

SENATE BILL NO. 950

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR KENNEDY.

Read 1st time January 25, 2006, and ordered printed.

TERRY L. SPIELER, Secretary.

3853S.02I

AN ACT

To repeal section 376.421, RSMo, and to enact in lieu thereof twelve new sections relating to the establishment of small employer purchasing alliances.

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

Section A. Section 376.421, RSMo, is repealed and twelve new sections
2 enacted in lieu thereof, to be known as sections 376.421, 379.1000, 379.1003,
3 379.1006, 379.1009, 379.1012, 379.1015, 379.1018, 379.1021, 379.1024, 379.1027,
4 and 379.1030, to read as follows:

376.421. 1. Except as provided in subsection 2 of this section, no policy
2 of group health insurance shall be delivered in this state unless it conforms to one
3 of the following descriptions:

4 (1) A policy issued to an employer, or to the trustees of a fund established
5 by an employer, which employer or trustees shall be deemed the policyholder, to
6 insure employees of the employer for the benefit of persons other than the
7 employer, subject to the following requirements:

8 (a) The employees eligible for insurance under the policy shall be all of the
9 employees of the employer, or all of any class or classes thereof. The policy may
10 provide that the term "employees" shall include the employees of one or more
11 subsidiary corporations, and the employees, individual proprietors, and partners
12 of one or more affiliated corporations, proprietorships or partnerships, if the
13 business of the employer and of such affiliated corporations, proprietorships or
14 partnerships is under common control. The policy may provide that the term
15 "employees" shall include the individual proprietor or partners if the employer is
16 an individual proprietorship or partnership. The policy may provide that the
17 term "employees" shall include retired employees, former employees and directors
18 of a corporate employer. A policy issued to insure the employees of a public body
19 may provide that the term "employees" shall include elected or appointed officials;

20 (b) The premium for the policy shall be paid either from the employer's

21 funds or from funds contributed by the insured employees, or from both. Except
22 as provided in paragraph (c) of this subdivision, a policy on which no part of the
23 premium is to be derived from funds contributed by the insured employees must
24 insure all eligible employees, except those who reject such coverage in writing;
25 and

26 (c) An insurer may exclude or limit the coverage on any person as to
27 whom evidence of individual insurability is not satisfactory to the insurer in a
28 policy insuring fewer than ten employees and in a policy insuring ten or more
29 employees if:

30 a. Application is not made within thirty-one days after the date of
31 eligibility for insurance; or

32 b. The person voluntarily terminated the insurance while continuing to
33 be eligible for insurance under the policy; or

34 c. After the expiration of an open enrollment period during which the
35 person could have enrolled for the insurance or could have elected another level
36 of benefits under the policy;

37 (2) A policy issued to a creditor or its parent holding company or to a
38 trustee or trustees or agent designated by two or more creditors, which creditor,
39 holding company, affiliate, trustee, trustees or agent shall be deemed the
40 policyholder, to insure debtors of the creditor or creditors with respect to their
41 indebtedness subject to the following requirements:

42 (a) The debtors eligible for insurance under the policy shall be all of the
43 debtors of the creditor or creditors, or all of any class or classes thereof. The
44 policy may provide that the term "debtors" shall include:

45 a. Borrowers of money or purchasers or lessees of goods, services, or
46 property for which payment is arranged through a credit transaction;

47 b. The debtors of one or more subsidiary corporations; and

48 c. The debtors of one or more affiliated corporations, proprietorships or
49 partnerships if the business of the policyholder and of such affiliated corporations,
50 proprietorships or partnerships is under common control;

51 (b) The premium for the policy shall be paid either from the creditor's
52 funds or from charges collected from the insured debtors, or from both. Except
53 as provided in paragraph (c) of this subdivision, a policy on which no part of the
54 premium is to be derived from funds contributed by insured debtors specifically
55 for their insurance must insure all eligible debtors;

56 (c) An insurer may exclude any debtors as to whom evidence of individual
57 insurability is not satisfactory to the insurer in a policy insuring fewer than ten

58 debtors and in a policy insuring ten or more debtors if:

59 a. Application is not made within thirty-one days after the date of
60 eligibility for insurance; or

61 b. The person voluntarily terminated the insurance while continuing to
62 be eligible for insurance under the policy; or

