

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 101
102ND GENERAL ASSEMBLY

0898H.03C

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 287.690, 287.900, 287.902, 287.905, 287.907, 287.909, 287.910, 287.912, 287.915, 287.917, 287.919, 287.920, 375.1275, and 379.316, RSMo, and to enact in lieu thereof fifteen new sections relating to property and casualty insurance, with penalty provisions and a delayed effective date for certain sections.

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

Section A. Sections 287.690, 287.900, 287.902, 287.905, 287.907, 287.909, 287.910, 287.912, 287.915, 287.917, 287.919, 287.920, 375.1275, and 379.316, RSMo, are repealed and fifteen new sections enacted in lieu thereof, to be known as sections 287.690, 287.921, 375.1275, 379.316, 379.1850, 379.1851, 379.1853, 379.1855, 379.1857, 379.1859, 379.1861, 379.1863, 379.1865, 379.1867, and 379.1869, to read as follows:

287.690. ~~[-]~~ Prior to December 31, 1993, for the purpose of providing for the expense of administering this chapter ~~[and for the purpose set out in subsection 2 of this section]~~, every person, partnership, association, corporation, whether organized under the laws of this or any other state or country, the state of Missouri, including any of its departments, divisions, agencies, commissions, and boards or any political subdivisions of the state who self-insure or hold themselves out to be any part self-insured, company, mutual company, the parties to any interindemnity contract, or other plan or scheme, and every other insurance carrier, insuring employers in this state against liability for personal injuries to their employees, or for death caused thereby, under this chapter, shall pay, as provided in this chapter, tax upon the net deposits, net premiums or net assessments received, whether in cash or notes in this state, or on account of business done in this state, for such insurance in this state at the rate of two percent in lieu of all other taxes on such net deposits, net premiums or net assessments, which amount of taxes shall be assessed and collected as herein provided.

EXPLANATION — Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

14 Beginning October 31, 1993, and every year thereafter, the director of the division of workers'
15 compensation shall estimate the amount of revenue required to administer this chapter and the
16 director shall determine the rate of tax to be paid in the following calendar year pursuant to
17 this section commencing with the calendar year beginning on January 1, 1994. If the balance
18 of the fund estimated to be on hand on December thirty-first of the year each tax rate
19 determination is made is less than one hundred ten percent of the previous year's expenses
20 plus any additional revenue required due to new statutory requirements given to the division
21 by the general assembly, then the director shall impose a tax not to exceed two percent in lieu
22 of all other taxes on net deposits, net premiums or net assessments, rounded up to the nearest
23 one-half of a percentage point, which amount of taxes shall be assessed and collected as
24 herein provided. The net premium equivalent for individual self-insured employers shall be
25 based on average rate classifications calculated by the department of commerce and insurance
26 as taken from premium rates filed by the twenty insurance companies providing the greatest
27 volume of workers' compensation insurance coverage in this state. For employers qualified to
28 self-insure their liability pursuant to this chapter, the rates filed by such group of employers in
29 accordance with subsection 4 of section 287.280 shall be the net premium equivalent. Any
30 group of political subdivisions of this state qualified to self-insure their liability pursuant to
31 this chapter as authorized by section 537.620 may choose either the average rate classification
32 method or the filed rate method, provided that the method used may only be changed once
33 without receiving the consent of the director of the division of workers' compensation. Every
34 entity required to pay the tax imposed pursuant to this section and section 287.730 shall be
35 notified by the division of workers' compensation within ten calendar days of the date of the
36 determination of the rate of tax to be imposed for the following year. Net premiums, net
37 deposits or net assessments are defined as gross premiums, gross deposits or gross
38 assessments less cancelled or returned premiums, premium deposits or assessments and less
39 dividends or savings, actually paid or credited.

40 ~~[2. After January 1, 1994, the director of the division shall make one or more loans to~~
41 ~~the Missouri employers mutual insurance company in an amount not to exceed an aggregate~~
42 ~~amount of five million dollars from the fund maintained to administer this chapter for start-up~~
43 ~~funding and initial capitalization of the company. The board of the company shall make~~
44 ~~application to the director for the loans, stating the amount to be loaned to the company. The~~
45 ~~loans shall be for a term of five years and, at the time the application for such loans is~~
46 ~~approved by the director, shall bear interest at the annual rate based on the rate for linked~~
47 ~~deposit loans as calculated by the state treasurer pursuant to section 30.758.]~~

287.921. 1. For purposes of this section, the following terms mean:

2 **(1) "Company", any independent public corporation created for the purpose of**
3 **insuring Missouri employers against liability for workers' compensation, occupational**
4 **disease, and employers' liability coverage;**

