

SECOND REGULAR SESSION

# SENATE BILL NO. 914

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR KOSTER.

Read 1st time January 19, 2006, and ordered printed.

TERRY L. SPIELER, Secretary.

4306S.011

## AN ACT

To repeal sections 383.160, 383.165, and 383.195, RSMo, and to enact in lieu thereof three new sections relating to the medical malpractice joint underwriting association.

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

Section A. Sections 383.160, 383.165, and 383.195, RSMo, are repealed  
2 and three new sections enacted in lieu thereof, to be known as sections 383.160,  
3 383.165, and 383.195, to read as follows:

383.160. 1. All association policies of insurance shall be written [so as to  
2 apply to injury which results from acts or omissions occurring during the policy  
3 period] **to provide medical malpractice insurance coverage as**  
4 **determined by the directors of the association including, but not**  
5 **limited to, coverage written on a claims-made, an occurrence, or a**  
6 **prior-acts basis.** No policy form shall be used by the association unless it has  
7 been filed with the director and approved or thirty days have elapsed and he has  
8 not delivered to the board written disapproval of it as misleading or not in the  
9 public interest. The director shall have the power to disapprove any policy form  
10 previously approved if found by him after hearing to be misleading or not in the  
11 public interest.

12 2. Cancellation of the association's policies shall be governed by law.

13 3. The rates, rating plans, rating rules, rating classifications and  
14 territories applicable to the insurance written by the association and statistics  
15 relating thereto shall be subject to the casualty rate regulation law giving due  
16 consideration to the past and prospective loss and expense experience in medical  
17 malpractice insurance of all of the insurers, trends in the frequency and severity

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

18 of losses, the investment income of the association, and such other information  
19 as the director may require. All rates shall be actuarially sound and shall be  
20 calculated to be self-supporting.

21 4. In the event sufficient funds are not available for the sound financial  
22 operation of the association, additional funds shall be raised by making an  
23 assessment on all member companies. Assessments shall be made against  
24 members in the proportion that the net direct premiums for the preceding  
25 calendar year of each member for each line of insurance requiring it to participate  
26 in said plan bear to the net direct premiums for the preceding calendar year of  
27 all members for such line of insurance; provided that, assessments made  
28 pursuant to sections 383.150 to 383.195 shall not exceed in any calendar year one  
29 percent of each member's net direct premiums attributable to the line or lines of  
30 insurance the writing of which requires it to be a member.

31 5. All members shall deduct the amount of any assessment from past or  
32 future premium taxes due but not yet paid the state.

33 6. Any funds which result from policyholder premiums and other revenues  
34 received in excess of those funds required for reserves, loss payments and  
35 expenses incurred and accrued at the end of any calendar year shall be paid  
36 proportionately to the general fund to the extent that credit against premium tax  
37 liability has been granted pursuant to subsection 5 and to members which have  
38 been assessed but have not received tax credits as provided in subsection 5.

383.165. **The directors of the association shall determine the**  
2 **extent to which** each policyholder shall pay to the association in the first policy  
3 year, in addition to the premium payment due for insurance through the  
4 association, **a surcharge in an amount less than or equal to [said] the**  
5 **policyholder's** premium payment. Such charge shall be separately stated in the  
6 policy. **The directors of the association may determine what methods of**  
7 **payment of said surcharge shall be acceptable, and the directors shall**  
8 **have the authority to use any amounts collected through activities of**  
9 **the association, including refunding such amounts where**  
10 **appropriate. Any decision of the board to refund previously collected**  
11 **surcharge amounts may be applicable to any surcharges paid into the**  
12 **association since its inception.**

383.195. 1. Termination of any plan created pursuant to the authority of  
2 sections 383.150 to 383.195 shall be by the director pursuant to a public hearing  
3 in which it is determined that medical malpractice liability insurance is

4 reasonably available to health care providers in the voluntary market.

5           **2. In the event the Joint Underwriting Association is terminated,**  
6 **any surplus funds available after the payment of all claims shall be**  
7 **credited to the general fund of the state. Should claims be filed after**  
8 **the termination of the association, all funds required to pay claims and**  
9 **the associated expenses of those claims shall be paid by the general**  
10 **fund of the state.**

✓  
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