63 c. After the expiration of an open enrollment period during which the
64 person could have enrolled for the insurance or could have elected another level
65 of benefits under the policy;

66 (d) The total amount of insurance payable with respect to an indebtedness
67 shall not exceed the greater of the scheduled or actual amount of unpaid
68 indebtedness to the creditor. The insurer may exclude any payments which are
69 delinquent on the date the debtor becomes disabled as defined in the policy;

70 (e) The insurance may be payable to the creditor or to any successor to the
71 right, title, and interest of the creditor. Such payment or payments shall reduce
72 or extinguish the unpaid indebtedness of the debtor to the extent of each such
73 payment and any excess of insurance shall be payable to the insured or the estate
74 of the insured;

75 (f) Notwithstanding the preceding provisions of this subdivision, insurance
76 on agricultural credit transaction commitments may be written up to the amount
77 of the loan commitment, and insurance on educational credit transaction
78 commitments may be written up to the amount of the loan commitment less the
79 amount of any repayments made on the loan;

80 (3) A policy issued to a labor union or similar employee organization,
81 which shall be deemed to be the policyholder, to insure members of such union
82 or organization for the benefit of persons other than the union or organization or
83 any of its officials, representatives, or agents, subject to the following
84 requirements:

85 (a) The members eligible for insurance under the policy shall be all of the
86 members of the union or organization, or all of any class or classes thereof;

87 (b) The premium for the policy shall be paid either from funds of the
88 union or organization or from funds contributed by the insured members
89 specifically for their insurance, or from both. Except as provided in paragraph (c)
90 of this subdivision, a policy on which no part of the premium is to be derived from
91 funds contributed by the insured members specifically for their insurance must
92 insure all eligible members, except those who reject such coverage in writing;

93 (c) An insurer may exclude or limit the coverage on any person as to
94 whom evidence of individual insurability is not satisfactory to the insurer in a

95 policy insuring fewer than ten members and in a policy insuring ten or more
96 members if:

97 a. Application is not made within thirty-one days after the date of
98 eligibility for insurance; or

99 b. The person voluntarily terminated the insurance while continuing to
100 be eligible for insurance under the policy; or

101 c. After the expiration of an open enrollment period during which the
102 person could have enrolled for the insurance or could have elected another level
103 of benefits under the policy;

104 (4) A policy issued to a trust, or to the trustee of a fund, established or
105 adopted by two or more employers, or by one or more labor unions or similar
106 employee organizations, or by one or more employers and one or more labor
107 unions or similar employee organizations, which trust or trustee shall be deemed
108 the policyholder, to insure employees of the employers or members of the unions
109 or organizations for the benefit of persons other than the employers or the unions
110 or organizations, subject to the following requirements:

111 (a) The persons eligible for insurance shall be all of the employees of the
112 employers or all of the members of the unions or organizations, or all of any class
113 or classes thereof. The policy may provide that the term "employees" shall
114 include the employees of one or more subsidiary corporations, and the employees,
115 individual proprietors, and partners of one or more affiliated corporations,
116 proprietorships or partnerships if the business of the employer and of such
117 affiliated corporations, proprietorships or partnerships is under common
118 control. The policy may provide that the term "employees" shall include the
119 individual proprietor or partners if the employer is an individual proprietorship
120 or partnership. The policy may provide that the term "employees" shall include
121 retired employees, former employees and directors of a corporate employer. The
122 policy may provide that the term "employees" shall include the trustees or their
123 employees, or both, if their duties are principally connected with such trusteeship;

124 (b) The premium for the policy shall be paid from funds contributed by the
125 employer or employers of the insured persons or by the union or unions or similar
126 employee organizations, or by both, or from funds contributed by the insured
127 persons or from both the insured persons and the employer or union or similar
128 employee organization. Except as provided in paragraph (c) of this subdivision,
129 a policy on which no part of the premium is to be derived from funds contributed
130 by the insured persons specifically for their insurance, must insure all eligible
131 persons except those who reject such coverage in writing;

132 (c) An insurer may exclude or limit the coverage on any person as to
133 whom evidence of individual insurability is not satisfactory to the insurer;

