaction or solely by reason
18 of that individual's position as a director or officer of a person that is
19 a party to the transaction.

20 (3) This subsection shall not permit an investment that is
21 prohibited by section 376.294.

22 (4) This subsection shall not apply to a transaction between an
23 insurer and any of its subsidiaries or affiliates that is entered into in
24 compliance with chapter 382, RSMo, other than a transaction between
25 an insurer and its officer or director.

26 2. An insurer may, without the prior written approval of the
27 director make:

28 (1) Policy loans in accordance with the terms of the policy or
29 contract and section 376.306;

30 (2) Advances to officers or directors for expenses reasonably
31 expected to be incurred in the ordinary course of the insurer's business
32 or guarantees associated with credit or charge cards issued or credit
33 extended for the purpose of financing these expenses;

34 (3) Loans secured by the principal residence of an existing or
35 new officer of the insurer made in connection with the officer's
36 relocation at the insurer's request if the loans comply with the
37 requirements of section 376.302 and the terms and conditions otherwise
38 are the same as those generally available from unaffiliated third

39 parties;

40 (4) Loans and advances to officers or directors made in
41 compliance with state or federal law specifically related to the loans
42 and advances by a regulated noninsurance subsidiary or affiliate of the
43 insurer in the ordinary course of business and on terms no more
44 favorable than available to other customers of the entity; and

45 (5) Secured loans to an existing or new officer of the insurer
46 made in connection with the officer's relocation at the insurer's
47 request, if the loans:

48 (a) Do not have a term exceeding two years;

49 (b) Are required to finance mortgage loans outstanding at the
50 same time on the prior and new residences of the officer;

51 (c) Do not exceed an amount equal to the equity of the officer in
52 the prior residence;

53 (d) Are required to be fully repaid upon the earlier of the end of
54 the two-year period or the sale of the prior residence.

376.296. The value or amount of an investment acquired or held
2 or an investment practice engaged in under this chapter, unless
3 otherwise specified in this code, shall be the value at which assets of
4 an insurer are required to be reported for statutory accounting
5 purposes as determined in accordance with procedures prescribed in
6 published accounting and valuation standards of the NAIC, including
7 the Purposes and Procedures of the Securities Valuation Office, the
8 Valuation of Securities Manual, the Accounting Practices and
9 Procedures Manual, the Annual Statement Instructions, or any
10 successor valuation procedures officially adopted by the NAIC.

376.297. 1. (1) Except as otherwise specified in this chapter, an
2 insurer shall not acquire an investment directly or indirectly through
3 an investment subsidiary if, as a result of and after giving effect to the
4 investment, the insurer would hold more than three percent of its
5 admitted assets in the investments of all kinds issued, assumed,
6 accepted, insured, or guaranteed by a single person, or five percent of
7 its admitted assets in investments in the voting securities of a
8 depository institution or any company that controls the institution.

9 (2) The three percent limitation described in subdivision (1) of
10 this subsection shall not apply to the aggregate amounts insured by a
11 single financial guaranty insurer with the highest generic rating issued

12 by a nationally recognized statistical rating organization.

13 (3) Asset-backed securities shall not be subject to the limitations
14 of subdivision (1) of this subsection; however, an insurer shall not
15 acquire an asset-backed security if as a result of and after giving effect
16 to the investment the aggregate amount of asset-backed securities
17 secured by or evidencing an interest in a single asset or single pool of
18 assets held by a trust or other business entity then held by the insurer
19 would exceed three percent of its admitted assets.

20 2. (1) An insurer shall not acquire directly or indirectly through
21 an investment subsidiary an investment under sections 376.298, 376.301,
22 and 376.304, or counterparty exposure under subdivision (6) of
23 subsection 2 of section 375.345, RSMo, if as a result of and after giving
24 effect to the investment:

25 (a) The aggregate amount of medium and lower grade
26 investments then held by the insurer would exceed twenty percent of
27 its admitted assets;

28 (b) The aggregate amount of lower grade investments then held
29 by the insurer would exceed ten percent of its admitted assets;

30 (c) The aggregate amount of investments rated "5" or "6" by the
31 SVO then held by the insurer would exceed three percent of its
32 admitted assets;

33 (d) The aggregate amount of investments rated "6" by the SVO
34 then held by the insurer would exceed one percent of its admitted
35 assets; or

36 (e) The aggregate amount of lower grade investments then held
37 by the insurer that receive cash income less than the equivalent yield
38 for treasury issues with a comparative average life would exceed one
39 percent of its admitted assets.

40 (2) An insurer shall not acquire directly or indirectly through an
41 investment subsidiary an investment under sections 376.298, 376.301,
42 and 376.304, or counterparty exposure under subdivision (6) of
43 subsection 2 of section 375.345, RSMo, if as a result of and after giving
44 effect to the investment:

45 (a) The aggregate amount of medium and lower grade
46 investments issued, assumed, accepted, guaranteed, or insured by any
47 one person or as to asset-backed securities secured by or evidencing an
48 interest in a single asset or pool of assets then held by the insurer

49 would exceed one percent of its admitted assets; or

50 (b) The aggregate amount of lower grade investments issued,
51 assumed, accepted, guaranteed, or insured by any one person or as to
52 asset-backed securities secured by or evidencing an interest in a single
53 asset or pool of assets then held by the insurer would exceed one-half
54 of one percent of its admitted assets.

55 (3) If an insurer attains or exceeds the limit of any one rating
56 category referred to in this subsection, the insured shall not thereby be
57 precluded from acquiring investments in other rating categories
58 subject to the specific and multi-category limits applicable to those
59 investments.

60 3. An insurer shall not acquire directly or indirectly through an
61 investment subsidiary a Canadian investment authorized by this
62 chapter, if as a result of and after giving effect to the investment, the
63 aggregate amount of these investments then held by the insurer would
64 exceed forty percent of its admitted assets or if the aggregate amount
65 of Canadian investments not acquired under subsection 2 of section
66 376.298 then held by the insurer would exceed twenty-five percent of its
67 admitted assets. However, as to an insurer that is authorized to do
68 business in Canada or that has outstanding insurance, annuity, or
69 reinsurance contracts on lives or risks resident or located in Canada
70 and denominated in Canadian currency, the limitations of this section
71 shall be increased by the greater of:

72 (1) The amount the insurer is required by Canadian law to invest
73 in Canada or to be denominated in Canadian currency; or

74 (2) One hundred fifteen percent of the amount of its reserves and
75 other obligations under contracts on lives or risks resident or located
76 in Canada.

376.298. 1. Subject to the limitations of subsection 6 of this
2 section and subsection 2 of section 376.297, an insurer may acquire
3 rated credit instruments issued, assumed, guaranteed or issued by:

4 (1) The United States; or

5 (2) A government sponsored enterprise of the United States if the
6 instruments of the government sponsored enterprise are assumed,
7 guaranteed, or insured by the United States or are otherwise backed or
8 supported by the full faith and credit clause of the United States.

9 2. Subject to the limitations of subdivision (6) of this section and

10 subsection 2 of section 376.297, an insurer may acquire rated credit
11 instruments issued, assumed, guaranteed, or insured by:

12 (1) Canada; or

13 (2) A government sponsored enterprise of Canada if the
14 instruments of the government sponsored enterprise are assumed,
15 guaranteed, or insured by Canada or are otherwise backed or
16 supported by the full faith and credit clause of Canada.

17 An insurer shall not acquire an instrument under this subsection if as
18 a result of and after giving effect to the investment the aggregate
19 amount of investments then held by the insurer under this subsection
20 would exceed forty percent of its admitted assets.

21 3. Subject to the limitations of subsection 6 of this section and
22 subsection 2 of section 376.297, an insurer may acquire rated credit
23 instruments excluding asset-backed securities:

24 (1) Issued by a government money market mutual fund, a class
25 one money market mutual fund, or a class one bond mutual fund;

26 (2) Issued, assumed, guaranteed, or insured by a government
27 sponsored enterprise of the United States other than those eligible
28 under subsection 1 of this section;

29 (3) Issued, assumed, guaranteed, or insured by a state if the
30 instruments are general obligations of the state; or

31 (4) Issued by a multilateral development bank.

32 An insurer shall not acquire an instrument of any one fund, any one
33 enterprise or entity, or any one state under this subsection if as a
34 result of and after giving effect to the investment the aggregate amount
35 of investments then held by the insurer in any one fund, enterprise,
36 entity, or state under this subsection would exceed ten percent of its
37 admitted assets.

38 4. Subject to the limitations of subsection 6 of this section and
39 section 376.297, an insurer may acquire preferred stocks that are not
40 foreign investments and that meet the requirement of rated credit
41 instruments if as a result of and after giving effect to the investment:

42 (1) The aggregate amount of preferred stocks then held by the
43 insurer under this subsection does not exceed twenty percent of its
44 admitted assets; and

45 (2) The aggregate amount of preferred stocks then held by the
46 insurer under this subsection which are not sinking fund stocks or

47 rated "P1" or "P2" by the SVO does not exceed ten percent of its
48 admitted assets.

49 **5. Subject to the limitations of subsection 6 of this section and**
50 **section 376.297, in addition to those investments eligible under**
51 **subsections 1 to 4 of this section, an insurer may acquire rated credit**
52 **instruments that are not foreign investments.**

53 **6. An insurer shall not acquire special rated credit instruments**
54 **under this section if as a result of and after giving effect to the**
55 **investment the aggregate amount of special rated credit instruments**
56 **then held by the insurer would exceed five percent of its admitted**
57 **assets. The director may by rule under section 376.305 identify certain**
58 **special rated credit instruments that will be exempt from the limitation**
59 **imposed by this subsection.**

376.300. 1. [All other laws to the contrary notwithstanding, the capital,
2 reserve and surplus of all life insurance companies of whatever kind and
3 character organized pursuant to the laws of this state shall be invested only in
4 the following:

5 (1) Bonds, notes or other evidences of indebtedness, issued, assumed or
6 guaranteed as to principal and interest, by the United States, any state, territory
7 or possession of the United States, the District of Columbia, or of an
8 administration, agency, authority or instrumentality of any of the political units
9 enumerated, and of the Dominion of Canada;

10 (2) Bonds, notes or other evidences of indebtedness issued, assumed or
11 guaranteed as to principal and interest by any foreign country or state not
12 mentioned in subdivision (1) insofar as such bonds, notes or other evidences of
13 indebtedness may be necessary or required in order to do business in such foreign
14 state or country;

15 (3) Bonds, notes or other evidences of indebtedness issued, guaranteed or
16 insured as to principal and interest by a city, county, drainage district, levee
17 district, road district, school district, tax district, town, township, village or other
18 civil administration, agency, authority, instrumentality or subdivision of a city,
19 county, state, territory or possession of the United States or of the District of
20 Columbia, provided such obligations are authorized by law;

21 (4) Loans evidenced by bonds, notes or other evidences of indebtedness
22 guaranteed or insured, but only to the extent guaranteed or insured by the
23 United States, any state, territory or possession of the United States, the District

24 of Columbia, or by any agency, administration, authority or instrumentality of
25 any of the political units enumerated;

26 (5) Bonds, notes or other evidences of indebtedness issued, assumed or
27 guaranteed by a corporation organized under the laws of the United States, any
28 state, territory or possession of the United States, or the District of Columbia,
29 provided such bonds, notes or other evidences of indebtedness shall meet with the
30 requirements of section 375.532, RSMo, and sections 375.1070 to 375.1075, RSMo;

31 (6) (a) Notes, equipment trust certificates or obligations which are
32 adequately secured, or other adequately secured instruments evidencing an
33 interest in any equipment leased or sold to a corporation, other than the life
34 insurance company making the investment or its parent or affiliates, which
35 qualifies under subdivision (5) of this subsection for investment in its bonds,
36 notes, or other evidences of indebtedness, or to a common carrier, domiciled
37 within the United States or the Dominion of Canada, with gross revenues
38 exceeding one million dollars in the fiscal year immediately preceding purchase,
39 which provide a right to receive determined rental, purchase, or other fixed
40 obligatory payments for the use or purchase of such equipment and which
41 obligatory payments are adequate to retire the obligations within twenty years
42 from date of issue; or

43 (b) Notes, trust certificates, or other instruments which are adequately
44 secured. Such notes, trust certificates, or other instruments shall be considered
45 adequately secured for the purposes of this paragraph if a corporation or
46 corporations which qualify under subdivision (5) of this subsection for investment
47 in their bonds, notes, or other evidences of indebtedness, are jointly or severally
48 obliged under a binding lease or agreement to make rental, purchase, use, or
49 other payments for the benefit of the life insurance company making the
50 investment which are adequate to retire the instruments according to their terms
51 within twenty years from date of issue;

52 (7) Preferred or guaranteed stocks or shares of any solvent corporation
53 created or existing under the laws of the United States, any state, territory or
54 possession of the United States, or the District of Columbia, if all of the prior
55 obligations including prior preferred stocks, if any, of such corporation, at the
56 date of acquisition, are eligible as investments under any provisions of this
57 section; and if qualified under section 375.532, RSMo, and sections 375.1070 to
58 375.1075, RSMo;

59 (8) Stocks or shares of insured state-chartered building and loan

60 associations, federal savings and loan associations, if such shares are insured by
61 the Federal Savings and Loan Insurance Corporation pursuant to the terms of
62 Title IV of the act of the Congress of the United States, entitled "The National
63 Housing Act" (12 U.S.C.A. Sections 1724 to 1730), as the same presently exists
64 or may subsequently be amended, and federal home loan banks;

65 (9) Loans evidenced by notes or other evidences of indebtedness and
66 secured by first mortgage liens on unencumbered real estate or unencumbered
67 leaseholds having at least twenty-five years of unexpired term, such real estate
68 or leaseholds to be located in the United States, any territory or possession of the
69 United States. Such loans shall not exceed eighty percent of the fair market
70 value of the security of the loan for insurance companies. However, insurance
71 companies may make loans in excess of eighty percent of the fair market value
72 of the security for the loan, but not to exceed ninety-five percent of the fair
73 market value of the security for the loan, if that portion of the total indebtedness
74 in excess of seventy-five percent of the value of the security for the loan is
75 guaranteed or insured by a mortgage insurance company authorized by the
76 director of insurance to do business in this state, and provided the mortgage
77 insurance company is not affiliated with the entity making the loan. In addition,
78 an insurance company may not place more than two percent of its admitted assets
79 in loans in which the amount of the loan exceeds ninety percent of the fair
80 market value of the security for the loan. An entity which is restricted by section
81 104.440, RSMo, in making investments to those authorized life insurance
82 companies may make loans in excess of eighty percent of the fair market value
83 of the security of the loan if that portion of the total indebtedness in excess of
84 eighty percent of the fair market value is insured by a mortgage insurance
85 company authorized by the director of insurance to do business in this state. Any
86 life insurance company may sell any real estate acquired by it and take back a
87 purchase money mortgage or deed of trust for the whole or any part of the sale
88 price; and such percentage may be exceeded if and to the extent such excess is
89 guaranteed or insured by the United States, any state, territory or possession of
90 the United States, any city within the United States having a population of one
91 hundred thousand or more or by an administration, agency, authority or
92 instrumentality of any such governmental units; and such percentage shall not
93 exceed one hundred percent if such a loan is made to a corporation which
94 qualifies pursuant to subdivision (5) for investment in its bonds, notes or other
95 evidences of indebtedness, or if the borrower assigns to the lender a lease or

96 leases on the real estate providing rentals payable to the borrower in amounts
97 sufficient to repay such loan with interest in the manner specified by the note or
98 notes evidencing such loan and executed as lessee or lessees by a corporation or
99 corporations, which qualify pursuant to subdivision (5) for investment in its or
100 their bonds, notes or other evidences of indebtedness. No mortgage loan upon a
101 leasehold shall be made or acquired pursuant to this subdivision unless the terms
102 of the mortgage loan shall provide for amortization payments to be made by the
103 borrower on the principal thereof at least once in each year in amounts sufficient
104 to completely amortize the loan within four-fifths of the term of the leasehold
105 which is unexpired at the time the loan is made, but in no event exceeding thirty
106 years. Real estate or a leasehold shall not be deemed to be encumbered by reason
107 of the existence in relation thereto of:

108 (a) Liens inferior to the lien securing the loan made by the life insurance
109 company;

110 (b) Taxes or assessment liens not delinquent;

111 (c) Instruments creating or reserving mineral, oil or timber rights,
112 rights-of-way, common or joint driveways, easements for sewers, walls or utilities;

113 (d) Building restrictions and other restrictive covenants; or

114 (e) An unassigned lease reserving rents or profits to the owner;

115 (10) Shares of stock, bonds, notes or other evidences of indebtedness
116 issued, assumed or guaranteed by an urban redevelopment corporation organized
117 pursuant to the provisions of chapter 353, RSMo, known as the "Urban
118 Redevelopment Corporations Law", or any amendments thereto, or any law
119 enacted in lieu thereof; provided, that one or more such life insurance companies
120 may, with the approval of the director of the department of insurance, subscribe
121 to and own all of the shares of stock of any such urban redevelopment
122 corporation; and provided further, that the aggregate investment by any such
123 company pursuant to the terms of this subdivision shall not be in excess of five
124 percent of the admitted assets of such company;

125 (11) Land situated in this state and located within an area subject to
126 redevelopment within the meaning of the urban redevelopment corporations law,
127 or any amendments thereto, or any law enacted in lieu thereof, which land is
128 acquired for the purposes specified in such urban redevelopment corporations law,
129 and any such life insurance company may erect apartments, tenements or other
130 dwelling houses, not including hotels, but including accommodations for retail
131 stores, shops, offices and other community services reasonably incident to such

132 projects, and such company may thereafter own, hold, rent, lease, collect or
133 receive income, maintain and manage such land so acquired and the
134 improvements thereon, as real estate necessary and proper for the carrying on of
135 its legitimate business; provided, that any such life insurance company shall have
136 power to own, hold, maintain and manage such land, and all improvements
137 thereon, in accordance with the urban redevelopment corporations law,
138 amendments thereto or any law enacted in lieu thereof, and shall have all the
139 powers, duties, obligations, privileges and immunities, including any tax
140 exemption, credits or relief, granted an urban redevelopment corporation,
141 pursuant to the urban redevelopment corporations law, amendments thereto or
142 any law enacted in lieu thereof, the same as if such insurance company were an
143 urban redevelopment corporation organized pursuant to the provisions of that
144 law; provided, that two or more such life insurance companies may, with the
145 approval of the director of the department of insurance, enter into agreements
146 whereby the ownership and management and control of a redevelopment project
147 is participated in by each such company; and provided further that the aggregate
148 investment by any such company pursuant to the terms of this subdivision shall
149 not be in excess of five percent of the admitted assets of such company;

150 (12) Investments in property and processes for the development and
151 production of solar or geothermal energy, fossil or synthetic fuels, or gasohol,
152 whether made directly or as a participant in a general partnership, limited
153 partnership or joint venture] **Subject to the limitations of section 376.297,**
154 **an insurer may acquire equity interests in business entities organized**
155 **under the laws of any domestic jurisdiction.**

156 2. [No such life insurance company shall invest in any of the foregoing
157 securities in excess of the following percentages of the admitted assets of such
158 company, as shown by its last annual statement preceding the date of acquisition,
159 as filed with the director of the insurance department of the state of Missouri:

160 (1) Ten percent of its admitted assets in the securities issued by any one
161 corporation or governmental unit falling pursuant to the classification set forth
162 in subdivisions (3), (5), (6), (7) and (8) of subsection 1;

163 (2) One percent of its admitted assets or ten percent of its capital and
164 surplus, whichever is greater, in any single loan on real estate pursuant to
165 subdivision (9) of subsection 1;

166 (3) Ten percent of the admitted assets in the total amount of securities
167 described in subdivision (7) of subsection 1, and no such life insurance company

168 shall own securities described in subdivision (7) of subsection 1 of any one
169 corporation which, in the aggregate, represents more than five percent of the total
170 of all outstanding shares of stock of that corporation;

171 (4) One percent of its admitted assets in the bonds, notes or other
172 evidences of indebtedness of the Dominion of Canada and mentioned in
173 subdivision (1) of subsection 1; provided, however, that in addition thereto any
174 such life insurance company which has outstanding insurance contracts on lives
175 of persons residing in the Dominion of Canada may invest in bonds, notes or
176 other evidences of indebtedness of the Dominion of Canada and mentioned in
177 subdivision (1) of subsection 1, to an amount not in excess of the total amount of
178 its reserves and other accrued liabilities under such contracts;

179 (5) Five percent of its admitted assets in the notes or trust certificates
180 secured by any equipment leased or sold to a corporation falling under the
181 classification set forth in subdivision (5) of subsection 1 or to a common carrier
182 domiciled in the Dominion of Canada and mentioned in subdivision (6) of
183 subsection 1;

184 (6) Three percent of its admitted assets in loans evidenced by notes or
185 other evidences of indebtedness and secured by liens on unencumbered leaseholds
186 having at least twenty-five years of unexpired term and mentioned in subdivision
187 (9) of subsection 1;

188 (7) One percent of its admitted assets, or five percent of that portion of its
189 admitted assets in excess of two hundred fifty million dollars, whichever is
190 greater, in energy-related investments specified in subdivision (12) of subsection
191 **1] An insurer shall not acquire an investment under this section if as**
192 **a result of and after giving effect to the investment the aggregate**
193 **amount of investments then held by the insurer under this section**
194 **would exceed twenty percent of its admitted assets, or except for**
195 **mutual funds, the amount of equity interests then held by the insurer**
196 **that are not listed on a qualified exchange would exceed five percent**
197 **of its admitted assets.**

198 3. [The term "corporation", as used in subdivisions (5) and (7) of
199 subsection 1, shall include private corporations, joint stock associations or
200 business trusts. In applying the earnings tests, provided herein, to any issuing,
201 assuming or guaranteeing corporation, whether or not in legal existence during
202 the whole of the test period, and if such corporation has during the test period
203 acquired the assets of any other corporation or corporations by purchase, merger,

204 consolidation or otherwise, or has been reorganized pursuant to the bankruptcy
205 law, the earnings available for interest and dividends of such other predecessor
206 or constituent corporation or the corporation so reorganized shall be considered
207 as the earnings of the issuing, assuming or guaranteeing corporation] **An**
208 **insurer shall not acquire under this section any investment that the**
209 **insurer may acquire under section 376.302.**

210 4. [Nothing contained in this section shall be construed as repealing or
211 affecting the provisions of sections 375.330, 375.340, and 375.355, RSMo] **An**
212 **insurer shall not short sell equity interests unless the insurer covers**
213 **the short sale by owning the equity interest or an unrestricted right to**
214 **the equity interest exercisable within six months of the short sale.**

376.301. 1. [In addition to the investments permitted by section 376.300,
2 the capital, reserve and surplus of all life insurance companies of whatever kind
3 and character, organized under the laws of this state, may be invested in the
4 following, and the same shall be eligible for deposit under section 376.170:

5 (1) Bonds, notes or other evidences of indebtedness issued, assumed or
6 guaranteed as to principal and interest, by the Dominion of Canada, or any
7 province thereof;

8 (2) Investments in Canada which are substantially of the same kinds,
9 classes and investment grades or quality as those specified in subsection 1 of
10 section 376.300] **(1) Subject to the limitations of section 376.297, an**
11 **insurer may acquire tangible personal property or equity interest**
12 **therein located or used wholly or in part within a domestic jurisdiction**
13 **directly or indirectly through limited partnership interest and general**
14 **partnership interest not otherwise prohibited by subsection 4 of section**
15 **376.294, joint ventures, stock of an investment subsidiary or**
16 **membership interests in a limited liability company, trust certificates,**
17 **or other similar instruments.**

18 **(2) Investments acquired under subdivision (1) of this subsection**
19 **shall be eligible only if:**

20 **(a) The property is subject to a lease or other agreement with a**
21 **person whose rated credit instruments in the amount of the purchase**
22 **prices of the personal property the insurer could then acquire under**
23 **section 376.298; and**

24 **(b) The lease or other agreement provides the insurer the right**
25 **to receive rental, purchase, or other fixed payments for this use or**

26 **purchase of the property and the aggregate value of the payments,**
27 **together with the estimated residual value of the property at the end**
28 **of its useful life and the estimated tax benefits to the insurer resulting**
29 **from ownership of the property shall be adequate to return the cost of**
30 **the insurer's investment in the property plus a return deemed adequate**
31 **by the insurer.**

32 2. [No life insurance company shall invest in excess of one percent of its
33 admitted assets in any one investment under this section and the aggregate
34 amount of all investments under this section shall not exceed ten percent of its
35 admitted assets; provided, however, that in addition thereto any life insurance
36 company which has outstanding insurance contracts on lives of persons residing
37 in the Dominion of Canada may make investments under this section to an
38 amount not in excess of the total amount of its reserves and other accrued
39 liabilities under such contracts] **An insurer shall compute the amount of**
40 **each investment under this section on the basis of the out-of-pocket**
41 **purchase price and applicable related expenses paid by the insurer for**
42 **the investment, net of each borrowing made to finance the purchase**
43 **price, and expenses to the extent the borrowing is without recourse to**
44 **the insurer.**

45 3. **An insurer shall not acquire an investment under this section**
46 **if as a result of and after giving effect to the investment the aggregate**
47 **amount of all investments then held by the insurer under this section**
48 **would exceed:**

49 (1) **Two percent of its admitted assets; or**

50 (2) **One-half of one percent of its admitted assets as to any single**
51 **item of tangible personal property.**

52 4. **For purposes of determining compliance with the limitations**
53 **of section 376.297, investments acquired by an insurer under this**
54 **section shall be aggregated with those acquired under section 376.298**
55 **and each lessee of the property under a lease referred to in this section**
56 **shall be deemed the issuer of an obligation in the amount of the**
57 **investment of the insurer in the property determined as provided in**
58 **subsection 2 of this section.**

59 5. **Nothing in this section shall be applicable to tangible personal**
60 **property lease arrangements between an insurer and its subsidiaries**
61 **and affiliates under a cost-sharing arrangement or agreement**
62 **permitted under chapter 382, RSMo.**

376.302. 1. (1) Subject to the limitations of section 376.297, an insurer may acquire directly or indirectly through limited partnership interests and general partnership interests not otherwise prohibited by subsection 4 of section 376.294, joint ventures, stock of an investment subsidiary or membership interests in a limited liability company, trust certificates, or other similar instruments or obligations secured by mortgages on real estate situated within a domestic jurisdiction, but a mortgage loan which is secured by other than a first lien shall not be acquired under this subdivision unless the insurer is the holder of the first lien. The obligations held by the insurer and any obligations with an equal lien priority shall not at the time of acquisition of the obligation exceed:

(a) Ninety percent of the fair market value of the real estate if the mortgage loan is secured by a purchase money mortgage or like security received by the insurer upon disposition of the real estate;

(b) Eighty percent of the fair market value of the real estate if the mortgage requires immediate scheduled payment in periodic installments of principal and interest and has an amortization period of thirty years or less and periodic payments not less than annually. Each periodic payment shall be sufficient to assure that at all times:

a. The outstanding principal balance of the mortgage loan is not greater than the outstanding principal balance that would be outstanding under a mortgage loan with the same original principal balance and interest rate; and

b. There are equal payments of principal and interest with the same frequency over the same amortization period.

Mortgage loans permitted under this subsection are permitted notwithstanding the fact that they provide for a payment of the principal balance prior to the end of the period of the amortization of the loan. For residential mortgage loans, the eighty percent limitation may be increased to ninety-seven percent if acceptable private mortgage insurance has been obtained; or

(c) Seventy-five percent of the fair market value of the real estate for mortgage loans that do not meet the requirements of paragraph (a) or (b) of this subdivision.

(2) For purposes of subdivision (1) of this subsection, the amount

38 of an obligation required to be included in the calculation of the loan-
39 to-value ratio may be reduced to the extent the obligation is insured by
40 the Federal Housing Administration or guaranteed by the
41 Administrator of Veterans' Affairs, or their successor.

42 (3) Subject to the limitations of section 376.297, an insurer may
43 acquire directly or indirectly through limited partnership interests and
44 general partnership interests not otherwise prohibited by subsection
45 4 of section 376.294, joint ventures, stock of an investment subsidiary
46 or membership interests in a limited liability company, trust
47 certificates, or other similar instruments or obligations secured by a
48 second mortgage on real estate situated within a domestic jurisdiction
49 other than as authorized in subdivision (1) of this subsection. The
50 obligation held by the insurer shall be the sole second lien priority
51 obligation and shall not at the time of acquisition of the obligation
52 exceed seventy percent of the amount by which the fair market value
53 of the real estate exceeds the amount outstanding under the first
54 mortgage.

55 (4) A mortgage loan that is held by an insurer under subdivision
56 (6) of subsection 1 of section 376.293 or acquired under this section and
57 is restructured in a manner that meets the requirements of a
58 restructured mortgage loan in accordance with the NAIC Accounting
59 Practices and Procedures Manual or its successor publication shall
60 continue to qualify as a mortgage loan.

61 (5) Subject to the limitations of section 376.297, credit lease
62 transactions that do not qualify for investment under section 376.298
63 with the following characteristics shall be exempt from the provisions
64 of subdivision (1) of this subsection:

65 (a) The loan amortizes over the initial fixed lease term at least
66 in an amount sufficient so that the loan balance at the end of the lease
67 term does not exceed the original appraised value of the real estate;

68 (b) The lease payments cover or exceed the total debt service
69 over the life of the loan;

70 (c) A tenant or its affiliated entity whose rated credit
71 instruments have a SVO "1" or "2" designation or a comparable rating
72 from a nationally recognized statistical rating organization recognized
73 by the SVO has a full faith and credit obligation to make the lease
74 payments;

75 (d) The insurer holds or is the beneficial holder of a first lien
76 mortgage on the real estate;

77 (e) The expenses of the real estate are passed through to the
78 tenant, excluding exterior structural, parking and heating, ventilation
79 and air conditioning replacement expenses, unless annual escrow
80 contributions from cash flows derived from the lease payments cover
81 the expense shortfall; and

82 (f) There is a perfected assignment of the rents due under the
83 lease to or for the benefit of the insurer.

84 2. (1) An insurer may acquire, manage, and dispose of real estate
85 situated in a domestic jurisdiction directly or indirectly through
86 limited partnership interests and general partnership interests not
87 otherwise prohibited by subsection 4 of section 376.294, joint ventures,
88 stock of an investment subsidiary or membership interests in a limited
89 liability company, trust certificates, or other similar instruments. The
90 real estate shall be income producing or intended for improvement or
91 development for investment purposes under an existing program in
92 which case the real estate shall be deemed to be income producing.

93 (2) The real estate may be subject to mortgages, liens, or other
94 encumbrances, and the amount of which shall, to the extent that the
95 obligations secured by the mortgages, liens, or encumbrances are
96 without recourse to the insurer, be deducted from the amount of the
97 investment of the insurer in the real estate for purposes of determining
98 compliance with subdivisions (2) and (3) of subsection 4 of this section.

99 3. An insurer may acquire, manage, and dispose of real estate for
100 the convenient accommodation of the insurer's (which may include its
101 affiliates) business operations, including home office, branch office, and
102 field office operations. Such real estate acquired may:

103 (1) Include excess space for rent to others if the excess space at
104 its fair market value would otherwise be a permitted investment under
105 subsection 2 of this section and is so qualified by the insurer; or

106 (2) Be subject to one or more mortgage, lien, or other
107 encumbrance, and the amount of which shall, to the extent that the
108 obligations secured by the mortgages, liens, or encumbrances are
109 without recourse to the insurer, be deducted from the amount of the
110 investment of the insurer in the real estate for purposes of determining
111 compliance with subsection 4 of this section.

112 For purposes of this subsection, business operations shall not include
113 that portion of real estate used for the direct provision of health care
114 services by an accident and health insurer for its insureds. An insurer
115 may acquire real estate used for these purposes under subsection 2 of
116 this section.

117 4. An insurer may not acquire an investment:

118 (1) Under subsection 1 of this section, if as a result of, and after
119 giving effect to the investment, the aggregate amount of all investments
120 then held by the insurer under subsection 1 of this section would not
121 exceed:

122 (a) One percent of its admitted assets in mortgage loans covering
123 any one secured location;

124 (b) One-fourth of one percent of its admitted assets in
125 construction loans covering any one secured location; or

126 (c) Two percent of its admitted assets in construction loans in
127 the aggregate;

128 (2) Under subsection 2 of this section if as a result of and after
129 giving effect to the investment and any outstanding guarantees made
130 by the insurer in connection with the investment the aggregate amount
131 of investments then held by the insurer under subsection 2 of this
132 section plus the guarantees then outstanding would exceed:

133 (a) One percent of its admitted assets in one parcel or group of
134 contiguous parcels of real estate, except that this limitation shall not
135 apply to that portion of real estate used for the direct provision of
136 health care services by an accident and health insurer for its insureds,
137 such as hospitals, medical clinics, medical professional buildings, or
138 other health facilities for the purposes of providing health services; or

139 (b) Fifteen percent of its admitted assets in the aggregate but not
140 more than five percent of its admitted assets in real estate to be
141 improved or developed;

142 (3) Under subsection 1 or 2 of this section if as a result of and
143 after giving effect to the investment and any guarantees made by the
144 insurer in connection with the investment the aggregate amount of all
145 investments then held by the insurer under subsections 1 and 2 of this
146 section plus the guarantees then outstanding would exceed forty-five
147 percent of its admitted assets. However, an insurer may exceed this
148 limitation by no more than thirty percent of its admitted assets if:

149 **(a) This increased amount is invested only in residential**
150 **mortgage loans;**

151 **(b) The insurer has no more than ten percent of its admitted**
152 **assets invested in mortgage loans other than residential mortgage**
153 **loans;**

154 **(c) The loan-to-value ratio of each residential mortgage loan does**
155 **not exceed sixty percent at the time the mortgage loan is qualified**
156 **under this increased authority and the fair market value is supported**
157 **by an appraisal no more than two years old prepared by an**
158 **independent appraiser;**

159 **(d) A single mortgage loan qualified under this increased**
160 **authority does not exceed one-half of one percent of its admitted assets;**

161 **(e) The insurer files with the director and receives approval**
162 **from the director for a plan that is designed to result in a portfolio of**
163 **residential mortgage loans that is geographically diversified; and**

164 **(f) The insurer agrees to file annually with the director records**
165 **that demonstrate that its portfolio of residential mortgage loans is**
166 **geographically diversified in accordance with the plan.**

167 **The limitations of section 376.297 shall not apply to an insurer's**
168 **acquisition of real estate under subsection 3 of this section. An insurer**
169 **shall not acquire real estate under subsection 3 of this section if as a**
170 **result of and after giving effect to the acquisition the aggregate amount**
171 **of real estate then held by the insurer under subsection 3 of this**
172 **section would exceed ten percent of its admitted assets. With the**
173 **permission of the director, additional amounts of real estate may be**
174 **acquired under subsection 3 of this section.**

 376.303. [In addition to the investments permitted by section 376.300, the
2 capital, reserve and surplus of all life insurance companies of whatever kind and
3 character, organized or doing business under this chapter, may be invested in
4 bonds, notes, or other evidences of indebtedness, payable in United States dollars,
5 issued, assumed or guaranteed as to principal and interest by the International
6 Bank for Reconstruction and Development, Inter-American Development Bank,
7 the Asian Development Bank, or the African Development Bank, and such
8 securities shall be eligible for deposit under section 376.170, provided, however,
9 that the amount invested by any such life insurance company in such bonds,
10 notes, or other evidences of indebtedness shall not in the aggregate exceed two
11 percent of the admitted assets of such life insurance company.] **An insurer may**

12 enter into securities lending, repurchase, reverse repurchase, and
13 dollar roll transactions with business entities subject to the following
14 requirements:

15 (1) The insurer's board of directors shall adopt a written plan
16 that is consistent with the requirements of the written plan under
17 subdivision (1) of subsection 2 of section 376.293 that specifies
18 guidelines and objectives to be followed, such as:

19 (a) A description of how cash received will be invested or used
20 for general corporate purposes of the insurer;

21 (b) Operational procedures to manage interest rate risk,
22 counterparty default risk, the conditions under which proceeds from
23 reverse repurchase transactions may be used in the ordinary course of
24 business, and use of acceptable collateral in a manner that reflects the
25 liquidity needs of the transaction; and

26 (c) The extent to which the insurer may engage in these
27 transactions;

28 (2) The insurer shall enter into a written agreement for all
29 transactions authorized in this section other than dollar roll
30 transactions. The written agreement shall require that each
31 transaction terminate no more than one year from its inception or upon
32 the earlier demand of the insurer. The agreement shall be with the
33 business entity counterparty and the agreement may be with an agent
34 acting on behalf of the insurer if the agent is a qualified business entity
35 and if the agreement:

36 (a) Requires the agent to enter into separate agreements with
37 each counterparty that are consistent with the requirements of this
38 section; and

39 (b) Prohibits securities lending transactions under the
40 agreement with the agent or its affiliates;

41 (3) Cash received in a transaction under this section shall be
42 invested in accordance with this chapter and in a manner that
43 recognizes the liquidity needs of the transaction or used by the insurer
44 for its general corporate purpose. So long as the transaction remains
45 outstanding, the insurer, its agent, or custodian shall maintain as to
46 acceptable collateral received in a transaction under this section either
47 physically or through the book entry systems of the Federal Reserve,
48 Depository Trust Company, Participants Trust Company, or other

49 securities depositories approved by the director:

50 (a) Possession of the acceptable collateral;

51 (b) A perfected security interest in the acceptable collateral; or

52 (c) In the case of a jurisdiction outside of the United States, title
53 to or rights of a secured creditor to the acceptable collateral;

54 (4) The limitations of sections 376.297 and 376.304 shall not apply
55 to the business entity counterparty exposure created by transactions
56 under this section. For purposes of calculations made to determine
57 compliance with this subsection, no effect will be given to the insurer's
58 future obligation to resell securities in the case of a repurchase
59 transaction or to repurchase securities in the case of a reverse
60 repurchase transaction. An insurer shall not enter into a transaction
61 under this section if as a result of and after giving effect to the
62 transaction:

63 (a) The aggregate amount of securities then loaned, sold to, or
64 purchased from any one business entity counterparty under this
65 section would exceed five percent of its admitted assets. In calculating
66 the amount sold to or repurchased from a business entity counterparty
67 under repurchase or reverse repurchase transactions, effect may be
68 given to netting provisions under a master written agreement; or

69 (b) The aggregate amount of all securities then loaned, sold to,
70 or purchased from all business entities under this section would exceed
71 forty percent of its admitted assets;

72 (5) In a dollar roll transaction, the insurer shall receive cash in
73 an amount at least equal to the market value of the securities
74 transferred by the insurer in the transaction as of the transaction date.