5 **(2) "Department", the department of commerce and insurance;**

6 **(3) "Director", the director of the department of commerce and insurance.**

7 **2. Before January 1, 2025, any company may file amended and restated articles**
8 **of incorporation with the department and the secretary of state converting the company**
9 **from an independent public corporation to a private mutual insurance corporation**
10 **under the provisions of chapter 379. If the director determines that the amended and**
11 **restated articles of incorporation comply with the applicable provisions of chapter 379,**
12 **the following shall occur:**

13 **(1) The director shall issue an amended certificate of authority effective January**
14 **1, 2025, to the company to operate as a private mutual insurance corporation licensed to**
15 **write any lines of insurance authorized under the provisions of chapter 379;**

16 **(2) The director shall reauthorize the company's existing filings, forms, or other**
17 **administrative matters on file with the department so that the company's filings, rates,**
18 **forms, or other administrative matters shall be effective January 1, 2025; and**

19 **(3) The secretary of state shall issue an amended certificate of incorporation**
20 **effective January 1, 2025, certifying and declaring the company to be a body corporate**
21 **duly organized, existing, and entitled to all rights and privileges granted corporations**
22 **organized under chapter 379.**

23 **3. The company may continue to conduct business under its existing name or**
24 **adopt any other name that complies with state law.**

25 **4. (1) From and after January 1, 2025, the converted private mutual insurance**
26 **corporation shall become the successor in interest to all assets and liabilities of the**
27 **company as of the conversion date directed in this section without any conveyance or**
28 **transfer and without any further act or deed and shall be vested by operation of law to**
29 **all property of the company.**

30 **(2) The state is not liable for the expenses, liabilities, or debts of:**

31 **(a) The converted private mutual insurance corporation described in this**
32 **section;**

33 **(b) The company; or**

34 **(c) A subsidiary or joint enterprise involving the private mutual insurance**
35 **corporation or the company.**

375.1275. 1. For RBC reports required to be filed by life and health insurers with
2 respect to 1993, the following requirements shall apply in lieu of the provisions of section
3 375.1255:

4 (1) In the event of a company action level event with respect to an insurer, the
5 director shall take no regulatory action;

6 (2) In the event of a regulatory action level event pursuant to section 375.1257, the
7 director shall take the actions required pursuant to section 375.1255;

8 (3) In the event of a regulatory action level event pursuant to section 375.1257 or an
9 authorized control level event, the director shall take the actions required pursuant to section
10 375.1257 with respect to the insurer;

11 (4) In the event of a mandatory control level event with respect to an insurer, the
12 director shall take the actions required pursuant to section 375.1260 with respect to the
13 insurer.

14 2. For RBC reports required to be filed by property and casualty insurers with respect
15 to 1996, the following requirements shall apply in lieu of the provisions of sections 375.1255
16 to 375.1262:

17 (1) In the event of a company action level event with respect to a domestic insurer,
18 the director shall take no regulatory action under sections 375.1250 to 375.1275;

19 (2) In the event of a regulatory action level event under subdivision (1), (2) or (3) of
20 subsection 1 of section 375.1257, the director shall take the actions required under section
21 375.1255;

22 (3) In the event of a regulatory action level event under subdivision (4), (5), (6), (7),
23 (8) or (9) of subsection 1 of section 375.1257 or an authorized control level event, the director
24 shall take the actions required under section 375.1257, with respect to the insurer;

25 (4) In the event of a mandatory control level event, the director shall take the actions
26 required under section 375.1260 with respect to the insurer.

27 3. For RBC reports required to be filed by health organizations with respect to 2014,
28 the following requirements shall apply in lieu of the provisions of sections 375.1255 to
29 375.1262:

30 (1) In the event of a company action level event with respect to a domestic health
31 organization, the director shall take no regulatory action;

32 (2) In the event of a regulatory action level event under subdivisions (1) to (3) of
33 subsection 1 of section 375.1257, the director shall take the actions required pursuant to
34 section 375.1255;

35 (3) In the event of a regulatory action level event under subdivisions (4) to (9) of
36 subsection 1 of section 375.1257 or an authorized control level event, the director shall take
37 the actions required under section 375.1257 with respect to the health organization;

38 (4) In the event of a mandatory control level event with respect to a health
39 organization, the director shall take the actions required under section 375.1260 with respect
40 to the health organization.