134 (5) A policy issued to an association or to a trust or to the trustees of a
135 fund established, created and maintained for the benefit of members of one or
136 more associations. The association or associations shall have at the outset a
137 minimum of one hundred persons; shall have been organized and maintained in
138 good faith for purposes other than that of obtaining insurance, **except for**
139 **policies issued to small employer purchasing alliances as provided in**
140 **subdivision (8) of this subsection**; shall have been in active existence for at
141 least two years; shall have a constitution and bylaws which provide that the
142 association or associations shall hold regular meetings not less than annually to
143 further the purposes of the members; shall, except for credit unions, collect dues
144 or solicit contributions from members; and shall provide the members with voting
145 privileges and representation on the governing board and committees. The policy
146 shall be subject to the following requirements:

147 (a) The policy may insure members of such association or associations,
148 employees thereof, or employees of members, or one or more of the preceding, or
149 all of any class or classes thereof for the benefit of persons other than the
150 employee's employer;

151 (b) The premium for the policy shall be paid from funds contributed by the
152 association or associations or by employer members, or by both, or from funds
153 contributed by the covered persons or from both the covered persons and the
154 association, associations, or employer members;

155 (c) Except as provided in paragraph (d) of this subdivision, a policy on
156 which no part of the premium is to be derived from funds contributed by the
157 covered persons specifically for their insurance must insure all eligible persons,
158 except those who reject such coverage in writing;

159 (d) An insurer may exclude or limit the coverage on any person as to
160 whom evidence of individual insurability is not satisfactory to the insurer;

161 (6) A policy issued to a credit union or to a trustee or trustees or agent
162 designated by two or more credit unions, which credit union, trustee, trustees or
163 agent shall be deemed the policyholder, to insure members of such credit union
164 or credit unions for the benefit of persons other than the credit union or credit
165 unions, trustee or trustees, or agent or any of their officials, subject to the
166 following requirements:

167 (a) The members eligible for insurance shall be all of the members of the
168 credit union or credit unions, or all of any class or classes thereof;

169 (b) The premium for the policy shall be paid by the policyholder from the
170 credit union's funds and, except as provided in paragraph (c) of this subdivision,
171 must insure all eligible members;

172 (c) An insurer may exclude or limit the coverage on any member as to
173 whom evidence of individual insurability is not satisfactory to the insurer;

174 (7) A policy issued to cover persons in a group where that group is
175 specifically described by a law of this state as one which may be covered for group
176 life insurance. The provisions of such law relating to eligibility and evidence of
177 insurability shall apply;

178 **(8) A policy issued to a small employer purchasing alliance**
179 **established under sections 379.1000 to 379.1030, RSMo. A small**
180 **"employer purchasing alliance" is a nonprofit corporation run by a board**
181 **of directors which is organized for the purpose of purchasing,**
182 **coordinating, and administering health benefits plans on behalf of**
183 **groups of employers and their employees.**

184 2. Group health insurance offered to a resident of this state under a group
185 health insurance policy issued to a group other than one described in subsection
186 1 of this section shall be subject to the following requirements:

187 (1) No such group health insurance policy shall be delivered in this state
188 unless the director finds that:

189 (a) The issuance of such group policy is not contrary to the best interest
190 of the public;

191 (b) The issuance of the group policy would result in economies of
192 acquisition or administration; and

193 (c) The benefits are reasonable in relation to the premiums charged;

194 (2) No such group health insurance coverage may be offered in this state
195 by an insurer under a policy issued in another state unless this state or another
196 state having requirements substantially similar to those contained in subdivision
197 (1) of this subsection has made a determination that such requirements have been
198 met;

199 (3) The premium for the policy shall be paid either from the policyholder's
200 funds, or from funds contributed by the covered persons, or from both;

201 (4) An insurer may exclude or limit the coverage on any person as to
202 whom evidence of individual insurability is not satisfactory to the insurer.

