

FIRST REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
**SENATE BILL NO. 325**  
**94TH GENERAL ASSEMBLY**

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Reported from the Committee on Insurance Policy April 18, 2007 with recommendation that House Committee Substitute for Senate Bill No. 325 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(21)(f).

D. ADAM CRUMBLISS, Chief Clerk

1125L.04C

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**AN ACT**

To repeal sections 354.150, 354.180, 354.210, 354.350, 354.400, 354.435, 354.444, 354.455, 354.460, 354.464, 354.475, 354.485, 354.495, 354.500, 354.510, 354.530, 354.540, 354.545, 354.550, 354.600, 354.722, 374.150, 374.160, 374.210, 374.215, 374.230, 374.261, 374.263, 374.265, 374.267, 374.280, 374.285, 374.512, 374.710, 374.715, 374.755, 374.787, 374.789, 375.012, 375.020, 375.152, 375.236, 375.306, 375.310, 375.445, 375.720, 375.777, 375.780, 375.786, 375.881, 375.940, 375.942, 375.946, 375.994, 375.1010, 375.1014, 375.1016, 375.1135, 375.1156, 375.1160, 375.1204, 375.1306, 375.1309, 376.309, 376.620, 376.889, 376.1094, 379.361, 379.510, 379.790, 380.391, 380.571, 384.054, and 384.071, RSMo, and to enact in lieu thereof ninety-seven new sections relating to life insurance contracts and producer examinations by the department of insurance, financial institutions and professional registration, with penalty provisions.

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

Section A. Sections 354.150, 354.180, 354.210, 354.350, 354.400, 354.435, 354.444,  
2 354.455, 354.460, 354.464, 354.475, 354.485, 354.495, 354.500, 354.510, 354.530, 354.540,  
3 354.545, 354.550, 354.600, 354.722, 374.150, 374.160, 374.210, 374.215, 374.230, 374.261,  
4 374.263, 374.265, 374.267, 374.280, 374.285, 374.512, 374.710, 374.715, 374.755, 374.787,  
5 374.789, 375.012, 375.020, 375.152, 375.236, 375.306, 375.310, 375.445, 375.720, 375.777,  
6 375.780, 375.786, 375.881, 375.940, 375.942, 375.946, 375.994, 375.1010, 375.1014, 375.1016,

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

7 375.1135, 375.1156, 375.1160, 375.1204, 375.1306, 375.1309, 376.309, 376.620, 376.889,  
8 376.1094, 379.361, 379.510, 379.790, 380.391, 380.571, 384.054, and 384.071, RSMo, are  
9 repealed and ninety-seven new sections enacted in lieu thereof, to be known as sections 354.150,  
10 354.180, 354.210, 354.350, 354.400, 354.435, 354.444, 354.455, 354.460, 354.464, 354.475,  
11 354.485, 354.495, 354.500, 354.510, 354.530, 354.540, 354.545, 354.550, 354.600, 354.722,  
12 374.051, 374.055, 374.150, 374.160, 374.185, 374.210, 374.215, 374.230, 374.280, 374.285,  
13 374.512, 374.707, 374.710, 374.715, 374.755, 374.761, 374.773, 374.780, 374.787, 374.789,  
14 375.012, 375.020, 375.143, 375.145, 375.152, 375.236, 375.306, 375.310, 375.445, 375.720,  
15 375.777, 375.780, 375.786, 375.881, 375.940, 375.942, 375.946, 375.994, 375.1010, 375.1014,  
16 375.1016, 375.1135, 375.1156, 375.1160, 375.1161, 375.1204, 375.1306, 375.1309, 376.309,  
17 376.620, 376.889, 376.1094, 376.1500, 376.1502, 376.1504, 376.1506, 376.1508, 376.1510,  
18 376.1512, 376.1514, 376.1516, 376.1518, 376.1520, 376.1522, 376.1524, 376.1526, 376.1528,  
19 376.1530, 376.1532, 379.361, 379.510, 379.790, 380.391, 380.571, 384.054, and 384.071, to  
20 read as follows:

354.150. Every health services corporation subject to the provisions of sections 354.010  
2 to 354.380 shall pay the following fees to the director of insurance for enforcement of the  
3 provisions of this chapter:

4 [Issuance of certificate of authority .....	\$150.00
5 Filing articles of amendment .....	\$ 20.00
6 Filing each annual statement .....	\$100.00
7 Filing articles of acceptance and issuing a	
8       certificate of acceptance .....	\$ 20.00
9 Filing any other statement or report .....	\$ 1.00
10 For a certified copy of any document or	
11       other paper filed in the office of the director,	
12       per page .....	\$ .35
13 For the certificate and for affixing the seal	
14       thereto .....	\$ 10.00
15 For filing statement and pertinent admission	
16       papers required of a foreign health	
17       services corporation .....	\$200.00
18 For copies of papers, records and documents filed	
19       in the office of the director, an amount not	
20       to exceed, at the director's discretion .....	\$ 1.00
21	per page
22 For each service of process upon the director, on	

23           behalf of the health services corporation ..... \$10.00]

24           **(1) For filing the declaration required on organization of each domestic company,**  
25 **two hundred fifty dollars;**

26           **(2) For filing statement and certified copy of charter required of foreign companies,**  
27 **two hundred fifty dollars;**

28           **(3) For filing application to renew certificate of authority, along with all required**  
29 **annual reports, including the annual statement, actuarial statement, risk based capital**  
30 **report, report of valuation of policies or other obligations of assurance, and audited**  
31 **financial report of any company doing business in this state, one thousand five hundred**  
32 **dollars;**

33           **(4) For filing any paper, document, or report not filed under subdivision (1), (2),**  
34 **or (3) of this section but required to be filed in the office of the director, fifty dollars each;**

35           **(5) For affixing the seal of office of the director, ten dollars;**

36           **(6) For accepting each service of process upon the company, ten dollars.**

          354.180. 1. [(1) The director may issue cease and desist orders whenever it appears to  
2 him upon competent and substantial evidence that any person is acting in violation of any law,  
3 rule or regulation relating to corporations subject to the provisions of sections 354.010 to  
4 354.380, or whenever the director has reason to believe that any health services corporation is  
5 in such financial condition that the assumption of additional obligations would be hazardous to  
6 its members or the general public. Before any cease and desist order shall be issued, a copy of  
7 the proposed order together with an order to show cause why such cease and desist order should  
8 not be issued shall be served either personally or by certified mail on any person named therein.

9           (2) (a) Upon issuing any order to show cause, the director shall notify the person named  
10 therein that the person is entitled to a public hearing before the director if a request for a hearing  
11 is made in writing to the director within fifteen days from the day of the service of the order to  
12 show cause why the cease and desist order should not be issued.

13           (b) The cease and desist order shall be issued fifteen days after the service of the order  
14 to show cause if no request for a public hearing is made as above provided.

15           (c) Upon receipt of a request for a hearing, the director shall set a time and place for the  
16 hearing which shall not be less than ten days or more than fifteen days from the receipt of the  
17 request or as otherwise agreed upon by the parties. Notice of the time and place shall be given  
18 by the director not less than five days before the hearing.

19           (d) At the hearing the person may be represented by counsel and shall be entitled to be  
20 advised of the nature and source of any adverse evidence procured by the director and shall be  
21 given the opportunity to submit any relevant written or oral evidence in his behalf to show cause  
22 why the cease and desist order should not be issued.

23 (e) At the hearing the director shall have such powers as are conferred upon him in  
24 section 354.190.

25 (f) At the conclusion of the hearing, or within ten days thereafter, the director shall issue  
26 the cease and desist order as proposed or as subsequently modified or notify the person or  
27 corporation subject to the provisions of sections 354.010 to 354.380 that no order shall be issued,  
28 provided that where the director finds that the corporation is in such financial condition that the  
29 assumption of additional obligations would be hazardous to its members or the general public,  
30 he may order the corporation to cease and desist from making contracts for new members or for  
31 the provision of new benefits until the corporation's financial condition is no longer hazardous.

32 (g) The circuit court of Cole County shall have jurisdiction to review any cease and  
33 desist order of the director under the provisions of sections 536.100 to 536.150, RSMo; and, if  
34 any person against whom an order is issued fails to request judicial review, or if, after judicial  
35 review, the director's cease and desist order is upheld, the order shall become final.

36 2. (1) Any person willfully violating any provision of any cease and desist order of the  
37 director after it becomes final, while the same is in force, upon conviction thereof shall be guilty  
38 of a class A misdemeanor, punishable as provided by law.

39 (2) In addition to any other penalty provided, violation of any cease and desist order shall  
40 subject the violator to suspension or revocation of any certificate of authority or license as may  
41 be applicable under the laws of this state relating to corporations subject to the provisions of  
42 sections 354.010 to 354.380.

43 3. (1) When it appears to the director that there is a violation of the law, rule or  
44 regulation relating to corporations subject to the provisions of sections 354.010 to 354.380, and  
45 that the continuance of the acts or actions of any person as herein defined would produce injury  
46 to the public or to any other person in this state, or when it appears that a person is doing or  
47 threatening to do some act in violation of the laws of this state relating to corporations subject  
48 to the provisions of sections 354.010 to 354.380, the director may file a petition for injunction  
49 in the circuit court of Cole County, Missouri, in which he may ask for a temporary injunction or  
50 restraining order as well as a permanent injunction to restrain the act or threatened act. In the  
51 event the temporary injunction or restraining order or a permanent injunction is issued by the  
52 circuit court of Cole County, Missouri, no person against whom the temporary injunction or  
53 restraining order or permanent injunction is granted shall do or continue to do any of the acts or  
54 actions complained of in the petition for injunction, unless and until the temporary injunction or  
55 restraining order or permanent injunction is vacated, dismissed or otherwise terminated.

56 (2) Any writ of injunction issued under this law may be served and enforced as provided  
57 by law in injunctions issued in other cases, but the director of the insurance department shall not

58 be required to give any bond as preliminary to or in the course of any proceedings to which he  
59 is a party as director.