41 ~~[4. The actions required under sections 375.1255 to 375.1262 or this section shall not~~
42 ~~apply to any insurer operating under the provisions of sections 287.900 to 287.920 which is~~
43 ~~under any order of supervision, including waivers of requirements for capital and surplus,~~
44 ~~issued or commenced by the director prior to August 28, 1996. This provision shall remain in~~
45 ~~effect until such order or proceeding expires or is otherwise terminated by further order of the~~
46 ~~director.]~~

379.316. 1. Section 379.017 and sections 379.316 to 379.361 apply to insurance
2 companies incorporated pursuant to sections 379.035 to 379.355, section 379.080, sections
3 379.060 to 379.075, sections 379.085 to 379.095, sections 379.205 to 379.310, and to
4 insurance companies of a similar type incorporated pursuant to the laws of any other state of
5 the United States, and alien insurers licensed to do business in this state, which transact fire
6 and allied lines, marine and inland marine insurance, to any and all combinations of the
7 foregoing or parts thereof, and to the combination of fire insurance with other types of
8 insurance within one policy form at a single premium, on risks or operations in this state,
9 except:

10 (1) Reinsurance, other than joint reinsurance to the extent stated in section 379.331;

11 (2) Insurance of vessels or craft, their cargoes, marine builders' risks, marine
12 protection and indemnity, or other risks commonly insured pursuant to marine, as
13 distinguished from inland marine, insurance policies;

14 (3) Insurance against loss **of** or damage to aircraft, **or against liability, other than**
15 **employers' liability, arising out of the ownership, maintenance, or use of aircraft;**

16 (4) All forms of motor vehicle insurance; and

17 (5) All forms of life, accident and health, and workers' compensation insurance.

18 2. Inland marine insurance shall be deemed to include insurance now or hereafter
19 defined by statute, or by interpretation thereof, or if not so defined or interpreted, by ruling of
20 the director, or as established by general custom of the business, as inland marine insurance.

21 3. Commercial property and commercial casualty insurance policies are subject to
22 rate and form filing requirements as provided in section 379.321.

379.1850. 1. Sections 379.1850 to 379.1869 shall apply to insurers and insurance
2 **producers engaged in any transaction involving lender-placed insurance, as defined in**
3 **section 379.1851.**

4 **2. All lender-placed insurance written in connection with mortgaged real**
5 **property, including manufactured homes and modular units, as defined in section**
6 **700.010, is subject to the provisions of sections 379.1850 to 379.1869, except:**

7 **(1) Transactions involving extensions of credit primarily for business,**
8 **commercial, or agricultural purposes;**

9 **(2) Insurance offered by the lender or servicer and elected by the mortgagor at**
10 **the mortgagor's option;**

11 **(3) Insurance purchased by a lender or servicer on real estate owned property;**

12 **(4) Insurance for which no specific charge is made to the mortgagor or the**
13 **mortgagor's account.**

379.1851. As used in sections 379.1850 to 379.1869, the following terms shall
2 **mean:**

3 **(1) "Affiliate", a person who directly, or indirectly through one or more**
4 **intermediaries, controls, is controlled by, or is under common control with, the person**
5 **specified;**

6 **(2) "Individual lender-placed insurance", coverage for individual real property**
7 **evidenced by a certificate of coverage under a master lender-placed insurance policy or**
8 **a lender-placed insurance policy for individual real property;**

9 **(3) "Insurance producer", a person or entity, or its affiliates, required to be**
10 **licensed under the laws of this state to sell, solicit, or negotiate insurance;**

11 **(4) "Insurer", an insurance company, association, or exchange, or its affiliates,**
12 **authorized to issue lender-placed insurance in this state;**

13 **(5) "Investor", a person or entity, or its affiliates, holding a beneficial interest in**
14 **loans secured by real property;**

15 **(6) "Lapse", the moment in time in which a mortgagor has failed to secure or**
16 **maintain valid or sufficient insurance upon mortgaged real property as required by a**
17 **mortgage agreement;**

18 **(7) "Lender", a person or entity, or its affiliates, making loans secured by an**
19 **interest in real property;**

20 **(8) "Lender-placed insurance", insurance obtained by a lender or servicer when**
21 **a mortgagor does not maintain valid or sufficient insurance upon mortgaged real**
22 **property as required by the terms of the mortgage agreement. Such term shall include**
23 **insurance purchased unilaterally by the lender or servicer, who is the named insured,**
24 **subsequent to the date of the credit transaction, providing coverage against loss,**
25 **expense, or damage to collateralized property as a result of fire, theft, collision, or other**
26 **risks of loss that would either impair a lender, servicer, or investor's interest, or**
27 **adversely affect the value of collateral covered by limited dual interest insurance. Such**
28 **term is limited to insurance purchased according to the terms of a mortgage agreement**
29 **as a result of the mortgagor's failure to provide evidence of required insurance;**

30 **(9) "Loss ratio", the ratio of incurred losses to earned premium;**

31 **(10) "Master lender-placed policy", a group policy issued to a lender or servicer**
32 **providing coverage for all loans in the lender or servicer's loan portfolio as needed;**