379.1000. As used in sections 379.1000 to 379.1030, unless the
2 **context clearly requires otherwise, the following terms shall mean:**

3 **(1) "Board", a small employer purchasing alliance board of**

4 directors provided for in sections 379.1000 to 379.1030;

5 (2) "Carrier", any entity that provides health insurance or health
6 benefits in this state. For the purposes of sections 379.1000 to 379.1030,
7 carrier includes an insurance company, health services corporation,
8 fraternal benefit society, health maintenance organization, multiple
9 employer welfare arrangement specifically authorized to operate in the
10 state of Missouri, or any other entity providing a plan of health
11 insurance or health benefits subject to state insurance regulation;

12 (3) "Director" the director of the department of insurance of this
13 state;

14 (4) "Eligible employee" an employee who works on a full-time basis
15 and has a normal work week of thirty or more hours. The term includes
16 a sole proprietor, a partner of a partnership, and an independent
17 contractor, if the sole proprietor, partner or independent contractor is
18 included as an employee under a health benefit plan of a small employer,
19 but does not include an employee who works on a part-time, temporary
20 or substitute basis;

21 (5) "Eligible group of small employer", a group of small employers
22 which are:

23 (a) Engaged in the same or similar type of trade or business;

24 (b) Members of a common trade association, professional
25 association, or other association; or

26 (c) Located in a common geographic area;

27 (6) "Health benefit plan"; any hospital or medical policy or
28 certificate, health services corporation contract, or health maintenance
29 organization subscriber contract. Health benefit plan does not include
30 a policy of individual accident and sickness insurance or hospital
31 supplemental policies having a fixed daily benefit, or accident-only,
32 specified disease-only, credit, dental, vision, Medicare supplement,
33 long-term care, or disability income insurance, or coverage issued as a
34 supplement to liability insurance, worker's compensation or similar
35 insurance, or automobile medical payment insurance;

36 (7) "Member", a small employer who is a member of small
37 employer purchasing alliance as provided for under sections 379.1000 to
38 379.1030;

39 (8) "Small employer", any person, firm, corporation, partnership,
40 or association that is actively engaged in business that, on at least fifty

41 percent of its working days during the preceding calendar quarter,
42 employed not less than three nor more than twenty-five eligible
43 employees, the majority of whom were employed within this state. In
44 determining the number of eligible employees, companies that are
45 affiliated companies or that are eligible to file a combined tax return for
46 purposes of state taxation shall be considered one employer;

47 (9) "Small employer purchasing alliance", "purchasing alliance", or
48 "alliance", a small employer purchasing alliance established under
49 sections 379.1000 to 379.1030.

379.1003. Any eligible group of small employers may join together,
2 under the procedures established by sections 379.1000 to 379.1030, to
3 form a small employer purchasing alliance for the purposes of delivering
4 health insurance coverage and negotiating reduced premium rates for
5 its members purchasing a small employer health benefits plan or plans
6 for their eligible employees and the employees' dependents. A joint
7 contract shall be executed by all members joining the purchasing
8 alliance.

379.1006. The purchasing alliance, which shall be a nonprofit
2 corporation formed under the provisions of chapter 355, RSMo, shall be
3 governed by a board of directors, elected by the members of the
4 purchasing alliance. No person may serve as an officer or director of an
5 alliance who has a prior record of administrative, civil, or criminal
6 violations within the financial services or insurance industry. No person
7 may be a board director or employee of an alliance if that person is
8 employed as or by, is a member of the board of directors of, is an officer
9 of, or has a material direct or indirect ownership interest in a carrier,
10 health insurance company or health care provider. A person may not be
11 a board director or officer of an alliance if a member of that person's
12 household is a member of the board of directors of, is an officer of, or
13 has a material direct or indirect ownership interest in an insurer or
14 health care provider. The directors shall serve for terms of three years,
15 and shall serve until their successors are elected and qualified. The
16 directors shall serve without compensation, except for reimbursement
17 for actual expenses.

379.1009. The board shall adopt bylaws for the operation of the
2 purchasing alliance, which shall be effective upon ratification by a two-
3 thirds majority of the members. The bylaws shall include, but not be

4 limited to:

5 (1) The establishment of procedures for the organization and
6 administration of the alliance;

7 (2) Procedures for the qualifications and admission of the
8 members of the alliance. The bases for denial of membership shall
9 include, but not be limited to:

10 (a) Performance of an act or practice that constitutes fraud or
11 intentional misrepresentation of material fact;

12 (b) Previous denial of membership in the alliance; or

13 (c) Previous expulsion from the alliance;

14 (3) Procedures for the withdrawal of members from the alliance;

15 (4) Procedures for the expulsion of members from the
16 alliance. The bases for expulsion shall include, but not be limited to:

17 (a) Failure to pay membership or other fees required by the
18 purchasing alliance;

19 (b) Failure to pay premiums in accordance with the terms of the
20 health benefits plan or the terms of the joint contract; or

21 (c) Performance of an act or practice that constitutes fraud or
22 intentional misrepresentation of material fact;

23 (5) Procedures for the termination of the alliance.