60 4. The term "person" as used in this section shall include any individual, partnership,  
61 corporation, association or trust, or any other legal entity.] **If the director determines that a**  
62 **person has engaged, is engaging in, or has taken a substantial step toward engaging in an**  
63 **act, practice or course of business constituting a violation of sections 354.010 to 354.380 or**  
64 **a rule adopted or order issued pursuant thereto, or a person has materially aided or is**  
65 **materially aiding an act, practice, omission, or course of business constituting a violation**  
66 **of sections 354.010 to 354.380 or a rule adopted or order issued pursuant thereto, the**  
67 **director may issue such administrative orders as authorized under section 374.046, RSMo.**  
68 **A violation of these sections is a level two violation under section 374.049, RSMo, except**  
69 **for any violation of sections 354.320 and 354.350, which is a level three violation.**

70 2. **If the director believes that a person has engaged, is engaging in, or has taken**  
71 **a substantial step toward engaging in an act, practice or course of business constituting a**  
72 **violation of sections 354.010 to 354.380 or a rule adopted or order issued pursuant thereto,**  
73 **or that a person has materially aided or is materially aiding an act, practice, omission, or**  
74 **course of business constituting a violation of sections 354.010 to 354.380 or a rule adopted**  
75 **or order issued pursuant thereto, the director may maintain a civil action for relief**  
76 **authorized under section 374.048, RSMo. A violation of these sections is a level two**  
77 **violation under section 374.049, RSMo, except for any violation of sections 354.320 and**  
78 **354.350, which is a level three violation.**

354.210. [1. Notwithstanding any other provisions of chapter 354,] **If the director [may,**  
2 **after a hearing, order as a forfeiture to the state of Missouri a sum not to exceed one hundred**  
3 **dollars for each violation by any person or corporation willfully violating any provision of**  
4 **sections 354.010 to 354.380 for which no specific punishment is provided, or order of the**  
5 **director made in accordance with such sections. Such forfeiture may be recovered by a civil**  
6 **action brought by and in the name of the director of insurance. The civil action may be brought**  
7 **in the county which has venue of an action against the person or corporation under other**  
8 **provisions of law.**

9 2. Nothing contained in this section shall be construed to prohibit the director and the  
10 corporation or its enrollment representative from agreeing to a voluntary forfeiture of the sum  
11 mentioned herein without civil proceedings being instituted. Any sum so agreed upon shall be  
12 paid into the school fund as provided by law for other fines and penalties] **has reason to believe**  
13 **that any health services corporation is in such financial condition that the assumption of**  
14 **additional obligations would be hazardous to its members or the general public, the**

15 **director may issue orders or seek relief to protect the public under the provisions of section**  
16 **354.180.**

354.350. 1. [When upon investigation the director finds that any] **It is unlawful for any**  
2 corporation subject to the provisions of sections 354.010 to 354.380 transacting business in this  
3 state [has conducted] **to:**

4 **(1) Conduct** its business fraudulently[, is not carrying] ;

5 **(2) Fail to carry** out its contracts in good faith[, or is] ; **or**

6 **(3) Habitually and as a matter of business practice [compelling] compel** claimants under  
7 policies or liability judgment creditors of its members to either accept less than the amount due  
8 under the terms of the policy or resort to litigation against the corporation to secure payment of  
9 the amount due[, and that a proceeding in respect thereto would be in the interest of the public,  
10 he shall issue and serve upon the corporation a statement of the charges in that respect and a  
11 notice of a hearing thereon].

12 2. [If after the hearing the director shall determine that the corporation subject to the  
13 provisions of sections 354.010 to 354.380 has fraudulently conducted its business as defined in  
14 this section, he shall order the corporation to cease and desist from the fraudulent practice and  
15 may suspend the corporation's certificate of authority for a period not to exceed thirty days and  
16 may in addition order a forfeiture to the state of Missouri of a sum not to exceed one thousand  
17 dollars, which forfeiture may be recovered by a civil action brought by and in the name of the  
18 director of insurance. The civil action may be brought in the circuit court of Cole County or, at  
19 the option of the director of insurance, in another county which has venue of an action against  
20 the corporation under other provisions of law] **If the director determines that a person has**  
21 **engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice**  
22 **or course of business constituting a violation of this section or a rule adopted or order**  
23 **issued pursuant thereto or that a person has materially aided or is materially aiding an act,**  
24 **practice, omission, or course of business constituting a violation of this section or a rule**  
25 **adopted or order issued pursuant thereto, the director may issue such administrative**  
26 **orders as authorized under section 374.046, RSMo. Each practice in violation of this**  
27 **section is a level two violation under section 374.049, RSMo. Each act as a part of a**  
28 **practice does not constitute a separate violation under section 374.049, RSMo.** The director  
29 [of insurance] may also suspend or revoke the license **or certificate of authority** of a  
30 corporation subject to the provisions of sections 354.010 to 354.380 or enrollment representative  
31 for any such willful violation.

32 **3. If the director believes that a person has engaged, is engaging in, or has taken**  
33 **a substantial step toward engaging in an act, practice or course of business constituting a**  
34 **violation of this section or a rule adopted or order issued pursuant thereto or that a person**

35 **has materially aided or is materially aiding an act, practice, omission, or course of business**  
36 **constituting a violation of this section or a rule adopted or order issued pursuant thereto,**  
37 **the director may maintain a civil action for relief authorized under section 374.048, RSMo.**  
38 **Each practice in violation of this section is a level two violation under section 374.049,**  
39 **RSMo. Each act as a part of a practice does not constitute a separate violation under**  
40 **section 374.049, RSMo.**

354.400. As used in sections 354.400 to [354.535] **354.636**, the following terms shall  
2 mean:

3 (1) "Basic health care services", health care services which an enrolled population might  
4 reasonably require in order to be maintained in good health, including, as a minimum, emergency  
5 care, inpatient hospital and physician care, and outpatient medical services;

6 (2) "Community-based health maintenance organization", a health maintenance  
7 organization which:

8 (a) Is wholly owned and operated by hospitals, hospital systems, physicians, or other  
9 health care providers or a combination thereof who provide health care treatment services in the  
10 service area described in the application for a certificate of authority from the [department of  
11 insurance] **director**;

12 (b) Is operated to provide a means for such health care providers to market their services  
13 directly to consumers in the service area of the health maintenance organization;

14 (c) Is governed by a board of directors that exercises fiduciary responsibility over the  
15 operations of the health maintenance organization and of which a majority of the directors  
16 consist of equal numbers of the following:

17 a. Physicians licensed pursuant to chapter 334, RSMo;

18 b. Purchasers of health care services who live in the health maintenance organization's  
19 service area;

20 c. Enrollees of the health maintenance organization elected by the enrollees of such  
21 organization; and

22 d. Hospital executives, if a hospital is involved in the corporate ownership of the health  
23 maintenance organization;

24 (d) Provides for utilization review, as defined in section 374.500, RSMo, under the  
25 auspices of a physician medical director who practices medicine in the service area of the health  
26 maintenance organization, using review standards developed in consultation with physicians who  
27 treat the health maintenance organization's enrollees;

28 (e) Is actively involved in attempting to improve performance on indicators of health  
29 status in the community or communities in which the health maintenance organization is

30 operating, including the health status of those not enrolled in the health maintenance  
31 organization;

32 (f) Is accountable to the public for the cost, quality and access of health care treatment  
33 services and for the effect such services have on the health of the community or communities in  
34 which the health maintenance organization is operating on a whole;

35 (g) Establishes an advisory group or groups comprised of enrollees and representatives  
36 of community interests in the service area to make recommendations to the health maintenance  
37 organization regarding the policies and procedures of the health maintenance organization;

38 (h) Enrolls fewer than fifty thousand covered lives;

39 (3) "Covered benefit" or "benefit", a health care service to which an enrollee is entitled  
40 under the terms of a health benefit plan;

41 (4) "Director", the director of the department of insurance, **financial and professional**  
42 **regulation**;

43 (5) "Emergency medical condition", the sudden and, at the time, unexpected onset of a  
44 health condition that manifests itself by symptoms of sufficient severity that would lead a  
45 prudent lay person, possessing an average knowledge of health and medicine, to believe that  
46 immediate medical care is required, which may include, but shall not be limited to:

47 (a) Placing the person's health in significant jeopardy;

48 (b) Serious impairment to a bodily function;

49 (c) Serious dysfunction of any bodily organ or part;

50 (d) Inadequately controlled pain; or

51 (e) With respect to a pregnant woman who is having contractions:

52 a. That there is inadequate time to effect a safe transfer to another hospital before  
53 delivery; or

54 b. That transfer to another hospital may pose a threat to the health or safety of the woman  
55 or unborn child;

56 (6) "Emergency services", health care items and services furnished or required to screen  
57 and stabilize an emergency medical condition, which may include, but shall not be limited to,  
58 health care services that are provided in a licensed hospital's emergency facility by an appropriate  
59 provider;

60 (7) "Enrollee", a policyholder, subscriber, covered person or other individual  
61 participating in a health benefit plan;

62 (8) "Evidence of coverage", any certificate, agreement, or contract issued to an enrollee  
63 setting out the coverage to which the enrollee is entitled;

64 (9) "Health care services", any services included in the furnishing to any individual of  
65 medical or dental care or hospitalization, or incident to the furnishing of such care or

66 hospitalization, as well as the furnishing to any person of any and all other services for the  
67 purpose of preventing, alleviating, curing, or healing human illness, injury, or physical disability;

68 (10) "Health maintenance organization", any person which undertakes to provide or  
69 arrange for basic and supplemental health care services to enrollees on a prepaid basis, or which  
70 meets the requirements of section 1301 of the United States Public Health Service Act;

71 (11) "Health maintenance organization plan", any arrangement whereby any person  
72 undertakes to provide, arrange for, pay for, or reimburse any part of the cost of any health care  
73 services and at least part of such arrangement consists of providing and assuring the availability  
74 of basic health care services to enrollees, as distinguished from mere indemnification against the  
75 cost of such services, on a prepaid basis through insurance or otherwise, and as distinguished  
76 from the mere provision of service benefits under health service corporation programs;

77 (12) "Individual practice association", a partnership, corporation, association, or other  
78 legal entity which delivers or arranges for the delivery of health care services and which has  
79 entered into a services arrangement with persons who are licensed to practice medicine,  
80 osteopathy, dentistry, chiropractic, pharmacy, podiatry, optometry, or any other health profession  
81 and a majority of whom are licensed to practice medicine or osteopathy. Such an arrangement  
82 shall provide:

83 (a) That such persons shall provide their professional services in accordance with a  
84 compensation arrangement established by the entity; and

85 (b) To the extent feasible for the sharing by such persons of medical and other records,  
86 equipment, and professional, technical, and administrative staff;

87 (13) "Medical group/staff model", a partnership, association, or other group:

88 (a) Which is composed of health professionals licensed to practice medicine or  
89 osteopathy and of such other licensed health professionals (including dentists, chiropractors,  
90 pharmacists, optometrists, and podiatrists) as are necessary for the provisions of health services  
91 for which the group is responsible;

92 (b) A majority of the members of which are licensed to practice medicine or osteopathy;  
93 and

94 (c) The members of which (i) as their principal professional activity over fifty percent  
95 individually and as a group responsibility engaged in the coordinated practice of their profession  
96 for a health maintenance organization; (ii) pool their income from practice as members of the  
97 group and distribute it among themselves according to a prearranged salary or drawing account  
98 or other plan, or are salaried employees of the health maintenance organization; (iii) share  
99 medical and other records and substantial portions of major equipment and of professional,  
100 technical, and administrative staff; (iv) establish an arrangement whereby an enrollee's

101 enrollment status is not known to the member of the group who provides health services to the  
102 enrollee;

103 (14) "Person", any partnership, association, or corporation;

104 (15) "Provider", any physician, hospital, or other person which is licensed or otherwise  
105 authorized in this state to furnish health care services;

106 (16) "Uncovered expenditures", the costs of health care services that are covered by a  
107 health maintenance organization, but that are not guaranteed, insured, or assumed by a person  
108 or organization other than the health maintenance organization, or those costs which a provider  
109 has not agreed to forgive enrollees if the provider is not paid by the health maintenance  
110 organization.