33 (11) "Mortgage agreement", the written document that sets forth an obligation
34 or liability of any kind secured by a lien on real property and due from, owing, or
35 incurred by a mortgagor to a lender on account of a mortgage loan, including a security
36 agreement, deed of trust, or any other document of similar effect, and any other
37 documents incorporated by reference;

38 (12) "Mortgage loan", a loan, advance, guarantee, or other extension of credit
39 from a lender to a mortgagor;

40 (13) "Mortgage transaction", a transaction by the terms of which the repayment
41 of money loaned or payment of real property sold is to be made at a future date or dates;

42 (14) "Mortgagee", the person who holds mortgaged real property as security for
43 repayment of a mortgage agreement;

44 (15) "Mortgagor", the person who is obligated on a mortgage loan pursuant to a
45 mortgage agreement;

46 (16) "Person", an individual or entity;

47 (17) "Real estate owned property", property owned or held by a lender or
48 servicer following foreclosure under the related mortgage agreement or the acceptance
49 of a deed in lieu of foreclosure;

50 (18) "Replacement cost value" or "RCV", the estimated cost to replace covered
51 property at the time of the loss or damage without deduction for depreciation.
52 Replacement cost value is not market value, but it is instead the cost to replace covered
53 property to its pre-loss condition, as best determined under section 379.1855;

54 (19) "Servicer", a person or entity, or its affiliates, contractually obligated to
55 service one or more mortgage loans for a lender or investor. Such term shall include
56 entities involved in subservicing arrangements.

 379.1853. 1. Lender-placed insurance shall become effective no earlier than the
2 date of lapse of insurance upon mortgaged real property subject to the terms of a
3 mortgage agreement or any other state or federal law requiring the same.

 4 2. Individual lender-placed insurance shall terminate on the earliest of the
5 following dates:

6 (1) The date insurance that is acceptable under the mortgage agreement
7 becomes effective, subject to the mortgagor providing sufficient evidence of such
8 acceptable insurance;

9 (2) The date the applicable real property no longer serves as collateral for a
10 mortgage loan pursuant to a mortgage agreement;

11 (3) Such other date as specified by the individual policy or certificate of
12 insurance;

13 (4) Such other date as specified by the lender or servicer; or

14 **(5) The termination date of the policy.**

15 **3. An insurance charge shall not be made to a mortgagor for lender-placed**
16 **insurance for a term longer than the scheduled term of the lender-placed insurance, nor**
17 **shall an insurance charge be made to the mortgagor for lender-placed insurance before**
18 **the effective date of the lender-placed insurance.**

379.1855. 1. Any lender-placed insurance coverage, and subsequent calculation
2 **of premium, should be based upon the replacement cost value of the property.**
3 **Replacement cost value of the property shall be determined as follows:**

4 **(1) The dwelling coverage amount set forth in the most recent evidence of**
5 **insurance coverage provided by the mortgagee ("last known coverage amount" or**
6 **"LKCA"), if known to the lender or servicer;**

7 **(2) The insurer shall inquire of the insured at least once as to the LKCA, and if it**
8 **is not able to obtain the LKCA from the insured or in another manner, the replacement**
9 **cost value may be determined as set forth in subdivision (3) or (4) of this subsection;**

10 **(3) If the LKCA is unknown and cannot be obtained from the insured or in**
11 **another manner, the replacement cost of the property serving as collateral as calculated**
12 **by the insurer, unless the use of replacement cost for this purpose is prohibited by other**
13 **law;**

14 **(4) If the LKCA is unknown and cannot be obtained from the insured or in**
15 **another manner, and the replacement cost is not available or its use is prohibited, the**
16 **unpaid principal balance of the mortgage loan.**

17 **2. In the event of a covered loss, any replacement cost coverage provided by an**
18 **insurer in excess of the unpaid principal balance of the mortgage loan shall be paid to**
19 **the mortgagor.**

20 **3. No insurer shall write lender-placed insurance for which the premium rate**
21 **differs from that determined by the schedules of the insurer on file with the department**
22 **of commerce and insurance as of the effective date of the policy.**

379.1857. 1. No insurer or insurance producer shall issue lender-placed
2 **insurance on mortgaged property if the insurer or insurance producer, or an affiliate of**
3 **the insurer or insurance producer, owns, performs the servicing for, or owns the**
4 **servicing right to, the mortgaged property.**

5 **2. No insurer or insurance producer shall compensate a lender, insurer, investor,**
6 **or servicer, including through the payment of commissions, for lender-placed insurance**
7 **policies issued by the insurer.**

8 **3. No insurer or insurance producer shall share lender-placed insurance**
9 **premium or risk with the lender, investor, or servicer that obtained the lender-placed**
10 **insurance.**