379.1012. 1. All alliances shall be licensed with the department of
2 insurance. An alliance established under sections 379.1000 to 379.1030
3 shall be organized as a nonprofit corporation under chapter 355,
4 RSMo. Within thirty days after its organization, the purchasing alliance
5 board shall file with the director of the department of insurance a
6 certificate which shall list the members of the alliance, the names of the
7 board of directors, and the chairman, treasurer, and secretary of the
8 purchasing alliance; the address at which communications for the
9 purchasing alliance are to be received; a copy of the certificate of
10 incorporation of the purchasing alliance, if any; and a copy of the joint
11 contract executed by all of the members. The purchasing alliance board
12 shall also file a copy of its certificate of existence with the director. Any
13 change in the information required by the provisions of this section
14 shall be filed with the director within thirty days of the change.

15 2. The alliance shall also file with the director within thirty days
16 of its organization, and annually thereafter, the following:

17 (1) A description of its plan of operation, including each of the

18 **products it intends to sell;**

19 **(2) A description of its marketing methods and materials; and**

20 **(3) A description of its membership and disclosure requirements**
21 **or other information as required by the director through rules and**
22 **regulations.**

23 **3. The plan of operation filed with the director by the alliance**
24 **pursuant to this section shall be deemed approved sixty calendar days**
25 **after the date of filing, unless additional time is requested by the**
26 **director to review the plan.**

379.1015. 1. A small employer purchasing alliance board may set
2 **reasonable fees for membership in the alliance for financing reasonable**
3 **and necessary costs incurred in administering the alliance.**

4 **2. The board may provide premium collection services for health**
5 **benefit plans offered through the alliance if the carrier offering the plan**
6 **gives express written authorization to the alliance or any other person**
7 **or entity acting on behalf of the alliance to act as the owner's agent for**
8 **that purpose.**

9 **3. The board may contract with qualified third-party**
10 **administrators for any service necessary to carry out the powers and**
11 **duties authorized or required by sections 379.1000 to 379.1030.**

12 **4. The board may exclude a carrier or freeze enrollment in a**
13 **carrier for failure to achieve established quality, access, or information**
14 **reporting standards of the alliance.**

15 **5. The board may develop uniform standards for data to be**
16 **provided by participating carriers and providers. The board may collect**
17 **data necessary for evaluation of the performance of participating**
18 **carriers and their provider networks by consumers, providers,**
19 **employers, and the director of the department of insurance.**

20 **6. The board may negotiate with participating carriers the**
21 **premium rates charged for coverage offered through the alliance,**
22 **consistent with rules adopted by the director.**

23 **7. The board may negotiate and enter into agreements with one**
24 **or more qualified carriers to offer and provide one or more health**
25 **benefit plans to small employers for their employees and retirees, and**
26 **the dependents and members of the families of such employees and**
27 **retirees.**

379.1018. A small employer purchasing alliance established under

2 the provisions of sections 379.1000 to 379.1030 shall not:

3 (1) Purchase health care services, assume risk for the cost or
4 provision of health care services, or otherwise contract with health care
5 providers for the provision of health care services to eligible employees
6 or their dependents;

7 (2) Exclude a small employer, eligible employee, or dependent
8 from membership in the purchasing alliance who agrees to pay fees for
9 membership and the premium for health benefits coverage and who
10 abides by the bylaws and rules of the purchasing alliance;

11 (3) Engage in any act or practice that results in the selection of
12 member small employers or eligible employees based on any health
13 status-related factor;

14 (4) Vary conditions of eligibility, including premium rates and
15 membership fees, for any employer meeting the membership
16 requirements of the alliance, nor may it vary conditions of eligibility for
17 any employee to qualify for a health benefits plan offered to the eligible
18 employer by the alliance; or

19 (5) Condition alliance membership on the purchase or
20 subscription or a product or service unrelated to health insurance.