376.304. 1. Subject to the limitations of section 376.297, an
2 insurer may acquire foreign investments or engage in investment
3 practices with persons of or in foreign jurisdictions of substantially the
4 same types as those that an insurer is permitted to acquire under this
5 chapter, other than the type permitted under section 376.311 if as a
6 result and after giving effect to the investment:

7 (1) The aggregate amount of foreign investments then held by the
8 insurer under this subsection does not exceed twenty percent of the
9 admitted assets; and

10 (2) The aggregate amount of foreign investments then held by the
11 insurer under this subsection in a single foreign jurisdiction does not

12 exceed ten percent of its admitted assets as to a foreign jurisdiction
13 that has a sovereign debt rating of SVO "1" or three percent of its
14 admitted assets as to any other foreign jurisdiction.

15 2. Subject to the limitations of section 376.297, an insurer may
16 acquire investments or engage in investment practice denominated in
17 foreign currencies whether or not they are foreign investments
18 acquired under subsection 1 of this section or additional foreign
19 currency exposure as a result of the termination or expiration of a
20 hedging transaction with respect to investments denominated in a
21 foreign currency if as a result of and after giving effect to the
22 transaction:

23 (1) The aggregate amount of investments then held by the
24 insurer under this subsection denominated in foreign currencies does
25 not exceed ten percent of its admitted assets; and

26 (2) The aggregate amount of investments then held by the
27 insurer under this subsection denominated in the foreign currency of
28 a single foreign jurisdiction does not exceed ten percent of its admitted
29 assets as to a foreign jurisdiction that has a sovereign debt rating of
30 SVO "1" or three percent of its admitted assets as to any other foreign
31 jurisdiction.

32 3. An investment shall not be considered denominated in a
33 foreign currency if the acquiring insurer enters into one or more
34 contracts in transactions permitted under section 375.345, RSMo, in
35 which the business entity counterparty agrees to exchange or grants to
36 the insurer the option to exchange all payments made on the foreign
37 currency denominated investment, or amounts equivalent to the
38 payments that are or will be due to the insurer in accordance with the
39 terms of such investment, for United States currency during the period
40 the contract or contracts are in effect to insulate the insurer from loss
41 caused by diminution of the value of payments owed to the insurer due
42 to future changes in currency exchange rates.

43 4. In addition to investments permitted under subsections 1 to
44 3 of this section, an insurer that is authorized to do business in a
45 foreign jurisdiction and that has an outstanding insurance, annuity, or
46 reinsurance contract on lives or risks resident or located in that
47 foreign jurisdiction and denominated in foreign currency of that
48 jurisdiction may acquire investments denominated in the currency of

49 that jurisdiction subject to the limitations of section 376.297. However,
50 investments made under this subsection in obligations of foreign
51 governments, their political subdivisions, and government sponsored
52 enterprises shall not be subject to the limitations of section 376.297 if
53 those investments carry an SVO rating of "1" or "2". The aggregate
54 amount of investments acquired by the insurer under this subsection
55 shall not exceed the greater of:

56 (1) The amount the insurer is required by the law of the foreign
57 jurisdiction to invest in the foreign jurisdiction; or

58 (2) One hundred fifteen percent of the amount of its reserves, net
59 of reinsurance, and other obligations under the contracts on lives or
60 risks resident or located in the foreign jurisdiction.

61 5. In addition to investments permitted under subsections 1 to
62 3 of this section, an insurer that is not authorized to do business in a
63 foreign jurisdiction but which has outstanding insurance, annuity, or
64 reinsurance contracts on lives or risks resident or located in that
65 foreign jurisdiction and denominated in foreign currency of that
66 jurisdiction may acquire foreign investments respecting that foreign
67 jurisdiction and may acquire investments denominated in the currency
68 of that jurisdiction, subject to the limitations of section
69 376.297. However, investments made under this subsection in
70 obligations of foreign governments, their political subdivisions, and
71 government sponsored enterprises shall not be subject to the
72 limitations of section 376.297 if those investments carry an SVO rating
73 of "1" or "2". The aggregate amount of investments acquired by the
74 insurer under this subsection shall not exceed one hundred five percent
75 of the amount of its reserves, net of reinsurance, and other obligations
76 under the contracts on lives and risks resident or located in the foreign
77 jurisdiction.

78 6. Investments acquired under this section shall be aggregated
79 with investments of the same type made under this chapter and in a
80 similar manner for purposes of determining compliance with the
81 limitations, if any, contained in this chapter. Investments in
82 obligations of foreign governments, their political subdivisions, and
83 government sponsored enterprises of these persons, except for those
84 exempted under subsections 4 and 5 of this section, shall be subject to
85 the limitations of section 376.297.

376.305. [1. In addition to the investments permitted by section 376.300,
2 the capital, reserve and surplus of all life insurance companies of whatever kind
3 and character organized or doing business under sections 376.010 to 376.670, may
4 be invested in the common stock of any solvent corporation, organized under the
5 laws of the United States, any state, territory or possession of the United States,
6 or the District of Columbia, or of the Dominion of Canada, or any province of the
7 Dominion of Canada, provided the corporation's net worth as shown on its balance
8 sheet at the end of the last fiscal year preceding purchase shall have been at least
9 ten million dollars, and that such common stocks are registered on a national
10 securities exchange or quoted in established over-the-counter markets, or
11 provided that such corporation is registered and operated as an open-end
12 regulated investment company in accordance with the Investment Company Act
13 of 1940, as amended. Common stocks meeting the preceding qualifications shall
14 be eligible for deposit, as provided under section 376.170.

15 2. No such life insurance company shall invest in excess of ten percent of
16 its admitted assets or an amount in excess of its combined capital and surplus,
17 whichever is the lesser, as shown by its last annual statement preceding the date
18 of acquisition, as filed with the director of the insurance department of the state
19 of Missouri, in the total amount of such common stocks, nor shall such life
20 insurance company own securities described in subdivision (7) of subsection 1 of
21 section 376.300, and subsection 1 of this section, which, in the aggregate,
22 represent more than five percent of the total of all outstanding shares of stock of
23 the issuing corporation, nor shall any such life insurance company own common
24 stock described in subsection 1 issued by any one corporation which represents
25 more than two percent of the admitted assets of such life insurance company.]
26 **The director may promulgate rules to implement the provisions of**
27 **sections 376.291 to 376.307. Any rule or portion of a rule, as that term**
28 **is defined in section 536.010, RSMo, that is created under the authority**
29 **delegated in this section shall become effective only if it complies with**
30 **and is subject to all of the provisions of chapter 536, RSMo, and, if**
31 **applicable, section 536.028, RSMo. This section and chapter 536, RSMo,**
32 **are nonseverable and if any of the powers vested with the general**
33 **assembly under chapter 536, RSMo, to review, to delay the effective**
34 **date, or to disapprove and annul a rule are subsequently held**
35 **unconstitutional, then the grant of rulemaking authority and any rule**
36 **proposed or adopted after August 28, 2007, shall be invalid and void.**

**376.306. A life insurer may lend to a policyholder on the security
2 of the cash surrender value of the policyholder's policy a sum not to
3 exceed the legal reserve that the insurer is required to maintain on the
4 policy.**

376.307. 1. [Notwithstanding any direct or implied prohibitions in this
2 chapter or chapter 375, RSMo, the capital, reserve and surplus funds of all life
3 insurance companies of whatever kind and character organized or doing business
4 under this chapter or chapter 375, RSMo, may be invested in any investments
5 which do not otherwise qualify under any other provision of this chapter or
6 chapter 375, RSMo, provided, however, the investments authorized by this section
7 are not eligible for deposit with the department of insurance and shall be subject
8 to all the limitations set forth in subsection 2.

9 2. No such life insurance company shall own such investments in an
10 amount in excess of the following limitations, to be based upon its admitted
11 assets, capital and surplus as shown in its last annual statement filed with the
12 director of the department of insurance of the state of Missouri:

13 (1) The aggregate amount of all such investments under this section shall
14 not exceed the lesser of:

15 (a) Eight percent of its admitted assets; or

16 (b) The amount of its capital and surplus in excess of nine hundred
17 thousand dollars; and

18 (2) The amount of any one such investment under this section shall not
19 exceed one percent of its admitted assets.

20 3. If, subsequent to its acquisition hereunder, any such investment shall
21 become specifically authorized or permitted under any other section contained in
22 chapter 375 or 376, RSMo, any such company may thereafter consider such
23 investment as held under such other applicable section and not under this
24 section.] **Solely for the purpose of acquiring investments that exceed the
25 quantitative limitations of sections 376.297 to 376.304, an insurer may
26 acquire under this subsection an investment or engage in investment
27 practices described in section 376.303, but an insurer shall not acquire
28 an investment, or engage in investment practices described in section
29 376.303, under this subsection if as a result of and after giving effect to
30 the transaction:**

31 (1) **The aggregate amount of investments then held by an insurer
32 under this subsection would exceed three percent of its admitted**

33 assets; or

34 (2) The aggregate amount of investments as to one limitation in
35 sections 376.297 to 376.304 then held by the insurer under this
36 subsection would exceed one percent of its admitted assets.

37 2. In addition to the authority provided in subsection 1 of this
38 section, an insurer may acquire under this subsection an investment of
39 any kind or engage in investment practices described in section 376.303
40 that are not specifically prohibited by this chapter without regard to
41 the categories, conditions, standards, or other limitations of sections
42 376.297 to 376.304 if as a result of and after giving effect to the
43 transaction the aggregate amount of investments then held under this
44 subsection would not exceed the lesser of:

45 (1) Ten percent of its admitted assets; or

46 (2) Seventy-five percent of its capital and surplus.

47 An insurer shall not acquire any investment or engage in any
48 investment practice under this subsection if as a result of and after
49 giving effect to the transaction the aggregate amount of all investments
50 in any one person then held by the insurer under this subsection would
51 exceed three percent of its admitted assets.

52 3. In addition to the investments acquired under subsections 1
53 and 2 of this section, an insurer may acquire under this subsection an
54 investment of any kind or engage in investment practices described in
55 section 376.303 that are not specifically prohibited by this chapter
56 without regard to any limitations of sections 376.297 to 376.304 if:

57 (1) The director grants prior approval;

58 (2) The insurer demonstrates that its investments are being made
59 in a prudent manner and that the additional amounts will be invested
60 in a prudent manner; and

61 (3) As a result of and after giving effect to the transaction, the
62 aggregate amount of investments then held by the insurer under this
63 subsection does not exceed the greater of:

64 (a) Twenty-five percent of its capital and surplus; or

65 (b) One hundred percent of its capital and surplus less ten
66 percent of its admitted assets.

67 4. Under this section, an insurer shall not acquire or engage in
68 an investment practice prohibited under section 376.294 or an
69 investment that is a derivative transaction.

376.309. 1. As used in this section, "separate account" means an account
2 established by an insurance company, into which any amounts paid to or held by
3 such company under applicable contracts are credited and the assets of which,
4 subject to the provisions of this section, may be invested in such investments as
5 shall be authorized by a resolution adopted by such company's board of
6 directors. The income, if any, and gains and losses, realized or unrealized, on
7 such account shall be credited to or charged against the amounts allocated to
8 such account without regard to other income, gains or losses of the company. If
9 and to the extent so provided under the applicable contracts, that portion of the
10 assets of any such separate account equal to the reserves and other contract
11 liabilities with respect to such account shall not be chargeable with liabilities
12 arising out of any other business the company may conduct.

13 2. Any domestic life insurance company may, after adoption of a
14 resolution by its board of directors, establish one or more separate accounts, and
15 may allocate to such account or accounts any amounts paid to or held by it which
16 are to be applied under the terms of an individual or group contract to provide
17 benefits payable in fixed or in variable dollar amounts or in both.

18 3. To the extent it deems necessary to comply with any applicable federal
19 or state act, the company may, with respect to any separate account or any
20 portion thereof, provide for the benefit of persons having beneficial interests
21 therein special voting and other rights and special procedures for the conduct of
22 the business and affairs of such separate account or portion thereof, including,
23 without limitation, special rights and procedures relating to investment policy,
24 investment advisory services, selection of public accountants, and selection of a
25 committee, the members of which need not be otherwise affiliated with the
26 company, to manage the business and affairs of such separate account or portion
27 thereof; and the corporate charter of such company shall be deemed amended to
28 authorize the company to do so. The provisions of this section shall not affect
29 existing laws pertaining to the voting rights of such company's policyholders.

30 4. The amounts allocated to any separate account and the accumulations
31 thereon may be invested and reinvested without regard to any requirements or
32 limitations prescribed by the laws of this state governing the investments of life
33 insurance companies, and the investments in such separate account or accounts
34 shall not be taken into account in applying the investment limitations, including
35 but not limited to quantitative restrictions, otherwise applicable to the
36 investments of the company, except that to the extent that the company's reserve

37 liability with regard to benefits guaranteed as to principal amount and duration,
38 and funds guaranteed as to principal amount or stated rate of interest, is
39 maintained in any separate account, a portion of the assets of such separate
40 account at least equal to such reserve liability shall be, except as the director [of
41 insurance] might otherwise approve, invested in accordance with the laws of this
42 state governing the general investment account of any company. As used herein,
43 the expression "general investment account" shall mean all of the funds, assets
44 and investments of the company which are not allocated in a separate
45 account. The provisions of section 376.170 relating to deposits for registered
46 policies shall not be applicable to funds and investments allocated to separate
47 accounts. No investment in the separate account or in the general investment
48 account of a life insurance company shall be transferred by sale, exchange,
49 substitution or otherwise from one account to another unless, in case of a transfer
50 into a separate account, the transfer is made solely to establish the account or to
51 support the operation of the contracts with respect to the separate account to
52 which the transfer is made or unless the transfer, whether into or from a separate
53 account, is made by a transfer of cash, or by a transfer of other assets having a
54 readily determinable market value, provided that such transfer of other assets is
55 approved by the director [of insurance] and is for assets of equivalent
56 value. Such transfer shall be deemed approved to the extent the assets of a
57 separate account so transferred have been paid to or are being held by the
58 company in connection with a pension, retirement or profit-sharing plan subject
59 to the provisions of the Internal Revenue Code, as amended, and the Employee
60 Retirement Income Security Act of 1974, as amended. The director [of insurance]
61 may withdraw such deemed approval by providing written notice to the company
62 that its financial condition or past practices require such withdrawal. The
63 director [of insurance] may approve other transfers among such accounts if the
64 director concludes that such transfers would be equitable.

65 5. Unless otherwise approved by the director [of insurance], assets
66 allocated to a separate account shall be valued at their market value on the date
67 of valuation, or if there is no readily available market, then as provided under the
68 terms of the contract or the rules or other written agreement applicable to such
69 separate account; provided, that the portion of the assets of such separate account
70 at least equal to the company's reserve liability with regard to the guaranteed
71 benefits and funds referred to in subsection 4 of this section, if any, shall be
72 valued in accordance with the rules otherwise applicable to the company's assets.

73 6. The director [of insurance] shall have the sole and exclusive authority
74 to regulate the issuance and **authority to regulate the** sale of contracts under
75 which amounts are to be allocated to one or more separate accounts as provided
76 herein, and to issue such reasonable rules, regulations and licensing
77 requirements as [he] **the director** shall deem necessary to carry out the
78 purposes and provisions of this section; and [such contracts,] the companies
79 [which] **that** issue [them and the agents or other persons who sell them] **such**
80 **contracts** shall not be subject to [sections 409.101 to 409.419, RSMo, or
81 amendments thereto, nor to the jurisdiction of the] **registration with the**
82 **commissioner of securities. The director may, subject to the provisions of**
83 **section 374.185, RSMo, consult and cooperate with the commissioner of**
84 **securities in investigations arising from the offer and sale of contracts**
85 **regulated under this section and may request assistance from the**
86 **commissioner of securities in any proceeding arising from the offer and**
87 **sale of any such contracts.**

88 7. No domestic life insurance company, and no other life insurance
89 company admitted to transact business in this state, shall be authorized to
90 deliver within this state any contract under which amounts are to be allocated to
91 one or more separate accounts as provided herein until said company has
92 satisfied the director [of insurance] that its condition or methods of operation in
93 connection with the issuance of such contracts will not render its operation
94 hazardous to the public or its policyholders in this state. In determining the
95 qualifications of a company requesting authority to deliver such contracts within
96 this state, the director [of insurance] shall consider, among other things:

97 (1) The history and financial condition of the company;

98 (2) The character, responsibility and general fitness of the officers and
99 directors of the company; and

100 (3) In the case of a company other than a domestic company, whether the
101 statutes and regulations of the jurisdiction of its incorporation provide a degree
102 of protection to policyholders and the public which is substantially equal to that
103 provided by this section and the rules and regulations issued thereunder.

104 8. An authorized life insurance company, whether domestic, foreign or
105 alien, which issues contracts under which amounts are to be allocated to one or
106 more separate accounts as provided herein, and which is a subsidiary of or
107 affiliated through common management or ownership with another life insurance
108 company authorized to do business in this state, may be deemed to have met the

109 provisions of subsection 7 of this section if either it or the parent or affiliated
110 company meets the requirements thereof.

111 9. If the contract provides for payment of benefits in variable amounts, it
112 shall contain a statement of the essential features of the procedure to be followed
113 by the company in determining the dollar amount of such variable benefits. Any
114 such contract, including a group contract, and any certificate issued thereunder,
115 shall state that such dollar amount may decrease or increase and shall contain
116 on its first page a statement that the benefits thereunder are on a variable basis.

117 10. Except as otherwise provided in this section, all pertinent provisions
118 of the insurance laws of this state shall apply to separate accounts and contracts
119 relating thereto.

376.620. [In all suits upon policies of insurance on life hereafter issued
2 by any company doing business in this state, to a citizen of this state, it shall be
3 no defense that the insured committed suicide, unless it shall be shown to the
4 satisfaction of the court or jury trying the cause, that the insured contemplated
5 suicide at the time he made his application for the policy, and any stipulation in
6 the policy to the contrary shall be void.] **1. Any life insurance or certificate**
7 **issued or delivered in this state, may exclude or restrict liability of**
8 **death as the result of suicide in the event the insured, while sane or**
9 **insane, dies as a result of suicide within one year from the date of the**
10 **issue of the policy or certificate. Any such exclusion or restriction**
11 **shall be clearly stated in the policy or certificate.**

12 **2. Any life insurance policy or certificate which contains any**
13 **exclusion or restriction under subsection 1 of this section shall also**
14 **provide that in the event the insured dies as a result of suicide within**
15 **one year from the date of issue of the policy that the insurer shall**
16 **promptly refund all premiums paid for coverage on such insured.**

376.889. [In addition to any other applicable penalties, the director may
2 require issuers violating any provision of sections 376.850 to 376.890 or
3 regulations promulgated pursuant to sections 376.850 to 376.890 to cease
4 marketing any Medicare supplement policy or certificate in this state which is
5 related directly or indirectly to a violation, or may require such issuer to take
6 such actions as are necessary to comply with the provisions of sections 376.850
7 to 376.890, or both] **1. If the director determines that a person has**
8 **engaged, is engaging in, or has taken a substantial step toward**
9 **engaging in an act, practice or course of business constituting a**

10 violation of sections 376.850 to 376.890 or a rule adopted or order issued
11 pursuant thereto, or that a person has materially aided or is materially
12 aiding an act, practice, omission, or course of business constituting a
13 violation of sections 376.850 to 376.890 or a rule adopted or order issued
14 pursuant thereto, the director may issue such administrative orders as
15 authorized under section 374.046, RSMo. A violation of any of these
16 sections is a level two violation under section 374.049, RSMo.

