

FIRST REGULAR SESSION
[P E R F E C T E D]
SENATE SUBSTITUTE NO. 2 FOR

SENATE BILL NO. 336

90TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CASKEY.

Offered April 26, 1999.

Senate Substitute No. 2 adopted, May 6, 1999.

Taken up for Perfection, May 6, 1999. Bill declared Perfected and Ordered Printed.

TERRY L. SPIELER, Secretary.

S1601.04P

AN ACT

To amend chapter 375, RSMo, by adding thereto one new section relating to contracts of personal liability insurance.

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

Section A. Chapter 375, RSMo, is amended by adding thereto one new section, to be known as section 375.935, to read as follows:

375.935. 1. If any suit is filed in the courts of this state which may result in an insurer becoming obligated to make payments under a contract of insurance, and such insurer contests the applicability of its coverages to some or all of the facts pled in that action, it shall:

- (1) Deny coverage to its insured in a clear and unequivocal communication; or**
- (2) Notify its insured that:**
 - (a) It may later dispute whether its coverages apply to any judgment based on the facts pled in the lawsuit; and**
 - (b) The insured may select legal counsel to defend the action, and that such counsel will be paid by the insurer.**

2. If the insurer elects to proceed in the manner set out in subdivision (1) of subsection 1, the insured may proceed to defend the suit in any manner including, but not limited to, agreeing with the adverse party to allow a judgment to be taken in the cause. Such action shall not constitute a breach of any agreement to cooperate contained in the policy of insurance. 3. If the insurer elects to proceed in the manner

set out in subdivision (2) of subsection 1, it shall employ the legal counsel selected by the insured, to represent the interests of its insured. The insurer shall pay all reasonable legal fees, expenses of litigation and court costs associated with the defense of its insured. If the insurer desires to retain additional counsel, of its own choosing, to assist in the defense of the insured, it may do so at its own expense.

4. If the insurer proceeds in accordance with subdivision (2) of subsection 1 and subsection 3 of this section, the insured may not settle the suit, or agree with the adverse party to allow a judgment to be taken, unless such action is specifically authorized, in writing, by the insurer.

Unofficial

Bill

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