11 **4. No insurer or insurance producer shall offer contingent commissions, profit**
12 **sharing, or other payments dependent on profitability or loss ratios to any person**
13 **affiliated with a servicer or the insurer in connection with lender-placed insurance.**

14 **5. No insurer shall provide free or below-cost outsourced services to lenders,**
15 **investors, or servicers, and no insurer shall outsource its own functions to lenders,**
16 **insurance producers, investors, or servicers on an above-cost basis.**

17 **6. No insurer or insurance producer shall make any payments, including but not**
18 **limited to the payment of expenses to a lender, insurer, investor, or servicer, for the**
19 **purpose of securing lender-placed insurance business or related outsourced services.**

379.1859. Nothing in sections 379.1850 to 379.1869 shall be construed to allow an
2 **insurance producer or an insurer solely underwriting lender-placed insurance to**
3 **circumvent the requirements set forth within those sections. Any part of any**
4 **requirements, limitations, or exclusions provided in sections 379.1850 to 379.1869 shall**
5 **apply in any part to any insurer or insurance producer involved in lender-placed**
6 **insurance.**

379.1861. Lender-placed insurance shall be set forth in an individual policy or
2 **certificate of insurance. A copy of the individual policy, certificate of insurance, or**
3 **other evidence of insurance coverage shall be mailed, first class mailed, or delivered in**
4 **person to the last known address of the mortgagor, or delivered in accordance with**
5 **sections 432.200 to 432.295. In addition to any information otherwise required by law,**
6 **the individual policy or certificate of insurance coverage shall include the following**
7 **information:**

- 8 **(1) The address and identification of the insured property;**
- 9 **(2) The coverage amount, or amounts if multiple coverages are provided;**
- 10 **(3) The effective date of the coverage;**
- 11 **(4) The term of coverage;**
- 12 **(5) The premium charge for the coverage;**
- 13 **(6) Contact information for filing a claim; and**
- 14 **(7) A complete description of the coverage provided.**

379.1863. 1. All policy forms and certificates of insurance to be delivered or
2 **issued for delivery in this state, and the schedules of premium rates pertaining thereto,**
3 **shall be filed with the department of commerce and insurance.**

4 **2. The department of commerce and insurance shall review the rates to**
5 **determine whether the rates are excessive, inadequate, or unfairly discriminatory. This**
6 **analysis shall include a determination as to whether expenses included by the insurer in**
7 **the rate are appropriate.**

8 **3. All insurers shall re-file lender-placed insurance rates at least once every four**
9 **years.**

10 **4. All insurers writing lender-placed insurance shall have separate rates for**
11 **lender-placed insurance and voluntary insurance obtained by a mortgage servicer on**
12 **real estate owned property.**

13 **5. Upon the introduction of a new lender-placed insurance program, the insurer**
14 **shall reference its experience in existing programs in the associated filings. Nothing in**
15 **sections 379.1850 to 379.1869 shall limit an insurer's discretion, as actuarially**
16 **appropriate, to distinguish different terms, conditions, exclusions, eligibility criteria,**
17 **or other unique or different characteristics. Moreover, an insurer may, where**
18 **actuarially acceptable, rely upon models or, in the case of flood filings where applicable**
19 **experience is not credible, on Federal Emergency Management Agency National Flood**
20 **Insurance Program data.**

21 **6. (1) No later than April first of each year, each insurer with at least one**
22 **hundred thousand dollars in direct written premium for lender-placed insurance in this**
23 **state during the prior calendar year shall report to the department of commerce and**
24 **insurance the following information for the prior calendar year:**

25 **(a) Actual loss ratio;**

26 **(b) Earned premium;**

27 **(c) Any aggregate schedule rating debit or credit to earned premium;**

28 **(d) Itemized expenses;**

29 **(e) Paid losses;**

30 **(f) Loss reserves, including case reserves and reserves for incurred but not**
31 **reported losses.**

32 **(2) The report under subdivision (1) of this subsection shall be separately**
33 **produced for each lender-placed program and presented on both an individual-**
34 **jurisdiction and countrywide basis.**

35 **7. If an insurer experiences an annual loss ratio of less than thirty five percent in**
36 **any lender-placed program for two consecutive years, it shall submit a rate filing, either**
37 **adjusting its rates or supporting their continuance, to the department of commerce and**
38 **insurance no more than ninety days after the submission of the data required in**
39 **subsection 6 of this section. This subsection shall not apply with regard to lender-placed**
40 **flood insurance.**

41 **8. Except as otherwise specifically set forth in this section, rates and forms shall**
42 **be filed as required under the insurance laws of this state.**

379.1865. 1. (1) The director of the department of commerce and insurance shall have authority to enforce the provisions of sections 379.1850 to 379.1869 as specified in chapter 374.