354.435. 1. Every health maintenance organization shall annually, on or before March  
2 first, file a report, verified by at least two principal officers, with the director, covering its  
3 preceding calendar year.

4 2. Such report shall be on forms prescribed by the director and shall include:

5 (1) A financial statement of the organization, including its balance sheet for the  
6 preceding calendar year;

7 (2) Any material changes in the information submitted pursuant to subsection 3 of  
8 section 354.405;

9 (3) The number of persons enrolled during the year, the number of enrollees, as of the  
10 end of the year, and the number of enrollments terminated during the year;

11 (4) A statement setting forth the amount of uncovered and covered expenses that are  
12 payable and are more than ninety days past due for the period of August first through December  
13 thirty-first of the preceding year;

14 (5) Such other information relating to the performance of the organization as is necessary  
15 to enable the director to carry out his duties under sections 354.400 to [354.550] **354.636**.

354.444. 1. [Notwithstanding any other provisions of chapter 354,] **If the director [may,**  
2 **after a hearing, order a forfeiture to the state of Missouri a sum not to exceed one hundred dollars**  
3 **for each violation by any person knowingly violating any provision] **determines that a person****  
4 **has engaged, is engaged in, or has taken a substantial step toward engaging in an act,**  
5 **practice or course of business constituting a violation** of sections 354.400 to 354.636 [for  
6 which no specific punishment is provided, or order a specific punishment in accordance with  
7 such sections. Such forfeiture may be recovered by a civil action brought by and in the name of  
8 the department of insurance. The civil action may be brought in the county which has venue for  
9 an action against the person or corporation] , **or a rule adopted or order issued pursuant**  
10 **thereto or that a person has materially aided or is materially aiding an act, practice,**  
11 **omission, or course of business constituting a violation of sections 354.400 to 354.636 or a**

12 **rule adopted or order issued pursuant thereto, the director may issue such administrative**  
13 **orders as authorized under section 374.046, RSMo. A violation of any of these sections is**  
14 **a level one violation under section 374.049, RSMo.**

15 2. [Nothing contained in this section shall be construed to prohibit the director and the  
16 corporation or its enrollment representative from agreeing to a voluntary forfeiture of the sum  
17 mentioned herein without civil proceedings being instituted. Any payment under this section  
18 shall be paid into the school fund as provided by article IX, section 7 of the Missouri  
19 Constitution for fines and penalties] **If the director believes that a person has engaged, is**  
20 **engaging in, or has taken a substantial step toward engaging in an act, practice or course**  
21 **of business constituting a violation of sections 354.400 to 354.636, or a rule adopted or**  
22 **order issued pursuant thereto or that a person has materially aided or is materially aiding**  
23 **an act, practice, omission, or course of business constituting a violation of sections 354.400**  
24 **to 354.636 or a rule adopted or order issued pursuant thereto, the director may maintain**  
25 **a civil action for relief authorized under section 374.048, RSMo. A violation of any of these**  
26 **sections is a level one violation under section 374.049, RSMo.**

354.455. Unless otherwise provided in sections 354.400 to [354.550] **354.636**, each  
2 health maintenance organization shall deposit with the director, or with any organization or  
3 trustee acceptable to him through which a custodial or controlled account is utilized, cash,  
4 securities, or any combination of these or other measures acceptable to him, in the amount set  
5 forth in section 354.410.

354.460. No health maintenance organization, or representative thereof, may cause or  
2 knowingly permit the use of advertising which is untrue or misleading, solicitation which is  
3 untrue or misleading, or any form of evidence of coverage which is deceptive. For purposes of  
4 sections 354.400 to [354.550] **354.636**:

5 (1) A statement or item of information shall be deemed to be untrue if it does not  
6 conform to fact in any respect which is or may be significant to an enrollee of, or person  
7 considering enrollment with, a health maintenance organization;

8 (2) A statement or item of information shall be deemed to be misleading, whether or not  
9 it may be literally untrue, if, in the total context in which such statement is made or such item  
10 of information is communicated, such statement or item of information may be reasonably  
11 understood by a reasonable person, not possessing special knowledge regarding health care  
12 coverage, as indicating any benefit or advantage or the absence of any exclusion, limitation, or  
13 disadvantage of possible significance to an enrollee of, or person considering enrollment in, a  
14 health maintenance organization plan, if such benefit, advantage, or absence of limitation,  
15 exclusion, or disadvantage does not, in fact, exist;

16 (3) An evidence of coverage shall be deemed to be deceptive if the evidence of coverage,  
17 taken as a whole, is misleading.

354.464. No health maintenance organization, unless licensed as an insurer, may use in  
2 its name, contracts, or literature any of the words "insurance", "casualty", "surety", "mutual", or  
3 any other words descriptive of the insurance, casualty, or surety business or deceptively similar  
4 to the name or description of any insurance or surety corporation doing business in this state  
5 when such words are deceptive or misleading. No person, if not in possession of a valid  
6 certificate of authority issued pursuant to sections 354.400 to [354.550] **354.636**, may use the  
7 phrase "health maintenance organization" or "HMO" in the course of its operation.

354.475. 1. An insurance company licensed in this state, or a health services corporation  
2 authorized to do business in this state, may directly or through a subsidiary or affiliate, organize  
3 and operate a health maintenance organization under the provisions of sections 354.400 to  
4 [354.550] **354.636** so long as they comply with the provisions of section 354.410 as applicable  
5 thereto. Notwithstanding any other law to the contrary, any two or more such insurance  
6 companies, health services corporations, or subsidiaries or affiliates thereof, may jointly organize  
7 and operate a health maintenance organization.

8 2. Notwithstanding any other provision of law pertaining to insurance and health services  
9 corporations to the contrary, an insurer or a health services corporation may contract with a  
10 health maintenance organization to provide insurance or similar protection against the cost of  
11 care provided through health maintenance organizations and to provide coverage in the event of  
12 the failure of the health maintenance organization to meet its obligations. The enrollees of a  
13 health maintenance organization shall be deemed to constitute a permissible group under such  
14 laws. Among other things, under such contracts, the insurer or health services corporation may  
15 make benefit payments to health maintenance organizations for health care services rendered by  
16 providers.

354.485. The director may promulgate such reasonable rules and regulations in  
2 accordance with chapter 536, RSMo, as are necessary or proper to carry out the provisions of  
3 sections 354.400 to [354.550] **354.636**.

354.495. Every health maintenance organization subject to sections 354.400 to [354.550]  
2 **354.636** shall pay to the director the following fees:

- 3 (1) Issuance or renewal of certificate of  
4 authority ..... \$ 150.00
- 5 (2) Filing of articles of amendment ..... 1.00
- 6 (3) Filing each annual statement ..... 100.00
- 7 (4) Filing articles of acceptance and issuing  
8 a certificate of acceptance ..... 20.00

- 9 (5) Filing any other statement or report ..... 20.00
- 10 (6) For the certification of any document, and
- 11 affixing the seal thereto ..... 10.00
- 12 (7) For filing statement and pertinent admission
- 13 papers required of a foreign health
- 14 maintenance organization ..... 200.00
- 15 (8) For each appointment of an agent by the
- 16 health maintenance organization ..... 5.00
- 17 (9) For copies of papers, records and documents
- 18 filed in the office of the director, an
- 19 amount not to exceed, at the director's
- 20 discretion ..... 1.00
- 21 per page
- 22 (10) For each service of process upon the
- 23 director, on behalf of the health
- 24 maintenance organization ..... 10.00]

25 **(1) For filing the declaration required on organization of each domestic company,**  
 26 **two hundred fifty dollars;**

27 **(2) For filing statement and certified copy of charter required of foreign companies,**  
 28 **two hundred fifty dollars;**

29 **(3) For filing application to renew certificate of authority, along with all required**  
 30 **annual reports, including the annual statement, actuarial statement, risk based capital**  
 31 **report, report of valuation of policies or other obligations of assurance, and audited**  
 32 **financial report of any company doing business in this state, one thousand five hundred**  
 33 **dollars;**

34 **(4) For filing any paper, document, or report not filed under subdivision (1), (2),**  
 35 **or (3) of this section but required to be filed in the office of the director, fifty dollars each;**

36 **(5) For affixing the seal of office of the director, ten dollars;**

37 **(6) For accepting each service of process upon the company, ten dollars.**

354.500. 1. If the director shall for any reason have cause to believe that any violation  
 2 of sections 354.400 to [354.550] **354.636** has occurred or is about to occur, the director may give  
 3 notice to the health maintenance organization and to the representatives, or other persons who  
 4 appear to be involved in such suspected violation, to arrange a conference with the alleged  
 5 violators, or potential violators, or their authorized representatives, for the purpose of attempting  
 6 to ascertain the facts relating to such suspected or potential violation, and, in the event it appears  
 7 that any violation has occurred or is about to occur, to arrive at an adequate and effective means

8 of correcting or preventing such violation. Proceedings under this subsection shall not be  
9 governed by any formal procedural requirements, and may be conducted in such manner as the  
10 director may deem appropriate under the circumstances.

