

SECOND REGULAR SESSION

SENATE BILL NO. 956

91ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR LOUDON.

Read 1st time January 16, 2002, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

3046S.011

AN ACT

To repeal sections 379.362, 379.889, 379.890 and 379.893, RSMo, relating to casualty insurance, and to enact in lieu thereof one new section relating to the same subject.

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

Section A. Sections 379.362, 379.889, 379.890 and 379.893, RSMo, are repealed and one new section enacted in lieu thereof, to be known as section 379.889, to read as follows:

379.889. [1. The effective date of a commercial casualty insurance filing required to be submitted to the director for review shall be the date specified therein, but not earlier than sixty days after the filing is received by the director. If the director has reviewed the filing prior to expiration of the waiting period, the director may authorize an effective date prior to expiration of the waiting period but not earlier than the date such written application is received. If the director has not approved or disapproved the commercial casualty insurance filing within the sixty-day period after the filing is received by the director, the filing shall be deemed approved until such time as the director disapproves the filing.

2. The director shall only approve] Commercial casualty [insurance filings that are not] **shall not be** excessive, inadequate or unfairly discriminatory. No rate shall be held to be excessive unless such rate is unreasonably high for the insurance coverage provided. No rate shall be held to be inadequate unless such rate is unreasonably low for the insurance coverage provided and is insufficient to sustain projected losses and expenses or unless such rate is unreasonably low for the insurance coverage provided and the use of such rate has, or if continued will have, the effect of destroying competition or creating a monopoly. Unfair discrimination shall be defined to include, but shall not be limited to, the use of rates which unfairly discriminate between risks in the application of like charges or credits or the use of rates which unfairly discriminate between risks having essentially the same hazard.

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

[379.362. 1. Commercial property insurance and commercial casualty insurance policies shall be exempt from those provisions of sections 379.316 to 379.361, sections 379.420 to 379.510 and section 379.888 which concern regulation by the department of policy language, policy provisions or the format of such policies, or the rates associated with such policies, for any policy for which the policyholder certifies in writing, on a certification form approved by the department, that the policyholder understands that the policy's language or the policy's rating is unregulated by the department and that the requirements of either subdivision (1) or subdivision (2) below are met:

(1) The policyholder has utilized the services of the independent insurance adviser. For purposes of this section, the term "independent insurance adviser" means a person who is qualified through education, training or experience to assess the purchaser's insurance needs and analyze the policy with or on behalf of the policyholder. Such an insurance adviser may be an employee of the policyholder or a person retained by the purchaser, provided that the independent insurance adviser shall not also be an employee of the insurer. Such an independent insurance adviser shall only be compensated for services related to the insurance transaction in question by the policyholder; or

(2) The policyholder's commercial operations meet any two of the following criteria:

- (a) One hundred or more employees;
- (b) A net worth of over twenty-five million dollars;
- (c) Net revenues or sales of over fifty million dollars;
- (d) Paid aggregate annual commercial insurance premiums of over fifty thousand dollars, excluding workers' compensation and employer's liability insurance;
- (e) Is a not-for-profit or public entity with an annual budget or assets of at least twenty-five million dollars; or
- (f) Is a municipality with a population of over fifty thousand inhabitants.

2. An insurer writing a commercial property or commercial casualty insurance policy pursuant to subsection 1 of this section shall retain a copy of the policyholder's written certification as part of the insurer's policy records of the transaction.

3. Nothing contained in subsection 1 of this section shall be construed as exempting commercial property or commercial casualty policies which meet the requirements of subsection 1 of this section from any regulatory authority of the director of the department of insurance other than that authority related to the oversight of the policy language, policy provisions or the format of policies, or of the rates used to calculate the amount of premium charged. In particular, nothing contained in subsection 1 of this section shall limit the director's authority over excessive, inadequate or unfairly

discriminatory rates.

4. The director may, by rule, require insurers providing coverage pursuant to subsection 1 of this section to retain information in such insurer's files identifying the policies providing such coverage, and to report to the department aggregate data regarding the types of such coverage written and the amounts charged for such coverage.

5. Notwithstanding the provisions of section 384.017, RSMo, commercial property or commercial casualty insurance meeting the requirements of subsection 1 of this section may be procured through a surplus lines licensee from an eligible surplus lines insurer even though the same type of coverage or quality of service is obtainable in the market from admitted insurers.]

[379.890. Supporting actuarial data shall accompany every commercial casualty insurance rate, rating plan, or rating system filing. The data shall be in sufficient detail to:

- (1) Justify any rate level changes; and
- (2) Demonstrate the statistical significance of differences or correlations relevant to rating plan definitions and rate differentials.]

[379.893. The director shall have authority to promulgate reasonable rules and regulations limiting or modifying any aspect of any commercial casualty insurance rating plan or rating system which involves a possible modification of the base rate. No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.]

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