(2) A final order of the director enforcing sections 379.1850 to 379.1869 shall be subject to judicial review in accordance with the provisions of chapter 536 in the circuit court of Cole County.

(3) No order of the director enforcing sections 379.1850 to 379.1869 or order of a court to enforce the same shall in any way relieve or absolve any person affected by such order from any liability under any other laws of this state.

2. Nothing in sections 379.1850 to 379.1869 shall be construed to create or imply a private cause of action for violations of sections 379.1850 to 379.1869.

3. Nothing in sections 379.1850 to 379.1869 shall be construed to extinguish any mortgagor rights otherwise available under state, federal, or common law.

379.1867. An insurer that violates an order of the director while the order is in effect may, after notice and hearing and upon order of the director, be subject at the discretion of the director to either or both of the following:

(1) Payment of a monetary penalty of not more than one thousand dollars per violation, not to exceed an aggregate penalty of one hundred thousand dollars, unless the violation was committed flagrantly in a conscious disregard of sections 379.1850 to 379.1869, in which case the penalty shall not be more than twenty-five thousand dollars for each violation, not to exceed an aggregate penalty of two hundred fifty thousand dollars; or

(2) Suspension or revocation of the insurer's license.

379.1869. The department of commerce and insurance may promulgate rules as necessary for the implementation of sections 379.1850 to 379.1869. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2023, shall be invalid and void.

~~[287.900. 1. Sections 287.900 to 287.920 shall be known as the "Missouri Employers Mutual Insurance Company Act".~~

~~2. As used in sections 287.900 to 287.920, the following words mean:~~

~~(1) "Administrator", the chief executive officer of the Missouri employers mutual insurance company;~~

- 6 (2) ~~"Board", the board of directors of the Missouri employers mutual~~
 7 ~~insurance company;~~
 8 (3) ~~"Company", the Missouri employers mutual insurance company~~
 9 ~~created in section 287.902.]~~

2 ~~[287.902. The "Missouri Employers Mutual Insurance Company" is~~
 3 ~~created as an independent public corporation for the purpose of insuring~~
 4 ~~Missouri employers against liability for workers' compensation, occupational~~
 5 ~~disease and employers' liability coverage. The company shall be organized~~
 6 ~~and operated as a domestic mutual insurance company and it shall not be a~~
 7 ~~state agency. The company shall have the powers granted a general not for-~~
 8 ~~profit corporation pursuant to section 355.090 to the extent the provisions of~~
 9 ~~such section do not conflict with the provisions of sections 287.900 to~~
 10 ~~287.920. The company shall be a member of the Missouri property and~~
 11 ~~casualty guaranty association, sections 375.771 to 375.779, and as such will be~~
 12 ~~subject to assessments therefrom, and the members of such association shall~~
 13 ~~bear responsibility in the event of the insolvency of the company. The~~
 14 ~~company shall be established pursuant to the provisions of sections 287.900 to~~
 15 ~~287.920. Preference shall be given to Missouri employers that develop an~~
 16 ~~annual premium of not greater than ten thousand dollars. The company shall~~
 17 ~~use flexibility and experimentation in the development of types of policies and~~
 18 ~~coverages offered to employers, subject to the approval of the director of the~~
~~department of commerce and insurance.]~~

2 ~~[287.905. 1. There is created a board of directors for the company.~~
 3 ~~The board shall be appointed by January 1, 1994, and shall consist of five~~
 4 ~~members appointed or selected as provided in this section. The governor shall~~
 5 ~~appoint the initial five members of the board with the advice and consent of~~
 6 ~~the senate. Each director shall serve a five year term. Terms shall be~~
 7 ~~staggered so that no more than one director's term expires each year on the first~~
 8 ~~day of July. The five directors initially appointed by the governor shall~~
 9 ~~determine their initial terms by lot. At the expiration of the term of any~~
 10 ~~member of the board, the company's policyholders shall elect a new director in~~
 11 ~~accordance with provisions determined by the board.~~

12 ~~2. Any person may be a director who:~~

13 ~~(1) Does not have any interest as a stockholder, employee, attorney,~~
 14 ~~agent, broker or contractor of an insurance entity who writes workers'~~
 15 ~~compensation insurance or whose affiliates write workers' compensation~~
 16 ~~insurance; and~~

17 ~~(2) Is of good moral character and who has never pleaded guilty to, or~~
 18 ~~been found guilty of, a felony.~~

19 ~~3. The board shall annually elect a chairman and any other officers it~~
 20 ~~deems necessary for the performance of its duties. Board committees and~~
~~subcommittees may also be formed.]~~