11 2. [The director may issue an order directing a health maintenance organization, or a  
12 representative of a health maintenance organization, to cease and desist from engaging in any act  
13 or practice in violation of the provisions of sections 354.400 to 354.550. Within twenty days  
14 after service of the order to cease and desist, the respondent may request a hearing on the  
15 question of whether acts or practices in violation of sections 354.400 to 354.550 have occurred.  
16 Such hearing shall be conducted, and judicial review shall be available, as provided in chapter  
17 536, RSMo.]

18 3. In the case of noncompliance with a cease and desist order issued pursuant to  
19 subsection 2 of this section, the director may institute a proceeding to obtain injunctive or other  
20 appropriate relief, in the circuit court.]

354.510. **Unless otherwise provided**, all applications, filings, and reports required under  
2 sections 354.400 to [354.550] **354.636** shall be treated as public documents.

354.530. If any section, term, or provision of sections 354.400 to [354.550] **354.636** shall  
2 be adjudged invalid for any reason, such judgment shall not affect, impair, or invalidate any other  
3 section, term, or provision of sections 354.400 to [354.550] **354.636**, but the remaining sections,  
4 terms, and provisions shall be and remain in full force and effect.

354.540. A health maintenance organization approved and regulated under the laws of  
2 another bordering state may be admitted to do business in this state by satisfying the director that  
3 it is fully and legally organized under the laws of its state, and that it complies with all  
4 requirements for health maintenance organizations organized within Missouri. The director may  
5 waive or modify the provisions of sections 354.400 to [354.550] **354.636** if he determines that  
6 the same are not appropriate or necessary to a particular health maintenance organization of  
7 another state.

354.545. The provisions of sections 354.400 to [354.550] **354.636** shall not apply to any  
2 labor organization's health plan providing services established and maintained solely for its  
3 members and their dependents, and facilities of not-for-profit corporations in existence on  
4 October 1, 1980, subject either to the provisions and regulations of section 302 of the  
5 Labor-Management Relations Act, 29 U.S.C. 186 or the Labor-Management Reporting and  
6 Disclosure Act, 29 U.S.C. 401-538.

354.550. The provisions of sections 354.400 to [354.550] **354.636** shall not apply to  
2 community health corporations as defined by Public Law 94-63 so long as such corporations  
3 limit their activities to those described in Public Law 94-63.

354.600. For purposes of sections 354.600 to 354.636 the following terms shall mean:

- 2 (1) ["Covered benefit" or "benefit", a health care service to which an enrollee is entitled  
3 under the terms of a health benefit plan;
- 4 (2) "Director", the director of the department of insurance;
- 5 (3) "Emergency medical condition", the sudden and, at the time, unexpected onset of a  
6 health condition that manifests itself by symptoms of sufficient severity that would lead a  
7 prudent lay person, possessing an average knowledge of medicine and health, to believe that  
8 immediate medical care is required, which may include, but shall not be limited to:
- 9 (a) Placing the person's health in significant jeopardy;
- 10 (b) Serious impairment to a bodily function;
- 11 (c) Serious dysfunction of any bodily organ or part;
- 12 (d) Inadequately controlled pain; or
- 13 (e) With respect to a pregnant woman who is having contractions:
- 14 a. That there is inadequate time to effect a safe transfer to another hospital before  
15 delivery; or
- 16 b. That transfer to another hospital may pose a threat to the health or safety of the woman  
17 or unborn child;
- 18 (4) "Emergency service", a health care item or service furnished or required to screen and  
19 stabilize an emergency medical condition, which may include, but shall not be limited to, health  
20 care services that are provided in a licensed hospital's emergency facility by an appropriate  
21 provider;
- 22 (5) "Enrollee", a policyholder, subscriber, covered person or other individual  
23 participating in a health benefit plan;
- 24 (6) "Facility", an institution providing health care services or a health care setting,  
25 including but not limited to, hospitals and other licensed inpatient centers, ambulatory surgical  
26 or treatment centers, skilled nursing facilities, residential treatment centers, diagnostic, laboratory  
27 and imaging centers, and rehabilitation and other therapeutic health settings;
- 28 [(7)] (2) "Health benefit plan", a policy, contract, certificate or agreement entered into,  
29 offered or issued by a health carrier to provide, deliver, arrange for, pay for or reimburse any of  
30 the costs of health care services;
- 31 [(8)] (3) "Health care professional", a physician or other health care practitioner  
32 licensed, accredited or certified by the state of Missouri to perform specified health services;
- 33 [(9)] (4) "Health care provider" or "provider", a health care professional or a facility;
- 34 [(10)] "Health care service", a service for the diagnosis, prevention, treatment, cure or  
35 relief of a health condition, illness, injury or disease;
- 36 [(11)] (5) "Health carrier", a health maintenance organization established pursuant to  
37 sections 354.400 to 354.636;

38 [(12)] (6) "Health indemnity plan", a health benefit plan that is not a managed care plan;

39 [(13)] (7) "Intermediary", a person authorized to negotiate and execute provider  
40 contracts with health carriers on behalf of health care providers or on behalf of a network;

41 [(14)] (8) "Managed care plan", a health benefit plan that either requires an enrollee to  
42 use, or creates incentives, including financial incentives, for an enrollee to use health care  
43 providers managed, owned, under contract with or employed by the health carrier;

44 [(15)] (9) "Network", the group of participating providers providing services to a  
45 managed care plan;

46 [(16)] (10) "Participating provider", a provider who, under a contract with the health  
47 carrier or with its contractor or subcontractor, has agreed to provide health care services to  
48 enrollees with an expectation of receiving payment, other than coinsurance, co-payments or  
49 deductibles, directly or indirectly from the health carrier;

50 [(17)] "Person", an individual, a corporation, a partnership, an association, a joint venture,  
51 a joint stock company, a trust, an unincorporated organization, any similar entity or any  
52 combination of the foregoing; and

53 [(18)] (11) "Primary care professional" or "primary care provider", a participating health  
54 care professional designated by the health carrier to supervise, coordinate or provide initial care  
55 or continuing care to an enrollee, and who may be required by the health carrier to initiate a  
56 referral for specialty care and maintain supervision of health care services rendered to the  
57 enrollee.

354.722. 1. The director may suspend or revoke any certificate of authority issued to a  
2 prepaid dental plan corporation pursuant to sections 354.700 to 354.723 if he finds that any of  
3 the following conditions exist:

4 (1) The prepaid dental plan corporation is operating substantially in contravention of its  
5 basic organizational document or is not fulfilling its contracts;

6 (2) [The prepaid dental plan corporation issues a contract, contract certificate or  
7 amendment which has not been filed with the director and approved or deemed approved by the  
8 director;

9 (3) The prepaid dental plan corporation is no longer financially responsible and may  
10 reasonably be expected to be unable to meet its contractual obligations to enrollees, or  
11 prospective enrollees;

12 [(4)] (3) The prepaid dental plan corporation, or any person on its behalf, has advertised  
13 or merchandised its prepaid dental benefits in an untrue, misrepresentative, misleading, deceptive  
14 or unfair manner;

15 [(5)] (4) The continued operation of the prepaid dental plan corporation would be  
16 hazardous to its enrollees; or

17 [(6)] (5) The prepaid dental plan corporation has failed to substantially comply with the  
18 provisions of sections 354.700 to 354.723 or any rules or regulations promulgated thereunder.

19 2. [When the director believes that grounds for the suspension or revocation of the  
20 corporation's certificate of authority exists, he shall notify the corporation in writing, stating the  
21 grounds and fixing a date and time for a hearing. At least twenty days' notice of such hearing  
22 shall be given. The hearing and any appeals therefrom shall be in accordance with chapter 536,  
23 RSMo.

24 3. The director may, in lieu of the suspension or revocation of the corporation's  
25 certification of authority, file suit in circuit court to seek a civil penalty in an amount not less  
26 than one hundred dollars nor more than one thousand dollars.

27 4.] **If the director determines that a person has engaged, is engaging in, or has taken**  
28 **a substantial step toward engaging in an act, practice or course of business constituting a**  
29 **violation of sections 354.700 to 354.723 or a rule adopted or order issued pursuant thereto**  
30 **or that a person has materially aided or is materially aiding an act, practice, omission, or**  
31 **course of business constituting a violation of sections 354.700 to 354.723 or a rule adopted**  
32 **or order issued pursuant thereto, the director may issue such administrative orders as**  
33 **authorized under section 374.046, RSMo. A violation of this section is a level two violation**  
34 **under section 374.049, RSMo. The director may also suspend or revoke the certificate of**  
35 **authority of a corporation for any such willful violation.**

36 3. When the certificate of authority of a prepaid dental plan corporation is suspended,  
37 the prepaid dental plan corporation shall not, during the period of such suspension, enroll any  
38 additional enrollees except newborn children or other newly acquired dependent of existing  
39 enrollees and shall not engage in any advertising or solicitation whatsoever.

40 [5.] 4. When the certificate of authority of a prepaid dental plan corporation is revoked,  
41 such corporation shall proceed, immediately following the effective date of the order of  
42 revocation, to wind up its affairs and shall conduct no further business except as may be essential  
43 to the orderly conclusion of the affairs of such corporation. It shall engage in no further  
44 advertising or solicitation whatsoever.