379.1021. 1. An alliance shall develop and make available a list of
2 objective criteria, subject to rules adopted by the director, that
3 participating carriers must meet in order to be eligible to participate in
4 the alliance. An alliance shall ensure that enrollees have a choice among
5 a reasonable number of competing carriers and types of health benefit
6 plans. The board of each alliance shall develop and make available
7 objective criteria for carrier selection and provide adequate notice of
8 the application process to permit all carriers a reasonable and fair
9 opportunity to participate. Any carrier selected by a small employer
10 purchasing alliance shall be licensed to transact business within this
11 state and shall be in good standing with the department of
12 insurance. The director may establish other carrier qualifications by
13 rule.

14 2. An alliance shall develop standard enrollment procedures in
15 accordance with rules adopted by the director.

16 3. An alliance shall publish educational materials, plan
17 descriptions, and comparison sheets describing participating carriers
18 and the health benefit plans available through the alliance for use in

19 enrolling eligible members. The information may include an assessment
20 of utilization management procedures and the level of quality and cost-
21 effective care.

22 4. An alliance shall establish eligibility standards for membership
23 in accordance with rules adopted by the director. The alliance shall
24 accept all applicants for membership that meet the alliance's eligibility
25 standards.

26 5. Any alliance formed under sections 379.1000 to 379.1030 shall
27 maintain a trust account or accounts for deposit of all money received
28 and collected for the operation of the alliance. An alliance and its board
29 members, employees, and agents have a fiduciary duty with respect to
30 all money received or owed to it to ensure payments of its obligations
31 and a full accounting to its members and the director.

379.1024. 1. Each small employer purchasing alliance, in
2 conjunction with a carrier, shall make available a health benefit plan in
3 the manner described in this section to all eligible employers and
4 eligible employees at rates, including employer's and employees' share,
5 on a policy-specific or product-specific basis which may vary only as
6 permitted under law.

7 2. A small employer purchasing alliance shall not offer a health
8 benefits plan which unfairly discriminates against eligible employees.

9 3. Each small employer purchasing alliance shall provide a health
10 benefit plan only through contracts with carriers and shall not assume
11 insurance risk with respect to the coverage.

12 4. The small employer purchasing alliance shall offer at least two
13 types of plans to its members, including one plan providing a choice of
14 deductibles with state-mandated health benefits.

15 5. Every health benefit plan offered through a small employer
16 purchasing alliance shall:

17 (1) Be underwritten by a carrier that:

18 (a) Is licensed or otherwise regulated under state law;

19 (b) Meets all applicable state standards relating to consumer
20 protection, including, but not limited to, state solvency and market
21 conduct; and

22 (c) Offers the coverage under a contract with the small employer
23 purchasing alliance;

24 (2) Be approved or otherwise permitted to be offered under law;

25 and

26 (3) Provide full portability of creditable coverage for individuals
27 who remain members of the same health insurance purchasing group,
28 notwithstanding that they change the eligible employer through which
29 they are members.

379.1027. A person or entity not licensed by the director as an
2 alliance under section 379.1012 and engaged in the purchase, sale,
3 marketing, or distribution of health insurance or health care benefit
4 plans may not represent itself as an alliance, health insurance
5 purchasing alliance, purchasing alliance, health insurance purchasing
6 cooperative, or purchasing cooperative, or otherwise use a confusingly
7 similar name. A violation of this section shall be unfair practice as
8 defined in section 407.020, RSMo, and shall be subject to all of the
9 provisions and penalties provided by such section.

379.1030. The director is authorized to promulgate rules and
2 regulations necessary to the administration or enforcement of the
3 provisions of sections 379.1000 to 379.1030. Any rule or portion of a rule,
4 as that term is defined in section 536.010, RSMo, that is created under
5 the authority delegated in sections 379.1000 to 379.1030 shall become
6 effective only if it complies with and is subject to all of the provisions
7 of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This
8 section and chapter 536, RSMo, are nonseverable and if any of the
9 powers vested with the general assembly pursuant to chapter 536, RSMo,
10 to review, to delay the effective date, or to disapprove and annul a rule
11 are subsequently held unconstitutional, then the grant of rulemaking
12 authority and any rule proposed or adopted after August 28, 2006, shall
13 be invalid and void.

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