17 2. If the director believes that a person has engaged, is engaging
18 in, or has taken a substantial step toward engaging in an act, practice
19 or course of business constituting a violation of sections 376.850 to
20 376.890 or a rule adopted or order issued pursuant thereto, or that a
21 person has materially aided or is materially aiding an act, practice,
22 omission, or course of business constituting a violation of sections
23 376.850 to 376.890 or a rule adopted or order issued pursuant thereto,
24 the director may maintain a civil action for relief authorized under
25 section 374.048, RSMo. A violation of any of these sections is a level
26 two violation under section 374.049, RSMo.

376.1012. Funds collected from the participating employers under
2 multiple employer self-insured health plans shall be held in trust subject to the
3 following requirements:

4 (1) A board of trustees elected by participating employers shall serve as
5 fund managers on behalf of participants. Trustees shall be plan participants. No
6 participating employer may be represented by more than one trustee. No trustee
7 may represent more than one employer. A minimum of three and a maximum of
8 seven trustees may be elected. Trustees may not receive remuneration but they
9 may be reimbursed for actual and reasonable expenses incurred in connection
10 with duties as trustee. A trustee may not be an agent, or broker for or an owner,
11 officer or employee of any third-party administrator, insurance agency or insurer
12 utilized by the plan. The trustees shall have the authority to approve
13 applications of association members for participation in the arrangement and to
14 contract with a licensed third-party administrator to administer the day-to-day
15 affairs of the plan;

16 (2) Each trustee shall be bonded in an amount of not less than one
17 hundred fifty thousand dollars by a licensed insurer;

18 (3) Investment of plan funds is subject to the same restrictions which are
19 applicable to insurers pursuant to sections [376.300 to 376.310] **376.291 to**

20 **376.307**; provided, however, that no foreign plan shall be exempt under section
21 376.310 from the investment laws of this state unless such plan is subject to laws
22 in its state of domicile which are substantially similar to sections 376.1032 to
23 376.1045. All investments shall be managed by a bank or other investment entity
24 licensed to operate in Missouri;

25 (4) Trustees, on behalf of the plan, shall file an annual report with the
26 director of the department of insurance by March first showing the condition and
27 affairs of the plan as of the preceding thirty-first day of December. The report
28 shall be made on forms prescribed by the director. The report shall summarize
29 the financial condition of the fund, itemize collections from participating
30 employers, detail all fund expenditures and provide any additional information
31 which the director requires. More frequent reports may be required at the
32 discretion of the director.

376.1094. 1. The **director shall suspend or revoke the** certificate of
2 authority of an administrator [shall be suspended or revoked] if the director finds
3 that the administrator:

4 (1) Is in an unsound financial condition;

5 (2) Is using such methods or practices in the conduct of its business so as
6 to render its further transaction of business in this state hazardous or injurious
7 to insured persons or the public; or

8 (3) Has failed to satisfy any judgment rendered against it in this state
9 within sixty days after the judgment has become final.

10 2. The director may, in his discretion, suspend or revoke the certificate of
11 authority of an administrator if the director finds that the administrator or any
12 of its officers, directors or any individual responsible for the conduct of its affairs
13 as described in subdivision (3) of subsection 2 of section 376.1092:

14 (1) Has violated any lawful rule or order of the director or any provision
15 of the insurance laws of this state;

16 (2) Has refused to be examined or to produce its accounts, records and
17 files for examination, or if any of its officers has refused to give information with
18 respect to its affairs or has refused to perform any other legal obligation as to
19 such examination, when required by the director;

20 (3) Has, without just cause, refused to pay proper claims or perform
21 services arising under its contracts or has, without just cause, caused covered
22 individuals to accept less than the amount due them or caused covered
23 individuals to employ attorneys or bring suit against the administrator to secure

24 full payment or settlement of such claims;

25 (4) Is affiliated with or under the same general management or
26 interlocking directorate or ownership as another administrator or insurer which
27 unlawfully transacts business in this state without having a certificate of
28 authority;

29 (5) At any time fails to meet any qualification for which issuance of the
30 certificate could have been refused had such failure then existed and been known
31 to the department;

32 (6) Has been convicted of, or has entered a plea of guilty or nolo
33 contendere to, a felony without regard to whether adjudication was withheld;

34 (7) Is not competent, trustworthy, financially responsible or of good
35 personal and business reputation, has had an insurance or administrator license
36 denied for cause by any state or been subject to any form of administrative, civil
37 or criminal action by any federal or state agency or court resulting in some form
38 of discipline or sanction; or

39 (8) Is under suspension or revocation in another state.

40 3. The director may, in his discretion and without advance notice or
41 hearing thereon, immediately suspend the certificate of any administrator if the
42 director finds that one or more of the following circumstances exist:

43 (1) The administrator is insolvent or impaired;

44 (2) A proceeding for receivership, conservatorship, rehabilitation, or other
45 delinquency proceeding regarding the administrator has been commenced in any
46 state;

47 (3) The financial condition or business practices of the administrator
48 otherwise poses an imminent threat to the public health, safety or welfare of the
49 residents of this state.

50 4. [If the director finds that one or more grounds exist for the suspension
51 or revocation of a certificate of authority issued under sections 376.1075 to
52 376.1095, the director may, in lieu of such suspension or revocation, bring a civil
53 action against the administrator in a court of competent jurisdiction. The court
54 may impose a fine upon the administrator of not more than fifty thousand dollars,
55 such fine to be payable to the Missouri state school fund] **If the director**
56 **determines that a person has engaged, is engaging in, or has taken a**
57 **substantial step toward engaging in an act, practice or course of**
58 **business constituting a violation of sections 376.1075 to 376.1095 or a**
59 **rule adopted or order issued pursuant thereto, or that a person has**

60 materially aided or is materially aiding an act, practice, omission, or
61 course of business constituting a violation of sections 376.1075 to
62 376.1095 or a rule adopted or order issued pursuant thereto, the
63 director may issue such administrative orders as authorized under
64 section 374.046, RSMo. A violation of any of these sections is a level
65 three violation under section 374.049, RSMo.

66 5. If the director believes that a person has engaged, is engaging
67 in, or has taken a substantial step toward engaging in an act, practice
68 or course of business constituting a violation of sections 376.1075 to
69 376.1095 or a rule adopted or order issued pursuant thereto, or that a
70 person has materially aided or is materially aiding an act, practice,
71 omission, or course of business constituting a violation of sections
72 376.1075 to 376.1095 or a rule adopted or order issued pursuant thereto,
73 the director may maintain a civil action for relief authorized under
74 section 374.048, RSMo. A violation of any of these sections is a level
75 three violation under section 374.049, RSMo.

376.1500. As used in sections 376.1500 to 376.1532, the following
2 words or phrases mean:

3 (1) "Director", the director of the department of insurance,
4 financial institutions and professional registration;

5 (2) "Discount card", a card or any other purchasing mechanism
6 or device, which is not insurance, that purports to offer discounts or
7 access to discounts in health-related purchases from health care
8 providers;

9 (3) "Discount medical plan", a business arrangement or contract
10 in which a person, in exchange for fees, dues, charges, or other
11 consideration, provides access for plan members to providers of
12 medical services and the right to receive medical services from those
13 providers at a discount. The term does not include any product
14 regulated as an insurance product, group health service product or
15 membership in a health maintenance organization in this state or
16 discounts provided by an insurer, group health service, or health
17 maintenance organizations where those discounts are provided at no
18 cost to the insured or member and are offered due to coverage with a
19 licensed insurer, group health service, or health maintenance
20 organization. The term does not include an arrangement where the
21 discounts or prices are sold, rented or otherwise provided to another

22 licensed carrier or to a self-insured or self-funded employer sponsored
23 plan or Taft-Hartley trust;

24 (4) "Discount medical plan organization", means a person or an
25 entity that, in exchange for fees, dues, charges or other consideration,
26 provides access for plan members to providers of medical services and
27 the right to receive medical services from those providers at a discount.
28 It is the person or organization that contracts with providers, provider
29 networks or other discount medical plan organizations to offer access
30 to medical services at a discount and determines the charge to plan
31 members;

32 (5) "Health care provider", any person or entity licensed by this
33 state to provide health care services including, but not limited to
34 physicians, hospitals, home health agencies, pharmacies, and dentists;

35 (6) "Health care provider network", an entity which directly
36 contracts with physicians and hospitals and has contractual rights to
37 negotiate on behalf of those health care providers with a discount
38 medical plan organization to provide medical services to members of
39 the discount medical plan organization;

40 (7) "Marketer", a person or entity who markets, promotes, sells
41 or distributes a discount medical plan, including a private label entity
42 that places its name on and markets or distributes a discount medical
43 plan but does not operate a discount medical plan;

44 (8) "Medical services", any care, service or treatment of illness or
45 dysfunction of, or injury to, the human body including, but not limited
46 to, physician care, inpatient care, hospital surgical services, emergency
47 services, ambulance services, dental care services, vision care services,
48 mental health services, substance abuse services, chiropractic services,
49 podiatric care services, laboratory services, and medical equipment and
50 supplies. The term does not include pharmaceutical supplies or
51 prescriptions;

52 (9) "Member", any person who pays fees, dues, charges, or other
53 consideration for the right to receive the purported benefits of a
54 discount medical plan; and

55 (10) "Person", an individual, corporation, business trust, estate,
56 trust, partnership, association, joint venture, limited liability company,
57 or any other government or commercial entity.

376.1502. 1. It is unlawful to transact business in this state as a

2 discount medical plan organization, unless the organization is a
3 corporation, limited liability corporation, partnership, limited liability
4 partnership or other legal entity organized under the laws of this state
5 or, if a foreign entity, authorized to transact business in this state, and
6 is registered as a discount medical plan organization with the director
7 or duly authorized by the director as an insurance company, licensed
8 health maintenance organization, licensed group health service
9 organization, or licensed third party administrator.

10 2. An individual person, employee, or agent of a registered entity
11 described in subsection 1 of this section may also transact business in
12 this state on behalf of such entity.

376.1504. 1. To register as a discount medical plan organization,
2 an applicant shall:

3 (1) File with the director an application on a form approved and
4 adopted by the director; and

5 (2) Pay to the director an application fee of two hundred fifty
6 dollars.

7 2. A registration is valid for a one-year term and expires one
8 year following the registration date unless it is renewed as provided in
9 this section.

10 3. Before it expires, a registrant may renew the registration for
11 an additional one-year term if the registrant:

12 (1) Otherwise is qualified to receive a registration;

13 (2) Files with the director a renewal application on a form
14 approved and adopted by the director; and

15 (3) Pays a renewal fee of two hundred fifty dollars.

16 4. All amounts collected as registration or renewal fees shall be
17 deposited into the insurance dedicated fund.

18 5. Nothing in this subsection shall require a provider who
19 provides discounts to his or her own patients to obtain and maintain
20 a registration as a discount medical plan organization.

376.1506. 1. If the director has a reason to believe that the
2 discount medical plan organization is not complying with the
3 requirements of sections 376.1500 to 376.1532, the director may examine
4 or investigate the business and affairs of any discount medical plan
5 organization under the authority of sections 374.190 and 374.202 to
6 374.207, RSMo. The director may require any discount medical plan

7 organization or applicant to produce any records, books, files,
8 advertising and solicitation materials, or other information and may
9 take statements under oath to determine whether the discount medical
10 plan organization or applicant is in violation of the law. Reasonable
11 expenses incurred in conducting any examination shall be paid by the
12 discount medical plan organization under sections 374.202 to 374.207,
13 RSMo.

14 2. Failure by the discount medical plan organization to pay the
15 expenses incurred under this subsection shall be grounds for denial or
16 revocation of the discount medical plan organization's registration.

376.1508. 1. A discount medical plan organization may charge a
2 reasonable one-time processing fee and a periodic charge as long as the
3 fee is disclosed to the applicant.

4 2. If the member cancels the membership within the first thirty
5 days after receipt of the discount card and other membership materials,
6 the member shall receive a reimbursement of all periodic charges
7 paid. The return of all periodic charges shall be made within thirty
8 days of the date of the cancellation. If all of the periodic charges have
9 not been paid within thirty days, interest shall be assessed and paid on
10 the proceeds at a rate of the treasury bill rate of the preceding
11 calendar year, plus two percentage points.

12 3. The right of cancellation shall be set out in the written
13 membership materials on the first page, in ten-point type or larger.

14 4. If a discount medical plan organization cancels a membership
15 for any reason other than nonpayment of charges by the member, the
16 discount medical plan organization shall make a pro rata
17 reimbursement of all periodic charges to the member.

376.1510. A discount medical plan organization shall not:

2 (1) Use in its advertisements, marketing material, brochures, and
3 discount cards the terms "health plan", "coverage", "copay",
4 "copayments", "preexisting conditions", "guaranteed issue", "premium",
5 "PPO", "preferred provider organization", or other terms in a manner
6 that could reasonably mislead a person to believe that the discount
7 medical plan is health insurance;

8 (2) Except for hospital services, have restrictions on free access
9 to plan providers including waiting periods and notification periods;

10 (3) Pay providers any fees for medical services;

11 **(4) Collect or accept money from a member for payment to a**
12 **provider for specific medical services furnished or to be furnished to**
13 **the member, unless the organization is licensed by the director to act**
14 **as an administrator; or**

15 **(5) Except as otherwise provided in sections 376.1500 to 376.1532,**
16 **as a disclaimer of any relationship between discount medical plan**
17 **benefits and insurance, or as a description of an insurance product**
18 **connected with a discount medical plan, use in its advertisements,**
19 **marketing material, brochures, and discount cards the term**
20 **"insurance".**

376.1512. 1. The following disclosures, to be printed in bold and
2 **in not less than twelve-point type, shall be made in writing to any**
3 **prospective member and shall appear on the first content page of any**
4 **advertisements, marketing materials or brochures relating to a**
5 **discount medical plan:**

6 **(1) The plan is not insurance;**

7 **(2) The plan provides discounts with certain health care**
8 **providers for medical services;**

9 **(3) The plan does not make payments directly to the providers**
10 **of medical services;**

11 **(4) The plan member is obligated to pay for all health care**
12 **services but will receive a discount from those health care providers**
13 **who have contracted with the discount plan organization; and**

14 **(5) The name and the location of the registered discount medical**
15 **plan organization, including the current telephone number of the**
16 **registered discount medical plan organization or other entity**
17 **responsible for customer service for the plan, if different from the**
18 **registered discount medical plan organization.**

19 **2. If the discount medical plan is sold, marketed, or solicited by**
20 **telephone, the disclosures required by this section shall be made orally**
21 **and provided in the initial written materials that describe the benefits**
22 **under the discount medical plan provided to the prospective or new**
23 **member.**

24 **3. Each discount card or any other plan identifier issued to a**
25 **plan member shall state in bold and prominent type on the front face**
26 **of the card that "THIS IS NOT INSURANCE".**

376.1514. 1. All providers offering medical services to members

2 under a discount medical plan shall provide such services pursuant to
3 a written agreement. The agreement may be entered into directly by
4 the health care provider or by a health care provider network to which
5 the provider belongs if the provider network has contracts with the
6 health care provider that allow the provider network to contract on
7 behalf of the health care provider.

8 2. A health care provider agreement shall provide the following:

9 (1) A description of the services and products to be provided at
10 a discount;

11 (2) The amount or amounts of the discounts or, alternatively, a
12 fee schedule which reflects the health care provider's discounted rates;
13 and

14 (3) A provision that the health care provider will not charge
15 members more than the discounted rates.

16 3. A health care provider agreement with a health care provider
17 network shall require that the health care provider network have
18 written agreements with its health care providers that:

19 (1) Contain the terms described in this subsection;

20 (2) Authorize the health care provider network to contract with
21 the discount medical plan organization on behalf of the provider; and

22 (3) Require the network to maintain an up-to-date list of its
23 contracted health care providers and to provide that list on a quarterly
24 basis to the discount medical plan organization.

25 4. A health care provider agreement between a discount medical
26 plan organization and an entity that contracts with a health care
27 provider network shall require that the entity, in its contract with the
28 health care provider network, require the health care provider network
29 to have written agreements with its providers that comply with
30 subsection 3 of this section.

31 5. The discount medical plan organization shall maintain a copy
32 of each active health care provider agreement into which it has
33 entered.

376.1516. 1. Each benefit under the discount medical plan shall
2 be included in the written membership materials between the discount
3 medical plan organization and the member. The written membership
4 materials shall also include a statement notifying the members of their
5 right to cancel under section 376.1508, and such materials shall also list

6 all of the disclosures required by section 376.1512.

7 2. Upon request by the Director, any forms used by a discount
8 medical plan organization, including written membership materials,
9 shall be submitted to the Director.

376.1518. 1. Each discount medical plan organization registered
2 pursuant to sections sections 376.1500 to 376.1532, shall at all times
3 maintain a net worth of at least one hundred fifty thousand dollars.

4 2. The director may not allow a registration unless the discount
5 medical plan organization has a net worth of at least one hundred fifty
6 thousand dollars.

376.1520. Each discount medical plan organization required to
2 be registered pursuant to this section shall provide the director at least
3 thirty days' advance notice of any change in the discount medical plan
4 organization's name, address, principal business address, or mailing
5 address.

376.1522. Each discount medical plan organization shall maintain
2 a current list of the names and addresses of the providers with which
3 it has contracted on a web site page, the address of which shall be
4 prominently displayed on all its advertisements, marketing materials,
5 brochures, and discount cards. This section applies to those providers
6 with whom the discount medical plan organization has contracted
7 directly, as well as those who are members of a provider network with
8 which the discount medical plan organization has contracted.

376.1524. 1. All advertisements, marketing materials, brochures
2 and discount cards used by marketers shall be approved in writing for
3 such use by the discount medical plan organization.

4 2. The discount medical plan organization shall have an executed
5 written agreement with a marketer prior to the marketer's marketing,
6 promoting, selling, or distributing the discount medical plan.

376.1528. The director under the provisions of section 374.045,
2 RSMo, may promulgate rules to administer and interpret the provisions
3 of sections 376.1500 to 376.1532.

376.1530. 1. The director may deny a registration to an applicant
2 or refuse to renew, suspend, or revoke the registration of a registrant
3 if the applicant or registrant, or an officer, director, or employee of the
4 applicant or registrant:

5 (1) Makes a material misstatement or misrepresentation in an

6 application for registration;

7 (2) Fraudulently or deceptively obtains or attempts to obtain a
8 registration for the applicant or registrant or for another;

9 (3) Has advertised, merchandised or attempted to merchandise
10 its services in such a manner as to misrepresent its services or capacity
11 for service or has engaged in deceptive, misleading or unfair practices
12 with respect to advertising or merchandising;

13 (4) In connection with the advertisement, offer, sale or
14 administration of a health care discount program, makes any untrue
15 statement of material fact, conceals any material fact, uses any
16 deception or commits fraud or engages in any dishonest activity;

17 (5) Is not fulfilling its obligations as a discount medical plan
18 organization;

19 (6) Does not have the minimum net worth as required by sections
20 376.1500 to 376.1532; or

21 (7) Violates any provision of sections 376.1500 to 376.1532, or any
22 law or regulation of this state relating to insurance or the provision of
23 medical care.