2 **374.051. 1. Any applicant refused a license or the renewal of a license by order of**  
3 **the director under sections 374.755, 374.787, and 375.141, RSMo, may file a petition with**  
4 **the administrative hearing commission alleging that the director has refused the license.**  
5 **The administrative hearing commission shall conduct hearings and make findings of fact**  
6 **and conclusions of law in determining whether the applicant may be disqualified by**  
7 **statute. Notwithstanding section 621.120, RSMo, the director shall retain discretion in**  
8 **refusing a license or renewal and such discretion shall not transfer to the administrative**  
9 **hearing commission.**

9           **2. If a proceeding is instituted to revoke or suspend a license of any person under**  
10 **sections 374.755, 374.787, and 375.141, RSMo, the director shall refer the matter to the**  
11 **administrative hearing commission by directing the filing of a complaint. The**  
12 **administrative hearing commission shall conduct hearings and make findings of fact and**  
13 **conclusions of law in such cases. The director shall have the burden of proving cause for**  
14 **discipline. If cause is found, the administrative hearing commission shall submit its**  
15 **findings of fact and conclusions of law to the director, who may determine appropriate**  
16 **discipline.**

17           **3. Hearing procedures before the director or the administrative hearing**  
18 **commission and judicial review of the decisions and orders of the director and of the**  
19 **administrative hearing commission, and all other procedural matters under this chapter,**  
20 **shall be governed by the provisions of chapter 536, RSMo. Hearings before the**  
21 **administrative hearing commission shall also be governed by the provisions of chapter 621,**  
22 **RSMo.**

**374.055. 1. Except as otherwise provided, any interested person aggrieved by any**  
2 **order of the director under the laws of this state relating to insurance in this chapter,**  
3 **chapter 354, RSMo, and chapters 375 to 385, RSMo, or a rule adopted by the director, or**  
4 **by any refusal or failure of the director to make an order pursuant to any of said**  
5 **provisions, shall be entitled to a hearing before the director in accordance with the**  
6 **provisions of chapter 536, RSMo. A final order issued by the director is subject to judicial**  
7 **review in accordance with the provisions of chapter 536, RSMo. However, any findings**  
8 **of fact or conclusions of law in any order regarding the actual costs of the investigation or**  
9 **proceedings under section 374.046, or the classification of any violation under section**  
10 **374.049, shall be subject to de novo review.**

11           **2. A rule adopted by the director is subject to judicial review in accordance with**  
12 **the provisions of chapter 536, RSMo.**

13           **3. Notwithstanding any other provision of law to the contrary, no person or entity**  
14 **shall impose an accident response service fee on or from an insurance company, the driver**  
15 **or owner of a motor vehicle, or any other person. As used in this section, the term**  
16 **"accident response service fee" means a fee imposed for the response or investigation by**  
17 **a local law enforcement agency of a motor vehicle accident.**

**374.150. 1. All fees due the state under the provisions of the insurance laws of this state**  
2 **shall be paid to the director of revenue and deposited in the state treasury to the credit of the**  
3 **insurance [department] dedicated fund unless otherwise provided for in subsection 2 of this**  
4 **section.**

5           2. There is hereby established in the state treasury a special fund to be known as the  
6 "[Department of] Insurance Dedicated Fund". The fund shall be subject to appropriation of the  
7 general assembly and shall be devoted solely to the payment of expenditures incurred by the  
8 department [of insurance] attributable to duties performed by the department **for the regulation**  
9 **of the business of insurance, regulation of health maintenance organizations and the**  
10 **operation of the division of consumer affairs** as required by law which are not paid for by  
11 another source of funds. Other provisions of law to the contrary notwithstanding, beginning on  
12 January 1, 1991, all fees charged under any provision of chapter 325, 354, 374, 375, 376, 377,  
13 378, 379, 380, 381, 382, 383, 384 or 385, RSMo, due the state shall be paid into this fund. The  
14 state treasurer shall invest moneys in this fund in the same manner as other state funds and any  
15 interest or earnings on such moneys shall be credited to the [department of] insurance dedicated  
16 fund. The provisions of section 33.080, RSMo, notwithstanding, moneys in the fund shall not  
17 lapse, be transferred to or placed to the credit of the general revenue fund unless and then only  
18 to the extent to which the unencumbered balance at the close of the biennium year exceeds two  
19 times the total amount appropriated, paid, or transferred to the fund during such fiscal year.

20           [3. Notwithstanding the provisions of this section to the contrary, fifty-five percent of  
21 the balance in the department of insurance dedicated fund as of the effective date of this act or  
22 six million fifteen thousand eight hundred and fifty-five dollars, whichever is greater, shall be  
23 subject to an immediate one-time transfer to the state general revenue fund.]

374.160. 1. The expenses of examinations, valuations or proceedings against any  
2 company, and for dissolving or settling the affairs of companies are to be paid by the company,  
3 or as provided by law. The state shall not be responsible in any manner for the payment of any  
4 such expenses, or any charges connected therewith.

5           2. **At the request of the director, every domestic insurance company or health**  
6 **maintenance organization subject to an order of conservation, rehabilitation, or liquidation**  
7 **shall reimburse the insurance dedicated fund for administrative services rendered by state**  
8 **employees to the company. Reimbursement shall include that portion of the employee's**  
9 **salary, state benefits, and expenses that specifically relates to the services rendered on**  
10 **behalf of the company.**

11           3. All other expenses of the department of insurance, **financial institutions and**  
12 **professional registration** now or hereafter incurred and unpaid, or that may be hereafter  
13 incurred, including the salaries of the director and deputy director, shall be paid out of the state  
14 treasury in the manner provided by law.

15           [3.] 4. The director shall assess the expenses of any examination against the company  
16 examined and shall order that the examination expenses be paid into the insurance examiners  
17 fund created by section 374.162. [The director shall also assess an additional amount equal to

18 fifteen percent of the total expenses of examination, to be paid for the supervision and support  
19 of the examiners. The insurance examiner's sick leave fund created by sections 374.261 to  
20 374.267 shall be combined with the insurance examiners fund.] **This assessment shall include**  
21 **the costs of compensation, including benefits, for the examiners, analysts, actuaries, and**  
22 **attorneys directly contributing to the examination of the company, any reasonable travel,**  
23 **lodging, and meal expenses related to an on-site examination, and other expenses related**  
24 **to the examination of the company, including an allocation for examiners' office space,**  
25 **supplies, and equipment, but not expenses associated with attending a course, seminar, or**  
26 **meeting, unless solely related to the examination of the company assessed.** The director shall  
27 pay from the insurance examiners fund the compensation of insurance examiners [pursuant to  
28 section 374.115, any expenses to be paid from such sick leave fund under sections 374.261 to  
29 374.267], **analysts, actuaries, and attorneys, including standard benefits afforded to state**  
30 **employees, for performance of any such examination and other** expenses [incurred for  
31 supervision and support of the examiners] **covered in the assessment.** The general assembly  
32 shall annually provide appropriations sufficient to distribute all receipts into the insurance  
33 examiners fund. The provisions of section 33.080, RSMo, relating to the transfer of unexpended  
34 balances to the general revenue fund shall not apply to the insurance examiners fund.

35 [4.] **5.** If any company shall refuse to pay the expenses of any examination, valuation or  
36 proceeding assessed by the director pursuant to this section, the company shall be liable for  
37 double the amount of such expenses and all costs of collection, including attorney's fees. The  
38 company shall not be entitled to a credit, pursuant to section 148.400, RSMo, for any fees,  
39 expenses or costs ordered pursuant to this subsection other than in the amount of the expenses  
40 originally assessed by the director. All amounts collected pursuant to this subsection shall be  
41 credited to the insurance examiners fund.

**374.185. 1. The director may cooperate, coordinate, and consult with other**  
2 **members of the National Association of Insurance Commissioners, the commissioner of**  
3 **securities, state securities regulators, the division of finance, the division of credit unions,**  
4 **the attorney general, federal banking and securities regulators, the National Association**  
5 **of Securities Dealers (NASD), the United States Department of Justice, the Commodity**  
6 **Futures Trading Commission, and the Federal Trade Commission to effectuate greater**  
7 **uniformity in insurance and financial services regulation among state and federal**  
8 **governments, and self-regulatory organizations. The director may share records with any**  
9 **aforesaid entity, except that any record that is confidential, privileged, or otherwise**  
10 **protected from disclosure by law shall not be disclosed unless such entity agrees in writing**  
11 **prior to receiving such record to provide it the same protection. No waiver of any**

12 applicable privilege or claim of confidentiality regarding any record shall occur as the  
13 result of any disclosure.

14 **2. In cooperating, coordinating, consulting, and sharing records and information**  
15 **under this section and in acting by rule, order, or waiver under the laws relating to**  
16 **insurance, the director shall, at the discretion of the director, take into consideration in**  
17 **carrying out the public interest the following general policies:**

18 **(1) Maximizing effectiveness of regulation for the protection of insurance**  
19 **consumers;**

20 **(2) Maximizing uniformity in regulatory standards; and**

21 **(3) Minimizing burdens on the business of insurance, without adversely affecting**  
22 **essentials of consumer protection.**

23 **3. The cooperation, coordination, consultation, and sharing of records and**  
24 **information authorized by this section includes:**

25 **(1) Establishing or employing one or more designees as a central electronic**  
26 **depository for licensing and rate and form filings with the director and for records**  
27 **required or allowed to be maintained;**

28 **(2) Encouraging insurance companies and producers to implement electronic filing**  
29 **through a central electronic depository;**

30 **(3) Developing and maintaining uniform forms;**

31 **(4) Conducting joint market conduct examinations and other investigations**  
32 **through collaboration and cooperation with other insurance regulators;**

33 **(5) Holding joint administrative hearings;**

34 **(6) Instituting and prosecuting joint civil or administrative enforcement**  
35 **proceedings;**

36 **(7) Sharing and exchanging personnel;**

37 **(8) Coordinating licensing under section 375.014, RSMo;**

38 **(9) Formulating rules, statements of policy, guidelines, forms, no action**  
39 **determinations, and bulletins; and**

40 **(10) Formulating common systems and procedures.**

374.210. 1. **It is unlawful for**, any person [testifying falsely in reference to any matter  
2 material to the investigation, examination or inquiry shall be deemed guilty of perjury.] **in any**  
3 **investigation, examination, inquiry, or other proceeding under this chapter, chapter 354,**  
4 **RSMo, and chapters 375 to 385, RSMo, to:**

5 [2. Any person who shall refuse to give such director full and truthful information, and  
6 answer in writing to any inquiry or question made in writing by the director, in regard to the  
7 business of insurance carried on by such person, or to appear and testify under oath before the

8 director in regard to the same, shall be deemed guilty of a misdemeanor, and, upon conviction  
9 thereof, shall be punished by a fine not exceeding five hundred dollars, or imprisonment not  
10 exceeding three months.