2 ~~[287.907. 1. By March 1, 1994, the board shall hire an administrator~~
 3 ~~who shall serve at the pleasure of the board and the company shall be fully~~
~~prepared to be operational by March 1, 1995, and assume its responsibilities~~

4 pursuant to sections 287.900 to 287.920. The administrator shall receive
5 ~~compensation as established by the board and must have proven successful~~
6 ~~experience as an executive at the general management level in the insurance~~
7 ~~business.~~

8 2. The board is vested with full power, authority and jurisdiction over
9 the company. The board may perform all acts necessary or convenient in the
10 administration of the company or in connection with the insurance business to
11 ~~be carried on by the company. In this regard, the board is empowered to~~
12 ~~function in all aspects as a governing body of a private insurance carrier.]~~

 [287.909. 1. The administrator of the company shall act as the
2 company's chief executive officer. The administrator shall be in charge of the
3 day-to-day operations and management of the company.

4 2. ~~Before entering the duties of office, the administrator shall give an~~
5 ~~official bond in an amount and with sureties approved by the board. The~~
6 ~~premium for the bond shall be paid by the company.~~

7 3. The administrator or his designee shall be the custodian of the
8 moneys of the company and all premiums, deposits or other moneys paid
9 thereto shall be deposited with a financial institution as designated by the
10 administrator.

11 4. No board member, officer or employee of the company is liable in a
12 private capacity for any act performed or obligation entered into when done in
13 good faith, without intent to defraud, and in an official capacity in connection
14 with the administration, management or conduct of the company or affairs
15 relating to it.]

 [287.910. The board shall have full power and authority to establish
2 rates to be charged by the company for insurance. The board shall contract for
3 the services of or hire an independent actuary, a member in good standing with
4 the American Academy of Actuaries, to develop and recommend actuarially
5 sound rates. Rates shall be set at amounts sufficient, when invested, to carry
6 all claims to maturity, meet the reasonable expenses of conducting the business
7 of the company and maintain a reasonable surplus. The company shall
8 conduct a workers' compensation program that shall be neither more nor less
9 than self-supporting.]

 [287.912. The board shall formulate and adopt an investment policy
2 and supervise the investment activities of the company. The administrator
3 may invest and reinvest the surplus or reserves of the company subject to the
4 limitations imposed on domestic insurance companies by state law. The
5 company may retain an independent investment counsel. The board shall
6 periodically review and appraise the investment strategy being followed and
7 the effectiveness of such services. Any investment counsel retained or hired
8 shall periodically report to the board on investment results and related
9 matters.]

 [287.915. Any insurance agent or broker licensed to sell workers'
2 compensation insurance in this state shall be authorized to sell insurance

3 ~~policies for the company in compliance with the bylaws adopted by the~~
4 ~~company. The board shall establish a schedule of commissions to pay for the~~
5 ~~services of the agent.]~~

2 ~~[287.917. 1. The administrator shall formulate, implement and~~
3 ~~monitor a workplace safety program for all policyholders.~~

4 ~~2. The company shall have representatives whose sole purpose is to~~
5 ~~develop, with policyholders, a written workplace accident and injury reduction~~
6 ~~plan that promotes safe working conditions and which is based upon clearly~~
7 ~~stated goals and objectives. Company representatives shall have reasonable~~
8 ~~access to the premises of any policyholder or applicant during regular working~~
9 ~~hours. The company shall communicate the importance of a well defined~~
10 ~~safety plan and assist in any way to obtain this objective.~~

11 ~~3. The administrator or board may refuse to insure, or may terminate~~
12 ~~the insurance of any subscriber who refuses to permit on site examinations or~~
13 ~~disregards the workplace accident and injury reduction plan.~~

14 ~~4. Upon the completion of a detailed inspection and recognition of a~~
15 ~~high regard for employee work safety, a deviation may be applied to the rate~~
~~structure of that insured noting special recognition of those efforts.]~~

2 ~~[287.919. 1. The Missouri employers mutual insurance company shall~~
3 ~~not receive any state appropriation, directly or indirectly, except as provided in~~
4 ~~section 287.690.~~

5 ~~2. In order to provide funds for the creation, continued development~~
6 ~~and operation of the company, the board is authorized to issue revenue bonds~~
7 ~~from time to time, in a principal amount outstanding not to exceed forty~~
8 ~~million dollars at any given time, payable solely from premiums received from~~
9 ~~insurance policies and other revenues generated by the company.~~

10 ~~3. The board may issue bonds to refund other bonds issued pursuant to~~
11 ~~this section.~~