24 2. If the director has cause to believe that grounds for the
25 suspension or revocation of a registration exist, the director shall
26 notify the discount medical plan organization in writing, specifically
27 stating the grounds for suspension or revocation, and shall provide
28 opportunity for a hearing on the matter before the director.

29 3. When the registration of a discount medical plan organization
30 is surrendered or revoked, such organization shall proceed,
31 immediately following the effective date of the order of revocation, to
32 wind up its affairs transacted under the registration. The organization
33 may not engage in any further advertising, solicitation, collecting of
34 fees, or renewal of contracts.

376.1532. 1. If the director determines that a person has
2 engaged, is engaging, or has taken a substantial step toward engaging
3 in a violation of sections 376.1500 to 376.1532, or a rule adopted or
4 order issued pursuant thereto, or that a person has materially aided or
5 is materially aiding an act, practice, omission, or course of business
6 constituting a violation of sections 376.1500 to 376.1532 or a rule
7 adopted or order issued pursuant thereto, the director may issue such
8 administrative orders as authorized under section 374.046, RSMo. A

9 violation of sections 376.1500 to 376.1532 is a level two violation under
10 section 374.049, RSMo. The director of insurance may also suspend or
11 revoke the license or certificate of authority of such person for any
12 willful violation.

13 2. If the director believes that a person has engaged, is engaging,
14 or has taken a substantial step toward engaging in a violation of
15 sections 376.1500 to 376.1532 or a rule adopted or order issued pursuant
16 thereto, or that a person has materially aided or is materially aiding an
17 act, practice, omission or course of business constituting a violation of
18 sections 376.1500 to 376.1532 or a rule adopted or order issued pursuant
19 thereto, the director may maintain a civil action for relief authorized
20 under section 374.048, RSMo. A violation of sections 376.1500 to
21 376.1532 is a level two violation under section 374.049, RSMo.

377.100. Every corporation doing business under sections 377.010 to
2 377.190 shall annually, on or before the first day of February, return to the
3 director of the insurance department, in such manner and form as he shall
4 prescribe, a statement of its affairs for the year ending on the preceding
5 thirty-first day of December, and the director, in person or by deputy, shall have
6 the power of visitation of and examination into the affairs of any such
7 corporation, which is conferred upon him in the case of life insurance companies
8 by the laws of this state; and all companies are hereby declared to be subject to
9 and required to conform to the provisions of chapters 374 and 375, RSMo, and
10 sections [376.300] 376.291 to 376.330, 376.580, 376.610 and 376.620, RSMo, and
11 governed and controlled by all the provisions in said sections contained; provided,
12 always, that nothing herein contained shall subject any corporation doing
13 business under sections 377.010 to 377.190 to any other provisions or
14 requirements of the general insurance laws of this state, except as distinctly
15 herein set forth and provided.

377.200. Any corporation, company or association issuing policies or
2 certificates promising money or other benefits to a member or policyholder, or
3 upon his decease to his legal representatives, or to beneficiaries designated by
4 him, which money or benefit is derived from stipulated premiums collected in
5 advance from its members or policyholders, and from interest and other
6 accumulations and wherein the money or other benefits so realized is applied to
7 or accumulated solely for the use and purposes of the corporation as herein
8 specified, and for the necessary expenses of the corporation, and the prosecution

9 and enlargement of its business, and which shall comply with all the provisions
10 of sections 377.200 to 377.460, shall be deemed to be engaged in the business of
11 life insurance upon the stipulated premium plan and shall be subject only to the
12 provisions of sections 377.200 to 377.460, except that the provisions of chapters
13 374 and 375, RSMo, and sections [376.300] **376.291** to 376.330, 376.675, 376.770
14 to 376.795, 376.500 to 376.510, and 376.590 to 376.600, RSMo, shall be applicable.
15 It shall be unlawful for any corporation, company or association not having
16 complied with the provisions of sections 377.200 to 377.460 to use the term
17 "stipulated premium" in its application or contracts, or to print or write the same
18 in its policies or literature.

379.361. 1. [The director may, if he finds that any insurer or filing
2 organization has violated any provision of section 379.017 and sections 379.316
3 to 379.361, impose a penalty of not more than five hundred dollars for each
4 violation, but if he finds the violation to be willful, he may impose a penalty of
5 not more than five thousand dollars for each violation. These penalties may be
6 in addition to any other penalty provided by law.

7 2. The director may suspend the license of any rating organization or
8 insurer which fails to comply with an order of the director within the time limited
9 by such order, or any extension thereof which the director may grant. The
10 director shall not suspend the license of any rating organization or insurer for
11 failure to comply with an order until the time prescribed for an appeal therefrom
12 has expired or if an appeal has been taken, until the order has been
13 affirmed. The director may determine when a suspension of license shall become
14 effective and it shall remain in effect for the period fixed by him, unless he
15 modifies or rescinds such suspension or until the order upon which such
16 suspension is based is modified, rescinded or reversed.

17 3. No penalty shall be imposed or no license shall be suspended or
18 revoked except upon a written order of the director, stating his findings, made
19 after a hearing held upon not less than ten days' written notice to such person or
20 organization specifying the alleged violation] **If the director determines that**
21 **any insurer or filing organization has engaged, is engaging in, or has**
22 **taken a substantial step toward engaging in an act, practice or course**
23 **of business constituting a violation of section 379.017 and sections**
24 **379.316 to 379.361 or a rule adopted or order issued pursuant thereto,**
25 **or that a person has materially aided or is materially aiding an act,**
26 **practice, omission, or course of business constituting a violation of**

27 section 379.017 and sections 379.316 to 379.361 or a rule adopted or
28 order issued pursuant thereto, the director may issue such
29 administrative orders as authorized under section 374.046, RSMo. A
30 violation of any of these sections is a level two violation under section
31 374.049, RSMo. The practice of using a rate not in effect under section
32 379.321, if caused by a single act or omission by the insurer or filing
33 organization, is a level two violation under section 374.049,
34 RSMo. Each act as part of a rating violation does not constitute a
35 separate violation under section 374.049, RSMo. The director may also
36 suspend or revoke the license or certificate of authority of an insurer
37 or filing company for any willful violation.

38 2. If the director believes that a person has engaged, is engaging
39 in, or has taken a substantial step toward engaging in an act, practice
40 or course of business constituting a violation of section 379.017 and
41 sections 379.316 to 379.361 or a rule adopted or order issued pursuant
42 thereto, or that a person has materially aided or is materially aiding an
43 act, practice, omission, or course of business constituting a violation of
44 section 379.017 and sections 379.316 to 379.361 or a rule adopted or
45 order issued pursuant thereto, the director may maintain a civil action
46 for relief authorized under section 374.048, RSMo. A violation of any
47 of these sections is a level two violation under section 374.049,
48 RSMo. The practice of using a rate not in effect under section 379.321,
49 if caused by a single act or omission by the insurer or filing
50 organization, is a level two violation under section 374.049,
51 RSMo. Each act as part of a rating violation does not constitute a
52 separate violation under section 374.049, RSMo.

379.510. [Any person or organization who willfully violates a final order
2 of the director under sections 379.420 to 379.510 shall be deemed guilty of a
3 misdemeanor and shall upon conviction thereof be punished by a fine not to
4 exceed five hundred dollars for such violation] 1. If the director determines
5 that any person has violated a final order of the director under sections
6 379.420 to 379.510, the director may issue such administrative orders as
7 authorized under section 374.046, RSMo. A violation of any of these
8 sections is a level two violation under section 374.049, RSMo.

9 2. If the director believes that a person has violated a final order
10 of the director under sections 379.420 to 379.510, the director may
11 maintain a civil action for relief authorized under section 374.048,

12 **RSMo. A violation of any of these sections is a level two violation**
13 **under section 374.049, RSMo.**

379.790. 1. It is unlawful for any attorney [who shall] to exchange any
2 contracts of indemnity of the kind and character specified in sections 379.650 to
3 379.790, or directly or indirectly solicit or negotiate any applications for same
4 without first complying with the foregoing provisions[, shall be deemed guilty of
5 a misdemeanor, and upon conviction thereof shall be subject to a fine of not less
6 than one hundred dollars nor more than one thousand dollars;
7 provided]. However, [that] the director [of insurance] may, in his discretion and
8 on such terms as he may prescribe, issue a permit for organization purposes, the
9 permit to continue in force or be canceled at the pleasure of the director [of
10 insurance].

11 2. If the director determines that a person has engaged, is
12 engaging in, or has taken a substantial step toward engaging in an act,
13 practice or course of business constituting a violation of this section or
14 a rule adopted or order issued pursuant thereto, or that a person has
15 materially aided or is materially aiding an act, practice, omission, or
16 course of business constituting a violation of this section or a rule
17 adopted or order issued pursuant thereto, the director may issue such
18 administrative orders as authorized under section 374.046, RSMo. A
19 violation of this section is a level one violation under section 374.049,
20 RSMo.

21 3. If the director believes that a person has engaged, is engaging
22 in, or has taken a substantial step toward engaging in an act, practice
23 or course of business constituting a violation of this section or a rule
24 adopted or order issued pursuant thereto, or that a person has
25 materially aided or is materially aiding an act, practice, omission, or
26 course of business constituting a violation of this section or a rule
27 adopted or order issued pursuant thereto, the director may maintain
28 a civil action for relief authorized under section 374.048, RSMo. A
29 violation of this section is a level one violation under section 374.049,
30 RSMo.

380.391. [No] 1. It is unlawful for any officer, director, member, agent
2 or employee of any company operating under the provisions of sections 380.201
3 to [380.591 shall,] **380.611** to directly or indirectly, use or employ, or permit
4 others to use or employ, any of the money, funds or securities of the company for

5 private profit or gain[, and any such use shall be deemed a felony, punishable,
6 upon conviction, by imprisonment by the department of corrections and human
7 resources for not less than two years nor more than five years for each offense].

8 **2. Any person who willfully engages in any act, practice,**
9 **omission, or course of business in violation of this section is guilty of**
10 **a class D felony.**

11 **3. The director may refer such evidence as is available**
12 **concerning violations of this section to the proper prosecuting**
13 **attorney, who with or without a criminal reference, or the attorney**
14 **general under section 27.030, RSMo, may institute the appropriate**
15 **criminal proceedings.**

16 **4. Nothing in this section shall limit the power of the state to**
17 **punish any person for any conduct that constitutes a crime in any other**
18 **state statute.**

380.571. 1. [The director may issue cease and desist orders whenever it
2 appears to him upon competent and substantial evidence that any company
3 operating under the provisions of sections 380.201 to 380.591 is acting in
4 violation of those laws or any other applicable laws or any rule or regulation
5 promulgated by the director pursuant thereto. Before any cease and desist order
6 shall be issued, a copy of the proposed order together with an order to show cause
7 why such cease and desist order should not be issued shall be served either
8 personally or by certified mail on the company named therein.

9 2. Upon issuing any order to show cause, the director shall notify the
10 company named therein that it is entitled to a public hearing before the director
11 if a request for a hearing is made in writing to the director within fifteen days
12 from the day of the service of the order to show cause why the cease and desist
13 order should not be issued. The cease and desist order shall be issued fifteen
14 days after the service of the order to show cause if no request for a public hearing
15 is made as above provided.

16 3. Upon receipt of a request for a hearing, the director shall set a time
17 and place for the hearing which shall not be less than ten days or more than
18 fifteen days from the receipt of the request or as otherwise agreed upon by the
19 parties. Notice of the time and place shall be given by the director not less than
20 five days before the hearing.

21 4. At the hearing the company may be represented by counsel and shall
22 be entitled to be advised of the nature and source of any adverse evidence

23 procured by the director, and shall be given the opportunity to submit any
24 relevant written or oral evidence in its behalf to show cause why the cease and
25 desist order should not be issued.

26 5. At the hearing the director shall have such powers as are conferred
27 upon him by the provisions of section 374.190, RSMo.

28 6. At the conclusion of the hearing, or within ten days thereafter, the
29 director shall issue the cease and desist order as proposed or as subsequently
30 modified, or notify the company that no order will be issued.

31 7. The circuit court of Cole County shall have jurisdiction to review any
32 cease and desist order of the director under the provisions of sections 536.100 to
33 536.150, RSMo; and, if any company against whom an order is issued fails to
34 request judicial review, or if, after judicial review, the director's cease and desist
35 order is upheld, the order shall become final.

36 8. If any company willfully violates any provision of any cease and desist
37 order of the director after it becomes final, it may be penalized by the director by
38 a fine of not more than one thousand dollars.

39 9. The director of insurance may in addition to a monetary fine, suspend
40 or revoke the certificate of authority of any company violating a cease and desist
41 order] **If the director determines that any person has engaged, is**
42 **engaging in, or has taken a substantial step toward engaging in an act,**
43 **practice or course of business constituting a violation of sections**
44 **380.201 to 380.611 or a rule adopted or order issued pursuant thereto,**
45 **or that a person has materially aided or is materially aiding an act,**
46 **practice, omission, or course of business constituting a violation of**
47 **sections 380.201 to 380.611 or a rule adopted or order issued pursuant**
48 **thereto, the director may issue such administrative orders as**
49 **authorized under section 374.046, RSMo. A violation of any of these**
50 **sections is a level two violation under section 374.049, RSMo, except a**
51 **violation of section 380.391 is a level four violation under section**
52 **374.049, RSMo. The director may also suspend or revoke the certificate**
53 **of authority of such person for any willful violation.**

54 2. **If the director believes that a person has engaged, is engaging**
55 **in, or has taken a substantial step toward engaging in an act, practice**
56 **or course of business constituting a violation of sections 380.201 to**
57 **380.611 or a rule adopted or order issued pursuant thereto, or that a**
58 **person has materially aided or is materially aiding an act, practice,**

59 omission, or course of business constituting a violation of sections
60 380.201 to 380.611 or a rule adopted or order issued pursuant thereto,
61 the director may maintain a civil action for relief authorized under
62 section 374.048, RSMo. A violation of any of these sections is a level
63 two violation under section 374.049, RSMo, except a violation of section
64 380.391 is a level four violation under section 374.049, RSMo.

381.011. 1. Sections 381.011 to 381.412 shall be known and may
2 be cited as the "Missouri Title Insurance Act".

3 2. The purpose of sections 381.011 to 381.405 is to provide the
4 state of Missouri with a comprehensive body of law for the effective
5 regulation and supervision of title insurance business transacted
6 within this state in response to the McCarran-Ferguson Act, Sections
7 1011-1015, Title 15, United States Code.

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

381.015. 1. As used in sections 381.011 to 381.412, the term "title
2 insurance commitment" or "commitment" means a preliminary report,
3 commitment, or binder issued prior to the issuance of a title insurance
4 policy containing the terms, conditions, exceptions, and other matters
5 incorporated by reference under which the title insurer is willing to
6 issue its title insurance policy. A title insurance commitment is not an
7 abstract of title.

8 2. A title insurer, title agency, or title agent issuing a lender's
9 title insurance policy in conjunction with a mortgage loan made
10 simultaneously with the purchase of all or part of the real estate
11 securing the loan, where no owner's title insurance policy has been
12 requested, shall give written notice, on a form prescribed or approved
13 by the director, to the purchaser-mortgagor at the time the commitment
14 is prepared. The notice shall explain that a lender's title insurance
15 policy is to be issued protecting the mortgage-lender, and that the
16 policy does not provide title insurance protection to the purchaser-
17 mortgagor as the owner of the property being purchased. The notice
18 shall explain that the purchaser-mortgagor may obtain an owner's title
19 insurance policy protecting the property owner, within sixty days of
20 closing and at a specified cost or approximate cost, if the proposed

21 coverages are or amount of insurance is not then known. A copy of the
22 notice, signed by the purchaser-mortgagor, shall be retained in the
23 relevant underwriting file at least fifteen years after the effective date
24 of the policy.

25 3. A violation of any provision under this section is a level one
26 violation under section 374.049, RSMo.

381.018. 1. The title insurer shall not allow the issuance of its
2 commitments or policies by a title agency or title agent not affiliated
3 with a title agency unless there is in force a written contract between
4 the parties.

5 2. The title insurer shall maintain an inventory of all policy
6 numbers allocated to each title agency or title agent not affiliated with
7 a title agency.

8 3. The title insurer shall have on file proof that the title agency
9 or title agent is licensed by this state at the time a written contract is
10 entered into or before it becomes effective.

11 4. The title insurer shall establish the underwriting guidelines
12 and, where applicable, limitations on title claims settlement authority
13 to be incorporated into contracts with its title agencies and title agents
14 not affiliated with a title agency.

15 5. If a title insurer terminates its contract with a title agency
16 licensed under this chapter, the insurer shall, within seven days of the
17 termination, notify the director of the reasons for termination,
18 including any information that is required to be reported under
19 subsection 5 of section 375.022, RSMo.

20 6. A violation of any provision under this section is a level two
21 violation under section 374.049, RSMo.

381.019. 1. A title insurer, title agency or title agent
2 participating in a settlement or closing of a residential real estate
3 transaction shall provide clear, conspicuous, and distinct disclosure of
4 premiums and charges. The director shall adopt rules not in conflict
5 with provisions of the federal Real Estate Settlement Procedures Act,
6 as amended, under section 381.042 to implement disclosure of the
7 following:

8 (1) Premium;

9 (2) Abstract or title search and examination fee and any other
10 associated charges or fees; and

11 **(3) Settlement, escrow, or closing fees.**

12 **2. A violation of any provision under this section is a level two**
13 **violation under section 374.049, RSMo.**

381.022. 1. As used in sections 381.011 to 381.412, the following
2 **terms mean:**

3 **(1) "Escrow", written instruments, money or other items**
4 **deposited by one party with a depository, escrow agent, or escrowee for**
5 **delivery to another party upon the performance of a specified condition**
6 **or the happening of a certain event;**

7 **(2) "Qualified depository institution", an institution that is:**

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

12 **(b) Regulated, supervised, and examined by federal or state**
13 **authorities having regulatory authority over banks and trust**
14 **companies;**

15 **(c) Insured by the appropriate federal entity; and**

16 **(d) Qualified under any additional rules established by the**
17 **director;**

18 **(3) "Security" or "security deposit", funds or other property**
19 **received by the title insurer as collateral to secure an indemnitor's**
20 **obligation under an indemnity agreement under which the insurer is**
21 **granted a perfected security interest in the collateral in exchange for**
22 **agreeing to provide coverage in a title insurance policy for a specific**
23 **title exception to coverage.**

24 **2. A title insurer, title agency, or title agent not affiliated with**
25 **a title agency may operate as an escrow, security, settlement, or closing**
26 **agent, provided that all funds deposited with the title insurer, title**
27 **agency, or title agent not affiliated with a title agency, pursuant to**
28 **written instructions in connection with any escrow, settlement, closing,**
29 **or security deposit shall be submitted for collection to or deposited in**
30 **a separate fiduciary trust account or accounts in a qualified depository**
31 **institution no later than the close of the second business day after**
32 **receipt, in accordance with the following requirements:**

33 **(1) The funds regulated under this section shall be the property**
34 **of the person or persons entitled to them under the provisions of the**

35 escrow, settlement, security deposit, or closing agreement and shall be
36 segregated for each depository by escrow, settlement, security deposit,
37 or closing in the records of the title insurer, title agency, or title agent
38 not affiliated with a title agency, in a manner that permits the funds to
39 be identified on an individual basis and in accordance with the terms
40 of the individual written instructions or agreements under which the
41 funds were accepted; and

42 (2) The funds shall be applied only in accordance with the terms
43 of the individual written instructions or agreements under which the
44 funds were accepted.