11 3. Any director, officer, manager, agent or employee of any insurance company, or any  
12 other person, who shall]

13 **(1) Knowingly make or cause to be made a false statement upon oath or affirmation**  
14 **or in any record that is submitted to the director or used in any proceeding under this**  
15 **chapter, chapter 354, RSMo, and chapters 375 to 385, RSMo; or**

16 **(2) Make any false certificate or entry or memorandum upon any of the books or papers**  
17 **of any insurance company, or upon any statement or exhibit offered, filed or offered to be filed**  
18 **in the [insurance] department, or used in the course of any examination, inquiry, or**  
19 **investigation[, with intent to deceive the director or any person employed or appointed by him**  
20 **to make any examination, inquiry or investigation, shall, upon conviction, be punished by a fine**  
21 **not exceeding one thousand dollars, and by imprisonment not less than two months in the county**  
22 **or city jail, nor more than five years in the penitentiary] under this chapter, chapter 354,**  
23 **RSMo, and chapters 375 to 385, RSMo.**

24 **2. If a person does not appear or refuses to testify, file a statement, produce**  
25 **records, or otherwise does not obey a subpoena as required by the director, the director**  
26 **may apply to the circuit court of any county of the state or any city not within a county, or**  
27 **a court of another state to enforce compliance. The court may:**

28 **(1) Hold the person in contempt;**

29 **(2) Order the person to appear before the director;**

30 **(3) Order the person to testify about the matter under investigation or in question;**

31 **(4) Order the production of records;**

32 **(5) Grant injunctive relief;**

33 **(6) Impose a civil penalty of up to fifty thousand dollars for each violation; and**

34 **(7) Grant any other necessary or appropriate relief.**

35 **The director may also suspend, revoke or refuse any license or certificate of authority**  
36 **issued by the director to any person who does not appear or refuses to testify, file a**  
37 **statement, produce records, or does not obey a subpoena.**

38 **3. This section does not preclude a person from applying to the circuit court of any**  
39 **county of the state or any city not within a county for relief from a request to appear,**  
40 **testify, file a statement, produce records, or obey a subpoena.**

41 **4. A person is not excused from attending, testifying, filing a statement, producing**  
42 **a record or other evidence, or obeying a subpoena of the director under an action or**  
43 **proceeding instituted by the director on the grounds that the required testimony,**

44 statement, record, or other evidence, directly or indirectly, may tend to incriminate the  
45 individual or subject the individual to a criminal fine, penalty, or forfeiture. If the person  
46 refuses to testify, file a statement, or produce a record or other evidence on the basis of the  
47 individual's privilege against self-incrimination, the director may apply to the circuit court  
48 of any county of the state or any city not within a county to compel the testimony, the filing  
49 of the statement, the production of the record, or the giving of other evidence. The  
50 testimony, record, or other evidence compelled under such an order may not be used as  
51 evidence against the person in a criminal case, except in a prosecution for perjury or  
52 contempt or otherwise failing to comply with the order.

53 **5. If the director determines that a person has engaged, is engaging in, or has taken**  
54 **a substantial step toward engaging in an act, practice or course of business constituting a**  
55 **violation of this section, or a rule adopted or order issued pursuant thereto, or that a**  
56 **person has materially aided or is materially aiding an act, practice, omission, or course of**  
57 **business constituting a violation of this section or a rule adopted or order issued pursuant**  
58 **thereto, the director may issue such administrative orders as authorized under section**  
59 **374.046. A violation of subsection 1 of this section is a level four violation under section**  
60 **374.049. The director may also suspend or revoke the license or certificate of authority of**  
61 **such person for any willful violation.**

62 **6. If the director believes that a person has engaged, is engaging in, or has taken**  
63 **a substantial step toward engaging in an act, practice or course of business constituting a**  
64 **violation of this section or a rule adopted or order issued pursuant thereto, or that a person**  
65 **has materially aided or is materially aiding an act, practice, omission, or course of business**  
66 **constituting a violation of this section or a rule adopted or order issued pursuant thereto,**  
67 **the director may maintain a civil action for relief authorized under section 374.048. A**  
68 **violation of subsection 1 of this section is a level four violation under section 374.049.**

69 **7. Any person who knowingly engages in any act, practice, omission, or course of**  
70 **business in violation of subsection 1 of this section is guilty of a class D felony. If the**  
71 **offender holds a license or certificate of authority under the insurance laws of this state,**  
72 **the court imposing sentence shall order the department to revoke such license or certificate**  
73 **of authority.**

74 **8. The director may refer such evidence as is available concerning violations of this**  
75 **section to the proper prosecuting attorney, who with or without a criminal reference, or**  
76 **the attorney general under section 27.030, RSMo, may institute the appropriate criminal**  
77 **proceedings.**

78 **9. Nothing in this section shall limit the power of the state to punish any person for**  
79 **any conduct that constitutes a crime under any other state statute.**

374.215. 1. If any insurance company **or other entity regulated by the director** doing business in this state fails to timely make and file any statutorily required report or statement, the department [of insurance] shall notify such company **or entity** of such failure by first class mail. Any company **or entity** notified by the department [of insurance] pursuant to this section shall [have] **file such report or statement within** fifteen days [to make and file such report. If such company fails to make and file such report within the fifteen days, it shall forfeit one hundred dollars for each day after the fifteen-day grace period expires.

2. Any insurance company doing business in this state which knowingly or intentionally files or which has filed on its behalf any materially false report or statement forfeits not more than one thousand dollars.

3. Any forfeiture required or permitted by this section shall be considered a civil penalty which the director of the department of insurance may order pursuant to the provisions of sections 374.040 and 374.280] **of receiving notification. After the expiration of such fifteen days, each day in which the company or entity fails to file such report or statement is a separate violation of this section.**

**2. If the director determines that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, the director may issue such administrative orders as authorized under section 374.046. A violation of this section is a level two violation under section 374.049. The director may also suspend or revoke the certificate of authority of such person for any willful violation.**

**3. If the director believes that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, the director may maintain a civil action for relief authorized under section 374.048. A violation of this section is a level two violation under section 374.049.**

374.230. Every insurance company doing business in this state shall pay to the director of revenue the following fees:

(1) [For making valuations of policies or other obligations of assurance, one thousand dollars for all ordinary forms of policies, and the cost of computing special evaluation tables for policy forms requiring such shall be added;

- 6 (2) For filing the declaration required on organization of each **domestic** company, **two**  
7 **hundred** fifty dollars;
- 8 [(3)] (2) For filing statement and certified copy of charter required of foreign companies,  
9 **two hundred** fifty dollars;
- 10 [(4)] (3) For filing **application to renew certificate of authority, along with all**  
11 **required annual reports, including the annual statement, actuarial statement, risk based**  
12 **capital report, report of valuation of policies or other obligations of assurance, and audited**  
13 **financial report** annual statement of any company doing business in this state, [two hundred  
14 fifty] **one thousand five hundred** dollars;
- 15 [(5)] (4) For filing supplementary annual statement of any company doing business in  
16 this state, [ten] **fifty** dollars;
- 17 [(6)] (5) For filing any [other] paper, **document, or report not filed under subdivision**  
18 **(1), (2), or (3), but** required to be filed in the office of the director [of the department of  
19 insurance], fifty dollars each;
- 20 [(7)] (6) For [each agent's] a copy of [his] a company's certificate of authority or  
21 **producer or agent** license, [two] **ten** dollars;
- 22 [(8)] (8) For copies of papers, records, and documents filed in the office of the director of the  
23 department of insurance, twenty cents per folio;
- 24 [(9)] (7) For affixing the seal of office of the director [of the department of insurance],  
25 ten dollars;
- 26 [(10)] (8) For accepting each service of process upon the company, ten dollars.
- 374.280. 1. [Notwithstanding any other provisions of chapters 374, 375, 376, 377, 378  
2 and 379, RSMo,] The director may, after a hearing **under section 374.046**, order a **civil penalty**  
3 **or forfeiture payable** to the state of Missouri [a sum not to exceed one hundred dollars for each  
4 violation by any person, partnership or corporation knowingly violating any provision of chapters  
5 374, 375, 376, 377, 378 and 379, RSMo, or order of the director of insurance made in accordance  
6 with those chapters] **authorized by section 374.049**, which **penalty or forfeiture, if unpaid**  
7 **within ten days**, may be recovered by a civil action brought by and in the name of the director  
8 [of insurance] **under section 374.048**. The civil action may be brought in the county which has  
9 venue of an action against the person, partnership or corporation under other provisions of law.  
10 The director [of insurance] may also suspend or revoke the license [of an insurer, agent, broker  
11 or agency] **or certificate of authority of such person** for any willful violation.
- 12 2. Nothing contained in this section shall be construed to prohibit the director and [the  
13 insurer, agent, broker or agency] **any person subject to an investigation, examination, or**  
14 **other proceeding** from agreeing to a voluntary forfeiture of the sum mentioned herein without

15 civil proceedings being instituted. Any sum so agreed upon shall be paid into the school fund  
16 as provided by law for other fines and penalties.

374.285. Except as provided in section 375.141, RSMo, all records of disciplinary  
2 actions against an insurance [agent, broker, agency or] producer which resulted in a [voluntary]  
3 forfeiture **or other monetary relief** of two hundred dollars or less **and places no other legal**  
4 **duty upon the producer** shall be expunged after a period of five years from the date of the  
5 execution of the [voluntary forfeiture] **order or settlement agreement** by the director [of the  
6 department of insurance].

374.512. 1. Whenever the director has reason to believe that a utilization review agent  
2 subject to sections 374.500 to 374.515 has been or is engaged in conduct which violates the  
3 provisions of sections 374.500 to 374.515, the director shall notify the utilization review agent  
4 of the alleged violation. The utilization review agent shall have thirty days from the date the  
5 notice is received to respond to the alleged violation.

6 2. If the director [believes] **determines** that the utilization review agent has [violated the  
7 provisions of sections 374.500 to 374.515, or is not satisfied that the alleged violation has been  
8 corrected, he shall conduct a hearing on the alleged violation, in accordance with chapter 536,  
9 RSMo] **engaged, is engaging in, or has taken a substantial step toward engaging in an act,**  
10 **practice or course of business constituting a violation of sections 374.500 to 374.515 or a**  
11 **rule adopted or order issued pursuant thereto, or that a person has materially aided or is**  
12 **materially aiding an act, practice, omission, or course of business constituting a violation**  
13 **of sections 374.500 to 374.515 or a rule adopted or order issued pursuant thereto, the**  
14 **director may issue such administrative orders as authorized under section 374.046. A**  
15 **violation of any of these sections is a level two violation under section 374.049. The director**  
16 **may also suspend or revoke the license or certificate of authority of such person for any**  
17 **willful violation.**

18 3. [If, after such hearing, the director determines that the utilization review agent has  
19 engaged in violations of sections 374.500 to 374.515, he shall reduce his findings to writing and  
20 shall issue and cause to be served upon the utilization review agent a copy of such findings and  
21 an order requiring the utilization review agent to cease and desist from engaging in such  
22 violations. The director may also, at his discretion, order:

23 (1) Payment of a monetary penalty of not more than ten thousand dollars for a violation  
24 which occurred if the utilization review agent consciously disregarded sections 374.500 to  
25 374.515 or which occurred with such frequency as to indicate a general business practice; or

26 (2) Suspension or revocation of the authority to do business in this state as a utilization  
27 review agent if the utilization review agent knew that it was in violation of sections 374.500 to  
28 374.515] **If the director believes that a person has engaged, is engaging in, or has taken a**

