

FIRST REGULAR SESSION

SENATE BILL NO. 384

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCOTT.

Read 1st time February 21, 2005, and ordered printed.

TERRY L. SPIELER, Secretary.

1552S.011

AN ACT

To amend chapter 375, RSMo, by adding thereto one new section relating to reservation of rights.

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 375.998, to read as follows:

375.998. 1. If any action is filed in the courts of this state that may result in an insurer becoming obligated to make payments under a contract of insurance, and such insurer contests the applicability of its coverages, it shall have the right to:

(1) Intervene in that action for the purpose of having the court determine issues of coverage under the contract; or

(2) Agree, in writing, with its insured to proceed under the terms of that contract while reserving its right to determine later the extent of its coverages.

Neither of those actions shall be considered a breach, either present or anticipatory, of its contract of insurance, provided it is accomplished within forty-five days of the filing of the action.

2. If the insurer elects to intervene, the court shall allow it to do so provided:

(1) The insurer agrees to pay a reasonable fee for legal services rendered on behalf of its insured in defending the coverage action irrespective of its outcome; and

(2) It finds that the insurer's request is made in good faith and not for the purpose of hindrance or delay.

Thereafter, the court shall determine the extent of coverage before proceeding with the merits of the underlying action.

3. The court may dismiss the insurer's coverage action at any time if it finds

that it is not being prosecuted diligently.

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