45 3. It is unlawful for any person to:

46 (1) Commingle personal or any other moneys with escrow funds
47 regulated under this section;

48 (2) Use such escrow funds to pay or indemnify against debts of
49 the title insurance agent or of any other person;

50 (3) Use such escrow funds for any purpose other than to fulfill
51 the terms of the individual written escrow instructions after the
52 necessary conditions of the written escrow instructions have been met;

53 (4) Disburse any funds held in an escrow account unless the
54 disbursement is made under a written instruction or agreement
55 specifying under what conditions and to whom such funds may be
56 disbursed or under an order of a court of competent jurisdiction; or

57 (5) Disburse any funds held in a security deposit account unless
58 the disbursement is made under a written agreement specifying:

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

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

66 (c) Any other provisions the director may require by rule or
67 order.

68 4. Notwithstanding the provisions of subsection 3 of this section,
69 any bank credits, bank services, interest, or similar consideration
70 received on funds deposited in connection with any escrow, settlement,
71 security deposit, or closing may be retained by the title insurer, title

72 agency, or title agent not affiliated with a title agency as compensation
73 for administration of the escrow or security deposit, unless the specific
74 written instructions for the funds or a governing statute provides
75 otherwise.

76 5. Notwithstanding the provisions of subsection 2 of this section,
77 a title insurer, title agency, or title agent is not authorized to provide
78 such services as an escrow, security, settlement, or closing agent in a
79 residential real estate transaction unless as part of the same
80 transaction the title insurer, title agency, or title agent issues a
81 commitment, binder, or title insurance policy and closing protection
82 letters have been issued protecting the buyer's and the seller's
83 interests, or the title agency or agent has given written notice to the
84 affected person in a title insurance commitment or on a form approved
85 by rule promulgated by the director that the person's interest in the
86 closing or settlement is not protected by the title insurer, title agency,
87 or title agent.

88 6. It is unlawful for any title agency or agent to engage in the
89 handling of an escrow, settlement or closing, of a residential real estate
90 transaction unless the escrow handling, settlement or closing is
91 conducted or performed in contemplation of and in conjunction with
92 the issuance of a title insurance policy or a closing protection letter, or
93 prior to the receipt of any funds, the title agency or agent clearly
94 discloses to the seller, buyer or lender involved in such escrow,
95 settlement or closing, that no title insurer is providing any protection
96 for closing or settlement funds received by the title agency or agent.

97 7. A violation of any provision under this section is a level three
98 violation under section 374.049, RSMo.

381.023. 1. A title insurer shall, at least annually, conduct an
2 onsite review of the underwriting, claims, and escrow practices of the
3 title agency or agent with which it has a contract. If the title agency
4 or agent does not maintain separate fiduciary trust accounts for each
5 title insurer it represents, the title insurer shall verify that the funds
6 held on its behalf are reasonably ascertainable from the books of
7 account and records of the title agency or agent.

8 2. Each title insurer authorized to do business in Missouri shall
9 adopt and utilize the following standards and procedures for the onsite
10 review of title agencies and agents. Onsite review documentation, work

11 papers, summaries, and reports shall be maintained by each title
12 insurer for a period of at least four years and shall be made available
13 to the director for examination upon request. A report shall be
14 prepared by the title insurer at the completion of the onsite review
15 setting forth the title insurer's findings. Onsite review findings shall
16 include, but not be limited to, the following:

17 (1) A review of contracts between the title insurer and the title
18 agency or agent;

19 (2) A confirmation that the title agency or agent has prepared an
20 annual statement of financial condition of the title agency or agent,
21 certified by the title insurance agent or designated agent of the title
22 agency under oath or by affirmation as being a true and accurate
23 representation of financial condition;

24 (3) A review of policies and practices related to conflicts of
25 interest affiliated business arrangements, and regulatory compliance;

26 (4) Reconciliation of orders with commitments, title searches,
27 title policies, and collection of premiums;

28 (5) A review of the agent's procedures for tracking issued
29 commitments;

30 (6) A review of the practices to cancel commitments on
31 transactions that do not close;

32 (7) A review of the procedures for follow-up after closing to track
33 status of outstanding conditions required for timely issuance of
34 policies;

35 (8) A review of the procedures for voiding policies;

36 (9) A review of the tracking of open escrow, security, settlement
37 or closing files;

38 (10) A review of issued policy reports to the title insurer by the
39 title agency or agent;

40 (11) A review of any files awaiting policy issuance that includes
41 a determination of the average length of time between closing and the
42 issuance of the title policy; and

43 (12) A review of a three-way reconciliation of bank balance, book
44 balance and escrow trial balance for each individual escrow bank
45 account.

46 3. If the title agency or agent is an agency or agent for two or
47 more title insurers, the title insurers may cooperate in complying with

48 the requirements of this section and shall be exempt from liability for
49 sharing findings with other title insurers represented by the agency or
50 agent.

51 4. The title insurer shall provide a copy of the report of each
52 such review it performs to the director. The director shall promulgate
53 rules setting forth the minimum threshold level at which a review
54 would be required, the standards thereof and the form of report
55 required.

56 5. A violation of any provision under this section is a level two
57 violation under section 374.049, RSMo.

381.024. 1. It is unlawful for any title agency or title agent not
2 affiliated with an agency to unreasonably deny access or fail to
3 cooperate with its underwriters in the title insurers' reviews of the
4 agency's or agent's escrow, settlement, closing and security deposit
5 accounts.

6 2. It is unlawful for any title agency or title agent not affiliated
7 with an agency, appointed by two or more title insurers, to deny any of
8 the title insurers access to the fiduciary trust accounts in connection
9 with providing escrow or closing settlement services, and any or all of
10 the supporting account information in order to ascertain the safety and
11 security of the funds held by the title agency or title agent.

12 3. A violation of any provision under this section is a level two
13 violation under section 374.049, RSMo.

381.025. 1. As used in this section, the term "county" or "counties"
2 includes any city not within a county.

3 2. Nothing in sections 381.011 to 381.412 shall be construed as
4 prohibiting the division of premiums and charges between or among a
5 title insurer and its title agent or agency, two or more title insurers,
6 one or more title insurers and one or more title agents or agencies, or
7 two or more title agents or agencies, provided such division of
8 premiums and charges does not constitute a violation of the Real Estate
9 Settlement Procedures Act, 12 U.S.C. Section 2601, et seq., as amended.

10 3. A violation of any provision under section 381.141 is a level
11 three violation under section 374.049, RSMo.

12 4. If the director fails to initiate a proceeding to enforce section
13 381.141 within forty-five days following receipt of written notice of such
14 violation, any title insurer, title agency, or title agent doing business

15 in the same county may maintain an action for injunctive relief against
16 a title insurer, title agency, or title agent violating any provision of this
17 section. In any action under this subsection, the court may award to
18 the successful party the court costs of the action together with
19 reasonable attorney fees.

381.026. 1. The settlement agent shall present for recording all
2 deeds and security instruments for real estate closings handled by it
3 within five business days after completion of all conditions precedent
4 thereto unless otherwise instructed by all of the parties to the
5 transaction.

6 2. Nothing in this chapter shall be deemed to prohibit the
7 recording of documents prior to the time funds are available for
8 disbursement with respect to a transaction in which a title insurer,
9 title agency, or title agent not affiliated with a title agency is the
10 settlement agent, provided all parties to whom payment will become
11 due upon such recording consent thereto in writing.

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

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

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

10 (3) "Associate", any:

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

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

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

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

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

21 (f) Person with whom a producer of title insurance business or

22 any associate of the producer has an agreement, arrangement, or
23 understanding, or pursues a course of conduct, the purpose or effect of
24 which is to provide financial benefits to that producer or associate for
25 the referral of business;

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

41 (5) "Referral", the directing or the exercising of any power or
42 influence over the direction of title insurance business, whether or not
43 the consent or approval of any other person is sought or obtained with
44 respect to the referral.

45 2. Whenever the business to be written constitutes affiliated
46 business, prior to commencing the transaction, the title insurer, title
47 agency, or title agent shall ensure that its customer has been provided
48 with disclosure of the existence of the affiliated business arrangement
49 and a written estimate of the charge or range of charges generally
50 made for the title services provided by the title insurer, title agency,
51 or agent.

52 3. The director shall establish rules for use by all title agencies
53 in the recording and reporting of the agency's owners and of the
54 agency's ownership interests in other persons or businesses and of
55 material transactions between the parties.

56 4. The director shall require each title insurer, agency, and agent
57 to file on forms prescribed by the director reports setting forth the
58 names and addresses of those persons, if any, that have a financial

59 interest in the insurer, agency, or agent and who the insurer, agency,
60 or agent knows or has reason to believe are producers of title
61 insurance business or associates of producers, except the duty to report
62 shall not include shareholders of record of any publicly traded insurer.

63 **5. Nothing in this chapter shall be construed as prohibiting**
64 **affiliated business arrangements in the provision of title insurance**
65 **business so long as:**

66 **(1) The title insurer, title agency, title agent, or party making a**
67 **referral constituting affiliated business, at or prior to the time of the**
68 **referral, discloses the arrangement and, in connection with the**
69 **referral, provides the person being referred with a written estimate of**
70 **the charge or range of charges likely to be assessed and otherwise**
71 **complies with the disclosure obligations of this section;**

72 **(2) The person being referred is not required to use a specified**
73 **title insurer, agency, or agent; and**

74 **(3) The only thing of value that is received by the title insurer,**
75 **agency, agent, or party making the referral, other than payments**
76 **otherwise permitted, is a return on an ownership interest. For**
77 **purposes of this subsection, the terms "required use" and "return on an**
78 **ownership interest" shall have the meaning accorded to them under the**
79 **Real Estate Settlement Procedures Act (RESPA), as amended.**

80 **6. A violation of any provision under this section is a level two**
81 **violation under section 374.049, RSMo.**

381.038. 1. For the purposes of this section, the term "direct
2 **operations" means that portion of a title insurer's operations which are**
3 **attributable to business written by a bona fide employee.**

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

9 **3. A title agent and a title agency shall remit premiums to the**
10 **title insurer under the term of its agency contract, but in no event later**
11 **than within sixty days of receiving an invoice from the title insurer. A**
12 **title insurer, title agency, or title agent shall promptly issue each title**
13 **insurance policy within forty-five days after compliance with the**
14 **requirements of the commitment for insurance, unless special**

15 circumstances as defined by rule delay the issuance.

16 4. This section shall not apply to a title insurer acting as
17 coinsurer if one of the other coinsurers has complied with this section,
18 and shall not apply to a reinsurer.

19 5. A violation of any provision under this section is a level two
20 violation under section 374.049, RSMo.

381.042. 1. The director under the authority in section 374.045,
2 RSMo, may issue rules, regulations, and orders necessary to carry out
3 the provisions of this chapter.

4 2. Any rule or portion of a rule, as that term is defined in section
5 536.010, RSMo, that is created under the authority delegated in this
6 section shall become effective only if it complies with and is subject to
7 all of the provisions of chapter 536, RSMo, and, if applicable, section
8 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable
9 and if any of the powers vested with the general assembly pursuant to
10 chapter 536, RSMo, to review, to delay the effective date, or to
11 disapprove and annul a rule are subsequently held unconstitutional,
12 then the grant of rulemaking authority and any rule proposed or
13 adopted after January 1, 2008, shall be invalid and void.

381.045. 1. If the director determines that a person has engaged,
2 is engaging, or has taken a substantial step toward engaging in an act,
3 practice, omission or course of business constituting a violation in this
4 chapter or a rule adopted or order issued pursuant thereto, or a person
5 has materially aided or is materially aiding an act, practice, omission,
6 or course of business constituting a violation in this chapter or a rule
7 adopted or order issued pursuant thereto, the director may issue such
8 administrative orders as authorized under section 374.046, RSMo. The
9 director may also suspend or revoke the license of a producer under
10 section 375.141, RSMo, or the certificate of authority of any title insurer
11 as authorized under section 374.047, RSMo, for any such willful
12 violation.

13 2. If the director believes that a person has engaged, is engaging,
14 or has taken a substantial step toward engaging in an act, practice,
15 omission or course of business constituting a violation in this chapter
16 or a rule adopted or order issued pursuant thereto, or that a person has
17 materially aided or is materially aiding an act, practice, omission, or
18 course of business constituting a violation in this chapter or a rule

19 adopted or order issued pursuant thereto, the director may maintain
20 a civil action for relief authorized under section 374.048, RSMo.

21 3. Nothing contained in this section shall affect the right of the
22 director to impose any other penalties provided for in the laws relating
23 to the business of insurance.

24 4. Nothing contained in this chapter is intended to or shall in
25 any other manner limit or restrict the rights of policyholders,
26 claimants, and creditors.

381.048. 1. The director may bring an action against any title
2 insurer, title agency, title agent, or any director, officer, agent,
3 employee, trustee, or affiliate of a title insurer, title agency, or title
4 agent in a court of competent jurisdiction to enjoin violations of the
5 Real Estate Settlement Procedures Act, 12 U.S.C. Section 2607, as
6 amended.

7 2. A violation of any provision under the federal Real Estate
8 Settlement Procedures Act, as amended, is a level two violation under
9 section 374.049, RSMo.

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

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

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

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

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

9 3. (1) Notwithstanding subsection 1 of this section or anything
10 else to the contrary in sections 381.011 to 381.405, a title insurer is
11 expressly authorized to issue closing or settlement protection letters
12 (and to collect a fee for such issuance) in all transactions where its title

13 insurance policies are issued and where its issuing agent or agency is
14 performing settlement services and shall do so in favor of and upon
15 request by the applicable buyer, lender, or seller in such
16 transaction. Such closing or settlement protection letter form shall be
17 filed with the director under section 381.085 and shall conform to the
18 terms of coverage and form of instrument as required by rule of the
19 director and shall indemnify a buyer, lender, or seller solely against
20 losses not to exceed the amount of the settlement funds only because of
21 the following acts of the title insurer's named issuing title agency or
22 title agent:

23 (a) Acts of theft of settlement funds or fraud with regard to
24 settlement funds; and

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

28 (2) The rate for issuance of a closing or settlement protection
29 letter in a residential real estate transaction indemnifying a lessee or
30 purchaser of an interest in land, a borrower, or a lender secured by a
31 mortgage, including any other security instrument, of an interest in
32 land shall be filed as a rate with the director.

33 (3) The rate for issuance of a closing or settlement protection
34 letter in a residential real estate transaction indemnifying a seller of
35 an interest in land shall be filed as a separate rate with the director.

36 (4) Such filed rate shall not be excessive or inadequate. The
37 entire rate for the closing or settlement protection letter shall be
38 retained by the title insurer.

39 (5) Except as provided under this section or section 381.403, a
40 title insurer shall not provide any other coverage which purports to
41 indemnify against improper acts or omissions of a person with regard
42 to escrow, settlement, or closing services.

381.062. Any title insurer authorized to do an insurance business
2 in this state, shall establish and maintain a minimum paid-in capital of
3 not less than four hundred thousand dollars and, in addition, surplus
4 of at least four hundred thousand dollars. Beginning January 1, 2013,
5 any title insurer authorized to do an insurance business in this state,
6 shall establish and maintain a minimum paid-in capital of not less than
7 eight hundred thousand dollars and, in addition, surplus of at least

8 **eight hundred thousand dollars.**

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

9 **2. For purposes of this chapter:**

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

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

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

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

381.068. **In determining the financial condition of a title insurer**
2 **doing business under this chapter, the general investment provisions**
3 **of sections 379.080 to 379.082, RSMo, shall apply; except that, an**
4 **investment in a title plant or plants in an amount equal to the actual**

5 cost shall be allowed as an admitted asset for title insurers. The
6 aggregate amount of the investment shall not exceed twenty percent of
7 surplus to policyholders, as shown on the most recent annual statement
8 of the title insurer on file with the director.

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

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

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

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

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

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

30 (b) The unearned premium reserve shall be maintained by the
31 title insurer for the protection of holders of title insurance
32 policies. Except as provided in this section, assets equal in value to the
33 reserve are not subject to distribution among creditors or stockholders

34 of the title insurer until all claims of policyholders or claims under
35 reinsurance contracts have been paid in full, and all liability on the
36 policies or reinsurance contracts has been paid in full and discharged
37 or lawfully reinsured;

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

39 a. The amount of the unearned premium reserve on January 1,
40 2008;

41 b. A sum equal to fifteen cents for each one thousand dollars of
42 net retained liability under each title insurance policy, excluding
43 mortgagee's policies simultaneously issued with owner's policies or
44 owner's leasehold policies of the same or greater amount, on a single
45 risk written on properties located in this state and issued after January
46 1, 2008; and

47 c. Unearned premium for closing protection letters;

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

51 (e) A title insurer shall release from the unearned premium
52 reserve a sum equal to ten percent of the amount added to the reserve
53 during a calendar year on July first of each of the five years following
54 the year in which the sum was added, and shall release from the
55 unearned premium reserve a sum equal to three and one-third percent
56 of the amount added to the reserve during that year on each succeeding
57 July first until the entire amount for that year has been released. The
58 amount of the unearned premium reserve or similar unearned premium
59 reserve maintained before January 1, 2008, shall be released in
60 accordance with the law in effect immediately before January 1, 2008;

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

68 b. The actuarial certification shall conform to the annual
69 statement instructions for title insurers adopted by the National
70 Association of Insurance Commissioners and shall include the actuary's

71 professional opinion of the insurer's reserves as of the date of the
72 annual statement. The reserves analyzed under this section shall
73 include reserves for known claims, including adverse developments on
74 known claims, and reserves for incurred but not reported claims;

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

80 2. A foreign or alien title insurer licensed to transact title
81 insurance business in this state shall maintain at least the same
82 reserves on title insurance policies issued on properties located in this
83 state as are required of domestic title insurers, unless the laws of the
84 jurisdiction of domicile of the foreign or alien title insurer require a
85 higher amount.

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

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

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

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

21 5. As of the date of the order of insolvency or liquidation, all
22 premiums paid, due or to become due under policies of the title

23 insurers, shall be fully earned. It shall be the obligation of title
24 agencies, title agents, insureds, or representatives of the title insurer
25 to pay fully earned premium to the liquidator or rehabilitator.

381.085. 1. As used in sections 381.011 to 381.412, the terms
2 "search", "search of the public records", or "search of title", mean a
3 search of those records established by the laws of this state for the
4 purpose of imparting constructive notice of matters relating to real
5 property to purchasers for value and without knowledge.

6 2. A title insurer shall not deliver or issue for delivery or permit
7 any of its authorized title agencies or title agents to deliver in this
8 state, any standard form providing coverage, in connection with title
9 insurance written, unless the standard form has been filed with the
10 director thirty days prior to use.