29 **substantial step toward engaging in an act, practice or course of business constituting a**  
30 **violation of sections 374.500 to 374.515 or a rule adopted or order issued pursuant thereto,**  
31 **or that a person has materially aided or is materially aiding an act, practice, omission, or**  
32 **course of business constituting a violation of sections 374.500 to 374.515 or a rule adopted**  
33 **or order issued pursuant thereto, the director may maintain a civil action for relief**  
34 **authorized under section 374.048. A violation of any of these sections is a level two**  
35 **violation under section 374.049.**

**374.707. Upon notice of a forfeiture from the court, the director shall notify any**  
2 **general bail bond agent who is listed as having a forfeited bond. Such attempt by the**  
3 **director to notify the general bail bond agent shall be made by facsimile or electronic mail**  
4 **within forty-eight hours of the forfeiture being listed with the department, excluding**  
5 **official holidays and weekends.**

374.710. 1. Except as otherwise provided in sections 374.695 to 374.775, no person or  
2 other entity shall practice as a bail bond agent or general bail bond agent, as defined in section  
3 374.700, in Missouri unless and until the department has issued to him or her a license, to be  
4 renewed every two years as hereinafter provided, to practice as a bail bond agent or general bail  
5 bond agent. **The department shall include the photograph of the bail bond agent or general**  
6 **bail bond agent on the license.**

7 2. An applicant for a bail bond and general bail bond agent license shall submit with the  
8 application proof that he or she has received twenty-four hours of initial basic training in areas  
9 of instruction in subjects determined by the director deemed appropriate to professionals in the  
10 bail bond profession. Bail bond agents and general bail bond agents who are licensed at the date  
11 which this act becomes law shall be exempt from such twenty-four hours of initial basic training.

12 3. In addition to the twenty-four hours of initial basic training to become a bail bond  
13 agent or general bail bond agent, there shall be eight hours of biennial continuing education for  
14 all bail bond agents and general bail bond agents to maintain their state license. The director  
15 shall determine said appropriate areas of instruction for said biennial continuing education. The  
16 director shall determine which institutions, organizations, associations, and individuals shall be  
17 eligible to provide the initial basic training and the biennial continuing education instruction.  
18 The department may allow state institutions, organizations, associations, or individuals to  
19 provide courses for the initial basic training and the biennial continuing education training. The  
20 cost shall not exceed two hundred dollars for the initial basic training and one hundred fifty  
21 dollars for biennial continuing education.

22 4. Upon completion of said basic training or biennial continuing education and the  
23 licensee meeting the other requirements as provided under sections 374.695 to 374.789, the

24 director shall issue a two-year license for the bail bond agent or general bail bond agent for a fee  
25 not to exceed one hundred fifty dollars.

26 **5. A licensee shall provide the name, address, and telephone number of each**  
27 **employer for which he or she works or operates under as an independent contractor to the**  
28 **department. A licensee shall have a continuing duty to provide notice to the department**  
29 **should this information change. It is unlawful for an agent to begin writing bond as an**  
30 **agent under a new appointment with a different general bail bond agent or insurance**  
31 **company unless such information with the department has been updated.**

32 **6. For any new appointment of a bail bond agent, the bail bond agent shall file an**  
33 **affidavit with the department and the appointing general bail bond agent stating that to**  
34 **their knowledge, there are no outstanding premiums owed at the time of their new**  
35 **appointment. If outstanding premiums are owed and the bail bond agent does not satisfy**  
36 **such premium obligations or portions thereof that said agent is liable for, the former**  
37 **general bail bond agent may file notice, along with supporting documents with the**  
38 **department, and provide such notice to the bail bond agent and the newly appointing**  
39 **general bail bond agent, stating under oath the fact that the bail bond agent has failed to**  
40 **satisfy their obligations. Upon receipt of such notification and supporting documents, the**  
41 **appointing general bail bond agent may immediately cancel the newly appointed bail bond**  
42 **authority of such agent. Such authority shall remain cancelled until all premiums said**  
43 **agent is liable for are paid.**

44 **7. Nothing in sections 374.695 to 374.775 shall be construed to prohibit any person from**  
45 **posting or otherwise providing a bail bond in connection with any legal proceeding, provided**  
46 **that such person receives no fee, remuneration or consideration therefor.**

374.715. 1. Applications for examination and licensure as a bail bond agent or general  
2 bail bond agent shall be in writing and on forms prescribed and furnished by the department, and  
3 shall contain such information as the department requires. Each application shall be  
4 accompanied by proof satisfactory to the department that the applicant is a citizen of the United  
5 States, is at least twenty-one years of age, has a high school diploma or general education  
6 development certificate (GED), is of good moral character, and meets the qualifications for  
7 surety on bail bonds as provided by supreme court rule. Each application shall be accompanied  
8 by the examination [and] , application fee set by the department, **the results of a fingerprinting**  
9 **performed and submitted in a manner approved by the highway patrol in accordance with**  
10 **section 43.543, RSMo, and the results of a criminal history record information check**  
11 **processed by the highway patrol under sections 43.500 to 43.543, RSMo.** Individuals  
12 currently employed as bail bond agents and general bail bond agents shall not be required to meet  
13 the education requirements needed for licensure pursuant to this section.

14           2. In addition, each applicant for licensure as a general bail bond agent shall furnish  
 15 proof satisfactory to the department that the applicant or, if the applicant is a corporation[,]  
 16 **writing surety on behalf of an insurance company** that each officer thereof, has completed at  
 17 least two years as a bail bond agent, and that the applicant possesses liquid assets of at least [ten]  
 18 **twenty** thousand dollars, along with a duly executed assignment of [ten] **twenty** thousand dollars  
 19 to the state of Missouri. The assignment shall become effective upon the applicant's violating  
 20 any provision of sections 374.695 to 374.789. The assignment required by this section shall be  
 21 in the form and executed in the manner prescribed by the department. The director may require  
 22 by regulation conditions by which additional assignments of assets of the general bail bond agent  
 23 may occur when the circumstances of the business of the general bail bond agent warrants  
 24 additional funds. However, such additional funds shall not exceed [twenty-five] **forty** thousand  
 25 dollars.

374.755. 1. The [department] **director** may [cause a complaint to be filed with the  
 2 administrative hearing commission as provided by chapter 621, RSMo, against any holder of any  
 3 license required by sections 374.695 to 374.775] **suspend, revoke, refuse to issue, refuse to**  
 4 **renew, censure, or limit a license authorized under sections 374.695 to 374.775**, or **bar** any  
 5 person who has failed to renew or has surrendered his or her license for any [one or any  
 6 combination] of the following causes:

7           (1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic  
 8 beverage to an extent that such use impairs a person's ability to perform the work of the  
 9 profession licensed under sections 374.695 to 374.775;

10           (2) [Final adjudication or a plea of] **Has, within the past fifteen years, been found**  
 11 **guilty or pleaded** guilty or nolo contendere [within the past fifteen years in a criminal  
 12 prosecution under any state or federal law for a] **to any** felony or [a] **any** crime involving moral  
 13 turpitude **under any state or federal law** whether or not a sentence is imposed[, prior to  
 14 issuance of license date];

15           (3) **Has been found guilty of or pleaded guilty or nolo contendere to any dangerous**  
 16 **felony, as defined by section 556.061, RSMo, any felony crime of assault, any felony crime**  
 17 **that results in the serious physical injury or death of another person, any felony crime**  
 18 **against the administration of justice, or any felony of which deceit or fraud is an element**  
 19 **of the offense, under any state or federal law, whether or not a sentence is imposed;**

20           (4) Use of fraud, deception, misrepresentation or bribery in securing any license or in  
 21 obtaining permission to take any examination required pursuant to sections 374.695 to 374.775;

22           [(4)] (5) Obtaining or attempting to obtain any compensation as a member of the  
 23 profession licensed by sections 374.695 to [374.775] **374.789** by means of fraud, deception or  
 24 misrepresentation;

25 [(5)] (6) Misappropriation of the premium, collateral, or other things of value given to  
26 a bail bond agent or a general bail bond agent for the taking of bail, [incompetency]  
27 **incompetence**, misconduct, gross negligence, fraud, or misrepresentation in the performance of  
28 the functions or duties of the profession licensed or regulated by sections 374.695 to 374.775;

29 [(6)] (7) Violation of any provision of or any obligation imposed by the laws of this  
30 state, department [of insurance] rules and regulations, or aiding or abetting other persons to  
31 violate such laws, orders, rules or regulations, or subpoenas;

32 [(7)] (8) Transferring a license or permitting another person to use a license of the  
33 licensee;

34 [(8)] (9) Disciplinary action against the holder of a license or other right to practice the  
35 profession regulated by sections 374.695 to 374.789 granted by another state, territory, federal  
36 agency or country upon grounds for which revocation or suspension is authorized in this state;

37 [(9)] (10) Being finally adjudged insane or incompetent by a court of competent  
38 jurisdiction;

39 [(10)] (11) Assisting or enabling any person to practice or offer to practice the  
40 profession licensed or regulated by sections 374.695 to 374.789 who is not currently licensed and  
41 eligible to practice pursuant to sections 374.695 to 374.789;

42 [(11)] (12) Acting in the capacity of an attorney at a trial or hearing of a person for  
43 whom the attorney is acting as surety;

44 [(12)] (13) Failing to provide a copy of the bail contract, [renumbered] **prenumbered**  
45 written receipt for acceptance of money, or other [collateral] **items of value for payment on the**  
46 **bond** for the taking of bail to the principal, [if requested by] **or** any person who is a party to the  
47 bail contract, or any person providing funds or collateral for bail on the principal's behalf; **or**

48 **(14) Failing to meet any of the qualifications for surety on bail bonds as provided**  
49 **by supreme court rule.**

50 2. **If an action is initiated to suspend or revoke a license** after the filing of [such] a  
51 complaint **under section 374.051**, the proceedings shall be conducted in accordance with the  
52 provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that  
53 one or more of the causes stated in subsection 1 of this section have been met, the director may  
54 suspend or revoke the license or enter into an agreement for a [monetary or other penalty  
55 pursuant to section 374.280] **consent order under section 374.280.**

56 3. In lieu of filing a complaint at the administrative hearing commission **for suspension**  
57 **or revocation, after a hearing before the director, the director may order other authorized**  
58 **discipline, or** the director and the bail bond agent or general bail bond agent may enter into an  
59 agreement for a [monetary or other penalty pursuant to section 374.280] **consent order under**  
60 **section 374.780.**