12 ~~4. The bonds shall have a maturity of no more than ten years from the~~
13 ~~date of issuance. The board shall determine all other terms, covenants and~~
14 ~~conditions of the bonds, except that no bonds may be redeemed prior to~~
15 ~~maturity unless the company has established adequate reserves for the risks it~~
16 ~~has insured.~~

17 ~~5. The bonds shall be executed with the manual or facsimile signature~~
18 ~~of the administrator or the chairman of the board and attested by another~~
19 ~~member of the board. The bonds may bear the seal, if any, of the company.~~

20 ~~6. The proceeds of the bonds and the earnings on those proceeds shall~~
21 ~~be used by the board for the development and operation of the Missouri~~
22 ~~employers mutual insurance company, to pay expenses incurred in the~~
23 ~~preparation, issuance and sale of the bonds and to pay any obligations relating~~
24 ~~to the bonds and the proceeds of the bonds under the United States Internal~~
25 ~~Revenue Code of 1986, as amended.~~

26 ~~7. The bonds may be sold at a public sale or a private sale. If the bonds~~
27 ~~are sold at a public sale, the notice of sale and other procedures for the sale~~
~~shall be determined by the administrator or the company.~~

28 ~~8. This section is full authority for the issuance and sale of the bonds~~
29 ~~and the bonds shall not be invalid for any irregularity or defect in the~~
30 ~~proceedings for their issuance and sale and shall be incontestable in the hands~~
31 ~~of bona fide purchasers or holders of the bonds for value.~~

32 ~~9. An amount of money from the sources specified in subsection 2 of~~
33 ~~this section sufficient to pay the principal of and any interest on the bonds as~~
34 ~~they become due each year shall be set aside and is hereby pledged for the~~
35 ~~payment of the principal and interest on the bonds.~~

36 ~~10. The bonds shall be legal investments for any person or board~~
37 ~~charged with the investment of public funds and may be accepted as security~~
38 ~~for any deposit of public money, and the bonds and interest thereon are exempt~~
39 ~~from taxation by the state and any political subdivision or agency of the state.~~

40 ~~11. The bonds shall be payable by the company, which shall keep a~~
41 ~~complete record relating to the payment of the bonds.~~

42 ~~12. Not more than fifty percent of the bonds sold shall be sold to~~
43 ~~public entities.]~~

2 ~~[287.920. 1. The board shall cause an annual audit of the books of~~
3 ~~accounts, funds and securities of the company to be made by a competent and~~
4 ~~independent firm of certified public accountants, the cost of the audit to be~~
5 ~~charged against the company. A copy of the audit report shall be filed with the~~
6 ~~director of the department of commerce and insurance and the administrator.~~
7 ~~The audit shall be open to the public for inspection.~~

8 ~~2. The board shall submit an annual independently audited report in~~
9 ~~accordance with procedures governing annual reports adopted by the National~~
10 ~~Association of Insurance Commissioners by March first of each year and the~~
11 ~~report shall be delivered to the governor and the general assembly and shall~~
12 ~~indicate the business done by the company during the previous year and~~
13 ~~contain a statement of the resources and liabilities of the company.~~

14 ~~3. The administrator shall annually submit to the board for its approval~~
15 ~~an estimated budget of the entire expense of administering the company for the~~
16 ~~succeeding calendar year having due regard to the business interests and~~
17 ~~contract obligations of the company.~~

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

27 ~~5. The department of commerce and insurance shall conduct an~~
28 ~~examination of the company in the manner and under the conditions provided~~
29 ~~by the statutes of the insurance code for the examination of insurance carriers.~~
30 ~~The board shall pay the cost of the examination as an expense of the company.~~
31 ~~The company is subject to all provisions of the statutes which relate to private~~
~~insurance carriers and to the jurisdiction of the department of commerce and~~

32 insurance in the same manner as private insurance carriers, except as provided
33 by the director.

34 ~~6. For the purpose of ascertaining the correctness of the amount of~~
35 ~~payroll reported, the number of employees on the employer's payroll and for~~
36 ~~such other information as the administrator may require in the proper~~
37 ~~administration of the company, the records and payrolls of each employer~~
38 ~~insured by the company shall always be open to inspection by the~~
39 ~~administrator or his duly authorized agent or representative.~~

40 ~~7. Every employer provided insurance coverage by the company, upon~~
41 ~~complying with the underwriting standards adopted by the company, and upon~~
42 ~~completing the application form prescribed by the company, shall be furnished~~
43 ~~with a policy showing the date on which the insurance becomes effective.]~~

Section B. The repeal of sections 287.900, 287.902, 287.905, 287.907, 287.909,
2 287.910, 287.912, 287.915, 287.917, 287.919, and 287.920 of this act and the repeal and
3 reenactment of sections 287.690 and 375.1275 of this act shall become effective on January 1,
4 2025.

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