11 3. Forms covered by this section shall include:

12 (1) Title insurance policies, including standard form
13 endorsements;

14 (2) Title insurance commitments issued prior to the issuance of
15 a title insurance policy; and

16 (3) Closing or settlement protection letters.

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

24 5. The director shall review such form, term, condition, or
25 exception within thirty days. If within this time the director believes
26 the form, term, condition, or exception is not in compliance with the
27 insurance laws of this state or does not contain such words,
28 phraseology, conditions, and provisions which are specific, certain, and
29 unambiguous and reasonably adequate to meet the needed
30 requirements of those insured under such policies, the director may
31 schedule a hearing to be held within sixty days and at such hearing
32 receive evidence and suggestions of law on the matter.

33 6. If the director determines after a hearing that a form, term,
34 condition, or exception shall be disapproved, the director shall issue an

35 order disapproving the form, term, condition, or exception in a record
36 and with findings of fact and conclusions of law in accordance with the
37 provisions of chapter 536, RSMo. A final order may not be issued
38 unless the director specifies the provisions of law that have not been
39 complied with or the words, phraseology, conditions, or provisions
40 which are not specific, certain and unambiguous and reasonably
41 adequate to meet the needed requirement of those insured under such
42 policies. A final order of disapproval is subject to judicial review under
43 the provisions of chapter 536, RSMo. During the pending of any
44 proceeding under this section, all such forms may be used, but this
45 provision shall not deprive the director or department of any other
46 enforcement power over such forms that may be otherwise provided by
47 law.

48 7. The failure of the director to seek disapproval does not
49 constitute an approval or endorsement of the form, term, condition, or
50 exception by the director. It is unlawful to make any representation
51 that the director has approved a form, term, condition, or exception
52 filed under this section.

381.112. For purposes of the premium tax imposed by sections
2 148.320 and 148.340, RSMo, the premium income received by a title
3 insurer shall mean the amount within the definition of "premium".

381.115. 1. It is unlawful for any person to transact the business
2 of title insurance unless authorized as a title insurer, title agency or
3 title agent;

4 2. It is unlawful for any person to transact business as:

5 (1) A title agency, unless the person is a licensed business entity
6 insurance producer under subsection 2 of section 375.015, RSMo; or

7 (2) A title agent, unless the person is a licensed individual
8 insurance producer under subsection 1 of section 375.015, RSMo, or is
9 exempt from licensure under subsection 3 of this section.

10 3. A salaried employee of a title insurer, title agency, or title
11 agent is exempt from licensure as a title agent if the employee does not
12 materially perform or supervise others who perform any of the
13 following:

14 (1) Sell, solicit, or negotiate a title insurance policy or closing
15 protection letter;

16 (2) Calculate premiums for a title insurance policy or closing

17 **protection letter;**

18 **(3) Determine insurability;**

19 **(4) Establish, calculate, or negotiate title charges;**

20 **(5) Conduct title search or examinations;**

21 **(6) Execute title insurance policies, commitments, binders or**
22 **endorsements; or**

23 **(7) Handle escrows, settlements, or closings.**

24 **4. It is unlawful for any title insurer to contract with any person**
25 **to act in the capacity of a title agency or title agent with respect to**
26 **risks located in this state unless the person is licensed as required in**
27 **this section.**

28 **5. The director shall adopt rules, regulations, or requirements**
29 **relating to licensing and practices of persons acting in the capacity of**
30 **title agencies or agents. These persons may include title agencies, title**
31 **agents and employees of title insurers, or title agencies. Such rules,**
32 **regulations, or requirements shall, until at least January 1, 2010, permit**
33 **either provisional licensure or waiver of licensure for employees newly**
34 **performing functions described in subsection 3 of this section, while**
35 **under the direct supervision of a licensed insurance producer during**
36 **the first six months of such employee's initial employment. This**
37 **subsection is not intended to require licensure of persons performing**
38 **a clerical function under the direct supervision and direction of a**
39 **licensed insurance producer.**

40 **6. Every title agency licensed in this state shall:**

41 **(1) Exclude or eliminate the word insurer, insurance company,**
42 **or underwriter from its business name, unless the word agency is also**
43 **included as part of the name; and**

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

47 **7. A title agency or title agent licensed in this state prior to the**
48 **effective date of this chapter shall have ninety days after the effective**
49 **date of this chapter to comply with the requirements of this section.**

50 **8. If the title insurer, title agency, or title agent delegates the**
51 **title search to a third party, such as an abstract company, the insurer,**
52 **agency, or agent must first obtain proof that the third party is**
53 **operating in compliance with rules and regulations established by the**

54 director and the third party shall provide the insurer, agency, or agent
55 with access to and the right to copy all accounts and records
56 maintained by the third party with respect to business placed with the
57 title insurer. Proof from the third party may consist of a signed
58 statement indicating compliance, and shall be effective for a three-year
59 period.

60 9. A violation of any provision under this section is a level three
61 violation under section 374.049, RSMo.

381.118. 1. Each title agency shall designate an individual as a
2 qualified principal, who as a condition of licensure, shall successfully
3 pass an examination developed by the producer advisory board
4 established by section 375.019, RSMo, and approved by the
5 director. Each title agent shall successfully pass an examination
6 developed by the producer advisory board and approved by the
7 director. Upon request by a title agency or agent and for good cause,
8 the director, by order, may waive the requirements of this
9 subsection. The examination requirement in this subsection shall be
10 waived for all title agents and qualified principals who are licensed in
11 this state as of January 1, 2008.

12 2. Each title agent licensed to sell title insurance in this state,
13 unless exempt under subsection 8 of this section, shall successfully
14 complete courses of study as required by this section. Any person
15 licensed to act as a title agent shall, during each two years, attend
16 courses or programs of instruction or attend seminars equivalent to a
17 minimum of eight hours of instruction. The initial such two-year
18 period shall begin January 1, 2008.

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

23 (1) A real property law or title insurance-related course taught
24 by an accredited college or university or qualified instructor who has
25 taught a course of real property or title insurance law at such
26 institution;

27 (2) A course or program of instruction or seminar approved by
28 the director developed or sponsored by any authorized insurer,
29 recognized agents' association, title insurance trade association, or

30 approved private provider. A local agents' group may also be approved
31 if the instructor receives no compensation for services;

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

34 4. A person teaching any approved course of instruction or
35 lecturing at any approved seminar without compensation shall qualify
36 for one and one-half times the number of classroom hours as would be
37 granted to a person taking and successfully completing such course,
38 seminar or program, but the credit may be credited no more than once
39 a year.

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

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

52 (1) Serious physical injury or illness;

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

55 (3) Residence outside the United States; or

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

58 7. Every person subject to the provisions of this section shall
59 furnish in a form satisfactory to the director, written certification as
60 to the courses, programs, or seminars of instruction taken and
61 successfully completed by such person.

62 8. The provisions of this section shall not apply to those natural
63 persons holding or applying for a license to act as a title agent in
64 Missouri who reside in a state that has enacted and implemented a
65 mandatory continuing education law or regulation pertaining to title
66 agents. However, those natural persons holding or applying for a

67 Missouri agent license who reside in states which have no mandatory
68 continuing education law or regulations shall be subject to all the
69 provisions of this section to the same extent as resident Missouri title
70 agents.

71 9. Rules necessary to implement and administer this section shall
72 be promulgated by the director, including, but not limited to, rules
73 regarding the following:

74 (1) The producer advisory board established by section 375.019,
75 RSMo, shall be utilized by the director to assist the director in
76 determining acceptable content of courses, programs and seminars to
77 include classroom equivalency;

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

88 10. All funds received under the provisions of this section shall
89 be transmitted by the director to the department of revenue for deposit
90 in the state treasury to the credit of the insurance dedicated fund. All
91 expenditures required by this section shall be paid from funds
92 appropriated from the insurance dedicated fund by the general
93 assembly.

94 11. When a title agent pays his or her biennial renewal fee, such
95 agent shall also furnish the written certification required by this
96 section.

97 12. Any rule or portion of a rule, as that term is defined in
98 section 536.010, RSMo, that is created pursuant to the authority
99 delegated in this section shall become effective only if it complies with
100 and is subject to all of the provisions of chapter 536, RSMo, and, if
101 applicable, section 536.028, RSMo. This section and chapter 536, RSMo,
102 are nonseverable and if any of the powers vested with the general
103 assembly pursuant to chapter 536, RSMo, to review, to delay the

104 **effective date, or to disapprove and annul a rule are subsequently held**
105 **unconstitutional, then the grant of rulemaking authority and any rule**
106 **proposed or adopted after January 1, 2008, shall be invalid and void.**

381.122. The director may during normal business hours
2 **examine, audit and inspect any and all books and records maintained**
3 **by a title insurer, title agency, or title agent under this chapter.**

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

12 2. [Any person who violates the provisions of this section, or any title
13 insurer, title agent, or agency who accepts an order for title insurance knowing
14 that it is in violation of the provision of this section shall, in addition to any other
15 action which may be taken by the director, be subject to a fine in an amount
16 equal to five times the premium for the title insurance.] **A violation of any**
17 **provision under this section is a level three violation under section**
18 **374.049, RSMo.**

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

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

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

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

18 **(4) "Financial institution":**

19 **(a) A person or entity doing business under the laws of this state**
20 **or the United States relating to banks, trust companies, savings and**
21 **loan associations, credit unions, commercial and consumer finance**
22 **companies, industrial loan companies, insurance companies, small**
23 **business investment corporations licensed under the Small Business**
24 **Investment Act of 1958, 15 U.S.C. Section 661, et seq., as amended, or**
25 **real estate investment trusts as defined in 26 U.S.C. Section 856, as**
26 **amended, or institutions constituting the Farm Credit System under the**
27 **Farm Credit Act of 1971, 12 U.S.C. Section 2000, et seq., as amended; or**

28 **(b) A mortgage loan company or mortgage banker doing business**
29 **under the laws of this state or the United States which is subject to**
30 **licensing, supervision, or auditing by the Federal National Mortgage**
31 **Association, or the Federal Home Loan Mortgage Corporation, or the**
32 **United States Veterans' Administration, or the Government National**
33 **Mortgage Association, or the United States Department of Housing and**
34 **Urban Development, or a successor of any of the foregoing agencies or**
35 **entities, as an approved seller or servicer, if their principal place of**
36 **business is in Missouri or a state which is contiguous to Missouri;**

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

381.412. 1. A settlement agent who accepts funds for closing a
2 **sale of an interest in real estate shall require a buyer, seller, or lender**
3 **who is not a financial institution to convey such funds to the settlement**
4 **agent as certified funds. A check shall be exempt from the provisions**
5 **of this section if drawn on:**

6 **(1) An escrow account of a licensed real estate broker, as**
7 **regulated and described in section 339.105, RSMo; or**

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

10 **(3) An agency of the United States of America, the state of**
11 **Missouri, or any county or municipality of the state of Missouri; or**

12 **(4) An account by a financial institution.**

13 **2. It is unlawful for any title insurer, title agency, or title agent,**
14 **as defined in section 381.009, to make any payment, disbursement or**
15 **withdrawal from an escrow account which it maintains as a depository**
16 **of funds received from the public for the settlement of real estate**
17 **transactions unless a corresponding deposit of funds was made to the**
18 **escrow account for the benefit of the payee or payees:**

19 **(1) At least ten days prior to such payment, disbursement, or**
20 **withdrawal; or**

21 **(2) Which consisted of certified funds; or**

22 **(3) Consisted of a check made exempt from this section by the**
23 **provisions of subsection 1 of this section.**

24 **3. A violation of any provision of this section is a level two**
25 **violation under section 374.049, RSMo.**

384.054. Any tax imposed by sections 384.011 to 384.071 which is
2 delinquent in payment shall be subject to a penalty of **one percent of the tax**
3 **per diem up to** ten percent of the tax. Any delinquent tax shall bear interest
4 at the rate determined under section 32.065, RSMo, from the time such tax is
5 due.

384.071. 1. **If the director determines that a person has engaged,**
2 **is engaging in, or has taken a substantial step toward engaging in an**
3 **act, practice or course of business constituting a violation of sections**
4 **384.011 to 384.071 or a rule adopted or order issued pursuant thereto,**
5 **or that a person has materially aided or is materially aiding an act,**
6 **practice, omission, or course of business constituting a violation of**
7 **sections 384.011 to 384.071 or a rule adopted or order issued pursuant**
8 **thereto, the director may issue such administrative orders as**
9 **authorized under section 374.046, RSMo. A violation of any of these**
10 **sections is a level three violation under section 374.049, RSMo.**

11 **2. If the director believes that a person has engaged, is engaging**
12 **in, or has taken a substantial step toward engaging in an act, practice**
13 **or course of business constituting a violation of sections 384.011 to**
14 **384.071 or a rule adopted or order issued pursuant thereto, or that a**

15 **person has materially aided or is materially aiding an act, practice,**
 16 **omission, or course of business constituting a violation of sections**
 17 **384.011 to 384.071 or a rule adopted or order issued pursuant thereto,**
 18 **the director may maintain a civil action for relief authorized under**
 19 **section 374.048, RSMo. A violation of any of these sections is a level**
 20 **three violation under section 374.049, RSMo.**

21 **3.** Any surplus lines licensee who in this state represents or aids a
 22 nonadmitted insurer in violation of the provisions of sections 384.011 to 384.071
 23 may be found guilty of a **class B** misdemeanor and subject to a fine not in excess
 24 of one thousand dollars.

25 **[2.** In addition to any other penalty provided for herein or otherwise
 26 provided by law, including any suspension, revocation or refusal to renew a
 27 license, any person, firm, association or corporation violating any provision of
 28 sections 384.011 to 384.071 shall be liable to a penalty not exceeding one
 29 thousand dollars for the first offense, and not exceeding two thousand dollars for
 30 each succeeding offense.

31 **3.] 4.** The above penalties are not exclusive remedies. [Penalties may
 32 also be assessed under sections 375.930 to 375.948, RSMo.]

409.950. Notwithstanding any other law to the contrary, securities or
 2 other obligations issued by multinational development banks in which the United
 3 States is a member nation, including the African Development Bank, shall be
 4 treated as eligible for investment by all employee retirement systems and by all
 5 fiduciaries created or regulated pursuant to the laws of this state. Nothing in
 6 this section or in section [376.303 or] 379.080, RSMo, shall be construed to
 7 require such investments.

[374.261. As used in sections 374.261 to 374.269, the
 2 following words mean:

- 3 (1) "Director", the director of the department of insurance;
 4 (2) "Examiners", nonsalaried employees of the department
 5 of insurance conducting an examination pursuant to section
 6 374.190;
 7 (3) "Sick leave", those days of leave taken during the
 8 conduct of an examination during which an examiner is prevented
 9 from conducting an examination due to illness or injury.]

[374.263. There is hereby created in the state treasury a
 2 fund to be known as the "Insurance Examiner's Sick Leave Fund",

3 hereinafter referred to as the "fund". The fund shall be used to pay
4 the daily wages of department of insurance examiners who are
5 temporarily unable to continue an examination of an insurance
6 company or companies pursuant to section 374.190, because of
7 illness or injury suffered or sustained by the examiner during the
8 course of the examination which the examiner is conducting.]

[374.265. 1. There shall be an amount assessed against
2 those domestic insurers which are subject to premium tax and are
3 engaged in the business of insurance within this state, which
4 amount shall be no less than one hundred and fifty nor greater
5 than five hundred dollars.

6 2. The initial assessment shall be made within one month
7 of September 28, 1981, in the total amount of thirty-six thousand
8 dollars. Thereafter, assessments shall be made annually, or as
9 needed whenever the balance in the fund becomes less than ten
10 thousand dollars. The amount of such subsequent assessments
11 shall be that amount necessary to return the balance in the fund
12 to thirty-six thousand dollars.]

[374.267. 1. The director of the department of insurance,
2 his agents or appointees shall be empowered to make assessments
3 pursuant to section 374.265, and to administer the fund.

4 2. The director, his agents or appointees shall compensate
5 an examiner out of the fund only after the examiner has satisfied
6 the director, his agents or appointees that:

7 (1) The examiner was employed by the department of
8 insurance to conduct an examination of an insurance company or
9 companies pursuant to section 374.190 at the time of the illness or
10 injury for which daily wages are claimed; and

11 (2) The examiner was prevented from conducting the
12 examination due to illness or injury.

13 3. The amount paid by the director, his agents or
14 appointees to an examiner from the fund shall not exceed the
15 amount of the examiner's daily wages times the number of days
16 during which the examiner was prevented from conducting an
17 examination as result of illness or injury, but in no event shall any
18 examiner be paid for more than one and one-fourth days times the

19 number of months for which he has been employed by the
20 department of insurance as an examiner, nor shall an examiner be
21 paid for or receive credit for sick leave after August 13, 1988, for
22 or on the basis of any month, months or portion thereof before
23 August 13, 1988.]

[376.320. All bonds or other evidences of debt having a
2 fixed term and rate held by any life insurance company,
3 assessment life association or fraternal beneficiary association
4 authorized to do business in this state may, if amply secured and
5 not in default as to principal and interest, be valued as follows: If
6 purchased at par, at the par value; if purchased above or below
7 par, on the basis of the purchase price adjusted so as to bring the
8 value to par at maturity and so as to yield in the meantime the
9 effective rate of interest at which the purchase was made; provided,
10 that the purchase price shall in no case be taken at a higher figure
11 than the actual market value at the time of purchase; and provided
12 further, that the director of insurance shall have full discretion in
13 determining the method of calculating values according to the
14 foregoing rule.]

[376.672. The director of the department of insurance shall
2 establish by regulation the terms and conditions of policy loan
3 interest rate provisions for all policies issued or delivered by a life
4 insurance company in this state after August 13, 1982. Such
5 regulations shall include provisions for an adjustable maximum
6 interest rate based on the monthly average of the Moody's
7 Corporate Bond Yield Average--Monthly Average Corporates, as
8 published by Moody's Investors Service, Inc., the frequency at
9 which the rate is to be determined and appropriate notifications to
10 policyholders. No other provision of law shall apply to policy loan
11 interest rates unless made specifically applicable to such
12 rates. This section shall also apply to loan interest rate provisions
13 for certificates issued or delivered by fraternal benefit societies in
14 this state, and for purposes of this section the word "policy"
15 includes such certificates.]

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

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

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

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

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

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

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

14 (4) "Associate", any:

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

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

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

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

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

25 (f) Person with whom a producer of title insurance business

26 or any associate of the producer has an agreement, arrangement or
27 understanding, or pursues a course of conduct, the purpose or effect
28 of which is to provide financial benefits to that producer or
29 associate for the referral of business;

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

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

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

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

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

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

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

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

69 (13) "Foreign title insurer", any title insurer incorporated
70 or organized pursuant to the laws of any other state of the United
71 States, the District of Columbia, or any other jurisdiction of the
72 United States;

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

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

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

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

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

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

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

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

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

97 (c) Acting as broker, agent, representative or attorney of a

98 person who buys or sells any interest in real property or who lends
99 or borrows money with the interest as security;

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

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

106 (b) Regulated, supervised and examined by federal or state
107 authorities having regulatory authority over banks and trust
108 companies;

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

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

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

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

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

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

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

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

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

143 (b) Performs searches;

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

145 (d) Solicits or negotiates title insurance business;

146 (26) "Title insurance business" or "business of title
147 insurance":

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

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

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

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

160 c. Handling of escrows, settlements or closings;

161 d. Executing title insurance policies;

162 e. Effecting contracts of reinsurance; or

163 f. Abstracting, searching or examining titles;

164 (c) Guaranteeing, warranting or insuring searches or
165 examinations of title to real property or any interest in real
166 property;

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

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

173 (f) Promising to indemnify the holder of a mortgage or deed
174 of trust against loss from the failure of the borrower to pay the
175 mortgage or deed of trust when due if the property fails to yield
176 sufficient proceeds upon foreclosure to satisfy the debt, when one
177 or both of the following conditions exist:

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

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

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

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

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

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

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

202 (c) Unmarketability of the insured title;

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

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

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

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

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

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

214 (29) "Title insurer" or "insurer", a company organized
215 pursuant to laws of this state for the purpose of transacting the
216 business of title insurance and any foreign or non-United States
217 title insurer licensed in this state to transact the business of title
218 insurance;

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

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

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

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

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

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

10 2. A title insurer, title agency or title agent issuing a
11 lender's title insurance policy in conjunction with a mortgage loan
12 made simultaneously with the purchase of all or part of the real
13 estate securing the loan, where no owner's title insurance policy
14 has been requested, shall give written notice, on a form prescribed
15 or approved by the director, to the purchaser-mortgagor at the time
16 the commitment is prepared. The notice shall explain that a
17 lender's title insurance policy is to be issued protecting the
18 mortgage-lender, and that the policy does not provide title
19 insurance protection to the purchaser-mortgagor as the owner of
20 the property being purchased. The notice shall explain what a title
21 policy insures against and what possible exposures exist for the
22 purchaser- mortgagor that could be insured against through the
23 purchase of an owner's policy. The notice shall also explain that
24 the purchaser-mortgagor may obtain an owner's title insurance
25 policy protecting the property owner at a specified cost or
26 approximate cost, if the proposed coverages are or amount of
27 insurance is not then known. A copy of the notice, signed by the
28 purchaser-mortgagor, shall be retained in the relevant
29 underwriting file at least fifteen years after the effective date of the
30 policy.

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

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

7 2. For each title agency or title agent not affiliated with a
8 title agency under contract with the insurer, the title insurer shall
9 have on file a statement of financial condition, of each title agency

10 or title agent as of the end of the previous calendar or fiscal year
11 setting forth an income statement of business done during the
12 preceding year and a balance sheet showing the condition of its
13 affairs as of the close of the prior year, certified by the agency or
14 agent as being a true and accurate representation of the agency's
15 or agent's financial condition. The statement shall be filed with
16 the insurer no later than the date the agency's or agent's federal
17 income tax return for the same year is filed. Attorneys actively
18 engaged in the practice of law, in addition to that related to title
19 insurance business, are exempt from the requirements of this
20 subsection.

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

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

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

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

44 7. The title insurer shall establish the underwriting
45 guidelines and, where applicable, limitations on title claims

46 settlement authority to be incorporated into contracts with its title
47 agencies and title agents not affiliated with a title agency.

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

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

3 2. Except as otherwise expressly provided in sections
4 381.011 to 381.241, and except where the context otherwise
5 requires, all provisions of the insurance laws of this state applying
6 to insurance and insurance companies generally shall apply to title
7 insurance and title insurance companies. No law of this state
8 enacted after September 28, 1987, that is inconsistent with the
9 provisions of such sections shall be applicable to the business of
10 title insurance unless such law specifically states that it is to be
11 applicable to the business of title insurance.

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

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

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

11 (a) The funds shall be the property of the person or persons
12 entitled to them under the provisions of the escrow, settlement,
13 security deposit or closing agreement and shall be segregated for
14 each depository by escrow, settlement, security deposit or closing
15 in the records of the title insurer, title agency or title agent not
16 affiliated with a title agency, in a manner that permits the funds

17 to be identified on an individual basis and in accordance with the
18 terms of the individual instructions or agreements under which the
19 funds were accepted; and

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

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

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

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

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

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

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

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

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

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

61 4. (1) Nothing in this chapter shall be deemed to prohibit
62 the recording of documents prior to the time funds are available for
63 disbursement with respect to a transaction in which a title insurer,
64 title agency or title agent not affiliated with a title agency is the
65 settlement agent, provided all parties to whom payment will
66 become due upon such recording consent thereto in writing.

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

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

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

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

[381.028. No title insurer, title agency or title agent shall

2 participate in any transaction in which it knows that a producer or
3 other person requires, directly or indirectly, or through any trustee,
4 director, officer, agent, employee or affiliate, as a condition,
5 agreement or understanding to selling or furnishing any other
6 person a loan, or loan extension, credit, sale, property, contract,
7 lease or service, that the other person shall place a title insurance
8 policy of any kind with the title insurer or through a particular
9 title agency or agent. Each violation of this section is a class A
10 violation as that term is defined in section 381.045.]

[381.032. 1. No title insurer, may charge any rates
2 regulated by the state after January 1, 2001, except in accordance
3 with the premium rate schedule and manual filed with and
4 approved by the director in accordance with applicable statutes and
5 regulations governing rate filings. Premium rate schedules in
6 effect prior to January 1, 2001, may be used until new rate
7 schedules have been approved by the director. Title insurers shall
8 file their premium rate schedules within thirty days after January
9 1, 2001. Each violation of this subsection is a class C violation as
10 that term is defined in section 381.045. Nothing in this section
11 shall prevent an agent not affiliated with an agency from charging
12 for services that constitute the practice of law at the customary fee
13 charged by such person for legal services. To the extent the
14 premium fails to compensate the agent at such rate, the agent may
15 render an additional bill for such services on behalf of the agent's
16 law practice or law firm. The acceptance of any part of the
17 premium by the law firm of said agent shall not be a violation of
18 any provision of the Missouri title insurance act or the general
19 insurance statutes, regulations or bulletins regarding payment of
20 commissions to nonlicensed entities.

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

26 3. The director may require that the information provided
27 pursuant to this section be verified by oath of the insurer's or

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

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

[381.035. No title insurance company, title agency or title
2 agent shall willfully withhold information from, or knowingly give
3 false or misleading information to the director, or to any title
4 insurance rating organization, of which the title insurance company
5 is a member or subscriber, which will affect the rates or fees
6 chargeable pursuant to this chapter. Each violation of this section
7 is a class A violation as that term is defined in section 381.045.]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 or

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

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

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

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

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

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

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

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

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

31 behalf of the title insurer.

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

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

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

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

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

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

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

10 3. (1) Notwithstanding subsection 1 of this section, and to
11 the extent such coverage is lawful within this state, a title insurer
12 is expressly authorized to issue closing or settlement protection to
13 a proposed insured upon request if the title insurer issues a

14 commitment, binder or title insurance policy. Such closing or
15 settlement protection shall conform to the terms of coverage and
16 form of instrument as required by the director and may indemnify
17 a proposed insured solely against loss of settlement funds only
18 because of the following acts of a title insurer's named title agency
19 or title agent:

20 (a) Theft of settlement funds; and

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

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

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

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

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

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

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

7 insurer on file with the director.

8 2. For purposes of this chapter:

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

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

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

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

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

[381.072. In determining the financial condition of a title
2 insurer doing business pursuant to this chapter, the general
3 provisions of the insurance code requiring the establishment of

4 reserves sufficient to cover all known and unknown liabilities
5 including allocated and unallocated loss adjustment expense, shall
6 apply; except that, a title insurer shall establish and maintain:

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

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

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

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

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

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

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

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

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

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

52 (e) A title insurer shall release from the unearned premium
53 reserve a sum equal to ten percent of the amount added to the
54 reserve during a calendar year on July first of each of the five
55 years following the year in which the sum was added, and shall
56 release from the unearned premium reserve a sum equal to three
57 and one-third percent of the amount added to the reserve during
58 that year on each succeeding July first until the entire amount for
59 that year has been released. The amount of the unearned premium
60 reserve or similar unearned premium reserve maintained before
61 January 1, 2001, shall be released in accordance with the law in
62 effect immediately before January 1, 2001;

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

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

76 adverse developments on known claims, and reserves for incurred
77 but not reported claims;

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

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

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

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

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

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

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

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

12 3. Title insurance policies that are in force at the time an
13 order of liquidation is entered shall not be canceled except upon a
14 showing to the court of good cause by the liquidator. The
15 determination of good cause shall be within the discretion of the

16 court. In making this determination, the court shall consider the
17 unique aspects of title insurance and all other relevant
18 circumstances.

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

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

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

[381.081. 1. A domestic title insurer shall establish and
2 maintain an unearned premium reserve computed in accordance
3 with this section, and all sums attributed to such reserve shall at
4 all times and for all purposes be considered and constitute
5 unearned portions of the original premiums. This reserve shall be
6 reported as a liability of the title insurer in its financial
7 statements.

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

16 3. A foreign or alien title insurer licensed to transact title
17 insurance business in this state shall maintain at least the same

18 reserves on title insurance policies issued on properties located in
19 this state as are required of domestic title insurers, unless the laws
20 of the jurisdiction of domicile of the foreign or alien title insurer
21 require a higher amount.

22 4. The unearned premium reserve shall consist of:

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

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

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

35 6. A title insurer shall release from the unearned premium
36 reserve a sum equal to ten percent of the amount added to the
37 reserve during a calendar year on July first of each of the five
38 years following the year in which the sum was added, and shall
39 release from the unearned premium reserve a sum equal to three
40 and one-third percent of the amount added to the reserve during
41 that year on each succeeding July first until the entire amount for
42 that year has been released. The amount of the unearned premium
43 reserve or similar unearned premium reserve maintained before
44 September 28, 1987, shall be released in accordance with the law
45 in effect immediately before September 28, 1987.]

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

- 9 2. Forms covered by this section shall include:
- 10 (1) Title insurance policies, including standard form
- 11 endorsements; and
- 12 (2) Title insurance commitments issued prior to the
- 13 issuance of a title insurance policy.
- 14 3. After notice and opportunity to be heard are given to the
- 15 insurer or rate service organization which submitted a form for
- 16 approval, the director may withdraw approval of the form on
- 17 finding that the use of the form is contrary to the legal
- 18 requirements applicable at the time of withdrawal. The effective
- 19 date of withdrawal of approval shall not be less than ninety days
- 20 after notice of withdrawal is given.
- 21 4. Any term or condition related to an insurance coverage
- 22 provided by an approved title insurance policy or any exception to
- 23 the coverage, except those ascertained from a search and
- 24 examination of records relating to a title or inspection or survey of
- 25 a property to be insured, may only be included in the policy after
- 26 the term, condition or exception has been filed with the director
- 27 and approved as herein provided.]

[381.088. 1. A title insurer may satisfy its obligation to file

2 premium rates, rating manuals and forms as required by this

3 chapter by becoming a member of, or a subscriber to, a rate service

4 organization, organized and licensed pursuant to the provisions of

5 this chapter, where the organization makes the filings, and by

6 authorizing the director in writing to accept the filings on the

7 insurer's behalf.

8 2. Nothing in this chapter shall be construed as requiring

9 any title insurer, title agency or title agent to become a member of,

10 or a subscriber to, any rate service organization. Nothing in this

11 chapter shall be construed as prohibiting the filing of deviations

12 from rate service organization filings by any member or

13 subscriber.]

[381.091. 1. If a domestic title insurer becomes insolvent,

2 is in the process of liquidation or dissolution, or is in the

3 possession of the director:

- 4 (1) Such amount of the assets of such title insurer equal to

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

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

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

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

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

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

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

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

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

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

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

30 3. Any person or organization aggrieved with respect to any
31 filing which is in effect may make written application to the

32 director for a hearing thereon. The title insurance company or title
33 insurance rating organization that made the filing shall not be
34 authorized to proceed pursuant to this subsection. Such
35 application shall specify in reasonable detail the grounds to be
36 relied upon by the applicant. If the director shall find that the
37 application is made in good faith, that the applicant would be so
38 aggrieved if his or her grounds are established, and that such
39 grounds otherwise justify holding such a hearing, the director
40 shall, within thirty days after receipt of such application, hold a
41 hearing upon not less than ten days' written notice to the applicant
42 and to every title insurance company and title insurance rating
43 organization which made such a filing. If, after such hearing, the
44 director finds that the filing or a part thereof does not meet the
45 requirements of this chapter, the director shall issue an order
46 specifying in what respects the director finds that such filing or a
47 part thereof fails to meet the requirements of this chapter, stating
48 when within a reasonable period thereafter, such filing or a part
49 thereof shall be deemed no longer effective. Copies of such order
50 shall be sent to the applicant and to every such title insurer and
51 title insurance rating organization. The order shall not affect any
52 contract or policy made or issued prior to the expiration of the
53 period set forth in the order.]

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

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

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

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

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

14 2. If the director finds that the applicant is competent,

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

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

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

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

36 3. Subject to rules and regulations which have been
37 approved by the director as reasonable, each title insurance rating
38 organization shall permit any title insurance company not a
39 member to be a subscriber to its rating services. Notices of
40 proposed changes in such rules and regulations shall be given to
41 subscribers. Each such rating organization shall furnish its rating
42 services without discrimination to its members and
43 subscribers. The reasonableness of any rule or regulation in its
44 application to subscribers, or the refusal of any such rating
45 organization to admit a title insurance company as a subscriber,
46 shall at the request of any subscriber or any such title insurance
47 company, be reviewed by the director at a hearing held upon at
48 least ten days' written notice to such rating organization and to
49 such subscriber. If the director finds that such rule or regulation
50 is unreasonable in its application to subscribers, the director shall

51 order that such rule or regulation shall not be applicable to
52 subscribers. If the rating organization fails to grant or reject an
53 application of a title insurance company for subscribership within
54 thirty days after it was made, the title insurance company may
55 request a review by the director as if the application had been
56 rejected. If the director finds that the title insurance company has
57 been refused admittance to the title insurance rating organization
58 as a subscriber without justification, the director shall order such
59 rating organization to admit the title insurance company as a
60 subscriber. If the director finds that the action of the title
61 insurance rating organization was justified, the director shall make
62 an order affirming its action.]

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

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

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

[381.102. Every member of or subscriber to a title insurance
2 rating organization shall adhere to the filings made on its behalf
3 by such organization, except that any title insurance company
4 which is a member of or subscriber to such a rating organization
5 may file with the director a uniform percentage of decrease or
6 increase to be applied to any or all elements of the fees produced
7 by the rating system so filed for a class of title insurance which is
8 found by the director to be a proper rating unit for the application
9 of such uniform decrease or increase, or to be applied to the rates
10 for a particular area, or otherwise deviate from the rating plans,
11 policy forms or other matters which are the subject of filings
12 pursuant to this chapter. Such deviation filing shall specify the

13 basis for the modification and shall be accompanied by the data or
14 historical pattern upon which the applicant relies. A copy of the
15 deviation filing and data shall be sent simultaneously to such
16 rating organization. Deviation filings shall be subject to the
17 provisions of section 381.095.]

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

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

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

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

33 judgment, determines that one or more of such organizations
34 designated as statistical agents is unable or unwilling to perform
35 its statistical functions according to reasonable requirements
36 established from time to time by the director, he or she may, after
37 consultation with such statistical agent and upon twenty days'
38 notice to any affected companies, designate another person to act
39 on the director's behalf in the gathering of statistical
40 experience. The director shall in such case establish the fee to be
41 paid to such designated person by the affected companies in order
42 to pay the total cost of gathering and compiling such
43 experience. Agencies designated by the director shall assist the
44 director in making compilations of the reported data and such
45 compilations shall be made available, subject to reasonable rules
46 and regulations promulgated by the director, to insurers, rating
47 organizations and any other interested parties.

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

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

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

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

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

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

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

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

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

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

22 4. A title agency or title agent licensed in this state prior
23 to the effective date of this chapter shall have ninety days after the
24 effective date of this chapter to comply with the requirements of
25 this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

97 11. No rule or portion of a rule promulgated pursuant to the
98 authority of this section shall become effective unless it has been

99 promulgated pursuant to the provisions of chapter 536, RSMo.]

2 [381.121. 1. The deposit required by section 381.051 and
3 the capital, surplus and unearned premium reserve of domestic
4 title insurers shall be held in either cash or investments now or
5 hereafter permitted to domestic life insurers with regard to their
6 capital, reserve and surplus for reserve deposit.

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

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

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

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

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

3. The director may require each title agency to file on
forms prescribed by the director reports setting forth the names

14 and addresses of those persons, if any, that have a financial
15 interest in the agency and who the agency knows or has reason to
16 believe are producers of title insurance business or associates of
17 producers.

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

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

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

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

33 For purposes of this subsection, the terms "required use" and
34 "return on an ownership interest" shall have the meaning accorded
35 to them under the Real Estate Settlement Procedures Act (RESPA),
36 12 U.S.C. Section 2607, as amended and Regulation X, 24 CFR
37 Section 3500, et seq.

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

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

[381.151. Nothing in sections 381.011 to 381.241 shall be

2 construed as prohibiting the division of premiums and charges
3 between or among a title insurer and its title agent or agency, two
4 or more title insurers, one or more title insurers and one or more
5 title agents or agencies or two or more title agents or agencies,
6 provided such division of premiums and charges does not
7 constitute:

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

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

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

4 (1) Title insurance policies;

5 (2) Standard form endorsements; and

6 (3) Preliminary reports, commitments, binders, or any other
7 reports issued prior to the issuance of a title insurance policy.]

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

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

[381.241. 1. The director of insurance or his duly
2 authorized representative may at any time and from time to time,

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

14 2. The purpose of such examination is to enable the director
15 to ascertain whether there is compliance with the provisions of
16 sections 381.011 to 381.241. If as a result of such examination the
17 director has reason to believe that any rate, rating plan or rating
18 system made or used by an insurer does not meet the standards
19 and provisions of sections 381.011 to 381.241, applicable to it, the
20 director may hold a public hearing. Within a reasonable period of
21 time, which shall be not less than ten days before the date of such
22 hearing, he shall mail written notice specifying the matters to be
23 considered at such hearing to every person, insurer or organization
24 believed by him not to be in compliance with the provisions of
25 sections 381.011 to 381.241.

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

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

3 (1) "Cashier's check", a check, however labeled, drawn on
4 the financial institution, which is signed only by an officer or

5 employee of such institution, is a direct obligation of such
6 institution, and is provided to a customer of such institution or
7 acquired from such institution for remittance purposes;

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

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

18 (4) "Financial institution":

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

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

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

41 foregoing agencies or entities, as an approved seller or servicer; or

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

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

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

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

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

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

18 (4) "Financial institution":

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

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

25 a. A mortgage loan company which is subject to licensing,
26 supervision or auditing by the Federal National Mortgage

27 Association, or the Federal Home Loan Mortgage Corporation, or
28 the United States Veterans Administration, or the Government
29 National Mortgage Association, or the United States Department
30 of Housing and Urban Development, or a successor of any of the
31 foregoing agencies or entities, as an approved seller or servicer;

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

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

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

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

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

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

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

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

27 (2) Which consisted of certified funds; or

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

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

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

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

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

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

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

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

21 the escrow account for the benefit of the payee or payees:

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

24 (2) Which consisted of certified funds; or

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

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

Section B. The repeal and enactment of Sections 381.003 through 381.412
2 of Section A of this act is effective January 1, 2008.

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