61 4. [In addition to any other remedies available, the director may issue a cease and desist  
62 order or may seek an injunction in a court of competent jurisdiction pursuant to the provisions  
63 of section 374.046 whenever it appears that any person is acting as a bail bond agent or general  
64 bail bond agent without a license or violating any other provisions of sections 374.695 to  
65 374.789] **Any bail bond agent or general bail bond agent who has his or her license revoked**  
66 **by the director shall immediately return such license to the department.**

**374.761. 1. A duly licensed bail bond agent in good standing with the department**  
2 **shall be qualified to write bail on behalf of a general bail bond agent in every municipal**  
3 **or circuit court in this state in which the general bail bond agent who employs the agent**  
4 **or directs the agent as an independent contractor is duly licensed and qualified to write**  
5 **bail as provided by supreme court rule.**

6 **2. It is unlawful for a bail bond agent writing on behalf of an individual general**  
7 **bail bond agent to fail to clearly disclose to the court, to the defendant and in the bond, the**  
8 **actual legal name of the individual general bail bond agent on behalf of whom the agent**  
9 **is acting.**

**374.773. Any licensed general bail bond agent or bail bond agent who is arrested**  
2 **for a felony shall notify the director within ten days of his or her arrest.**

**374.780. 1. If the director determines that a person has engaged, is engaging in, or**  
2 **has taken a substantial step toward engaging in an act, practice or course of business**  
3 **constituting a violation of sections 374.695 to 374.789 or a rule adopted or order issued**  
4 **pursuant thereto, or that a person has materially aided or is materially aiding an act,**  
5 **practice, omission, or course of business constituting a violation of sections 374.695 to**  
6 **374.789 or a rule adopted or order issued pursuant thereto, the director may issue such**  
7 **administrative orders as authorized under section 374.046. A violation of any of these**  
8 **sections is a level one violation under section 374.049, except a violation of section**  
9 **374.761(b) is a level two violation.**

10 **2. If the director believes that a person has engaged, is engaging in, or has taken**  
11 **a substantial step toward engaging in an act, practice or course of business constituting a**  
12 **violation of sections 374.695 to 374.789 or a rule adopted or order issued pursuant thereto,**  
13 **or that a person has materially aided or is materially aiding an act, practice, omission, or**  
14 **course of business constituting a violation of sections 374.695 to 374.789 or a rule adopted**  
15 **or order issued pursuant thereto, the director may maintain a civil action for relief**  
16 **authorized under section 374.048. A violation of any of these sections is a level one**  
17 **violation under section 374.049, except a violation of section 374.761(b) is a level two**  
18 **violation.**

374.787. 1. The director may [cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any] **suspend, revoke, refuse to issue, refuse to renew, censure or limit a surety recovery agent license authorized under sections 374.783 to 374.789, or bar** any person who has failed to renew or has surrendered his or her license, for any [one or any combination] of the following causes:

(1) Violation of any provisions of, or any obligations imposed by, the laws of this state, the department [of insurance] rules and regulations, or aiding or abetting other persons to violate such laws, orders, rules, or regulations;

(2) [Final adjudication or a plea of] **Has been found guilty of or pleaded** guilty or nolo contendere [in a criminal prosecution] **to any felony or any crime involving moral turpitude** under state or federal law [for a felony or a crime involving moral turpitude,] whether or not a sentence is imposed;

(3) Using fraud, deception, misrepresentation, or bribery in securing a license or in obtaining permission to take any examination required by sections 374.783 to 374.789;

(4) Obtaining or attempting to obtain any compensation as a surety recovery agent by means of fraud, deception, or misrepresentation;

(5) Acting as a surety recovery agent or aiding or abetting another in acting as a surety recovery agent without a license;

(6) Incompetence, misconduct, gross negligence, fraud, or misrepresentation in the performance of the functions or duties of a surety recovery agent;

(7) Having a license revoked or suspended that was issued by another state.

2. **If an action is initiated to suspend or revoke a license**, after the filing of [the] a complaint **under section 374.051**, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that one or more of the causes stated in subsection 1 of this section have been met, the director may suspend or revoke the license or enter into an agreement for a [monetary or other penalty pursuant to section 374.280] **consent order under section 374.780**.

3. In lieu of filing a complaint with the administrative hearing commission **for suspension or revocation, after hearing before the director, the director may order other authorized discipline**, or the director and the surety recovery agent may enter into an agreement for a [monetary or other penalty pursuant to section 374.280] **consent order under section 374.780 or after hearing order any other authorized discipline**.

[4. In addition to any other remedies available, the director may issue a cease and desist order or may seek an injunction in a court of law pursuant to section 374.046 whenever it appears that any person is acting as a surety recovery agent without a license.]

374.789. 1. [A person is guilty of a class D felony if he or she does not hold a valid] **It is unlawful for any person to engage in any of the following acts unless the person is licensed by the director as a surety recovery agent [license or] , a bail bond [license and commits any of the following acts] agent, or a general bail bond agent:**

- (1) Holds himself or herself out to be a licensed surety recovery agent within this state;
- (2) Claims that he or she can render surety recovery agent services; or
- (3) Engages in fugitive recovery in this state.

**2. If the director determines that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting violation of this section or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, the director may issue such administrative orders as authorized under section 374.046. A violation of any of these sections is a level three violation under section 374.049.**

**3. If the director believes that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, the director may maintain a civil action for relief authorized under section 374.048. A violation of any of these sections is a level three violation under section 374.049.**

**4. Any person who knowingly engages in any act, practice, omission, or course of business in violation of this section is guilty of a class D felony. If the offender holds a license or certificate of authority under the insurance laws of this state, the court imposing sentence shall order the director to revoke such license or certificate of authority.**

**5. The director may refer such evidence as is available concerning violations of this chapter to the proper prosecuting attorney, who with or without a criminal reference, or the attorney general under section 27.030, RSMo, may institute the appropriate criminal proceedings.**

**6. Nothing in this section shall limit the power of the state to punish any person for any conduct that constitutes a crime under any other state statute.**

**7. Any person who engages in fugitive recovery in this state and wrongfully causes damage to any person or property, including, but not limited to, unlawful apprehension, unlawful detainment, or assault, shall be liable for such damages and may be liable for punitive damages.**

**375.012. 1. Sections 375.012 to 375.146 may be cited as the "Insurance Producers Act".**

3           **2.** As used in sections 375.012 to 375.158, the following words mean:

4           (1) "Business entity", a corporation, association, partnership, limited liability company,  
5 limited liability partnership or other legal entity;

6           (2) "Director", the director of the department of insurance, **financial and professional**  
7 **regulation**;

8           (3) "Home state", the District of Columbia and any state or territory of the United States  
9 in which the insurance producer maintains his or her principal place of residence or principal  
10 place of business and is licensed to act as an insurance producer;

11           (4) "Insurance", any line of authority, including life, accident and health or sickness,  
12 property, casualty, variable life and variable annuity products, personal, credit and any other line  
13 of authority permitted by state law or regulation;

14           (5) "Insurance company" or "insurer", any person, reciprocal exchange, interinsurer,  
15 Lloyds insurer, fraternal benefit society, and any other legal entity engaged in the business of  
16 insurance, including health services corporations, health maintenance organizations, prepaid  
17 limited health care service plans, dental, optometric and other similar health service plans, unless  
18 their exclusion from this definition can be clearly ascertained from the context of the particular  
19 statutory section under consideration. Insurer shall also include all companies organized,  
20 incorporated or doing business pursuant to the provisions of chapters 375, 376, 377, 378, 379,  
21 381 and 384, RSMo. Trusteed pension plans and profit-sharing plans qualified pursuant to the  
22 United States Internal Revenue Code as now or hereafter amended shall not be considered to be  
23 insurance companies or insurers within the definition of this section;

24           (6) "Insurance producer" or "producer", a person required to be licensed pursuant to the  
25 laws of this state to sell, solicit or negotiate insurance;

26           (7) "License", a document issued by the director authorizing a person to act as an  
27 insurance producer for the lines of authority specified in the document. The license itself shall  
28 not create any authority, actual, apparent or inherent, in the holder to represent or commit an  
29 insurance company;

30           (8) "Limited line credit insurance", credit life, credit disability, credit property, credit  
31 unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage  
32 disability, guaranteed automobile protection (GAP) insurance, and any other form of insurance  
33 offered in connection with an extension of credit that is limited to partially or wholly  
34 extinguishing that credit obligation that the director determines should be designated a form of  
35 limited line credit insurance;

36           (9) "Limited line credit insurance producer", a person who sells, solicits or negotiates  
37 one or more forms of limited line credit insurance coverage through a master, corporate, group  
38 or individual policy;

39 (10) "Limited lines insurance", insurance involved in credit transactions, insurance  
40 contracts issued primarily for covering the risk of travel or any other line of insurance that the  
41 director deems necessary to recognize for the purposes of complying with subsection 5 of section  
42 375.017;

43 (11) "Limited lines producer", a person authorized by the director to sell, solicit or  
44 negotiate limited lines insurance;

45 (12) "Negotiate", the act of conferring directly with or offering advice directly to a  
46 purchaser or prospective purchaser of a particular contract of insurance concerning any of the  
47 substantive benefits, terms or conditions of the contract, provided that the person engaged in that  
48 act either sells insurance or obtains insurance from insurers for purchasers;

49 (13) "Person", an individual or any business entity;

50 (14) "Personal lines insurance", property and casualty insurance coverage sold to  
51 individuals and families for primarily noncommercial purposes;

52 (15) "Sell", to exchange a contract of insurance by any means, for money or its  
53 equivalent, on behalf of an insurance company;

54 (16) "Solicit", attempting to sell insurance or asking or urging a person to apply for a  
55 particular kind of insurance from a particular company;

56 (17) "Terminate", the cancellation of the relationship between an insurance producer and  
57 the insurer or the termination of the authority of the producer to transact the business of  
58 insurance;

59 (18) "Uniform business entity application", the current version of the National  
60 Association of Insurance Commissioners uniform business entity application for resident and  
61 nonresident business entities seeking an insurance producer license;

62 (19) "Uniform application", the current version of the National Association of Insurance  
63 Commissioners uniform application for resident and nonresident producer licensing.

64 [2.] 3. All statutory references to "insurance agent" or "insurance broker" shall mean  
65 "insurance producer", as that term is defined pursuant to subsection 1 of this section.

375.020. 1. Beginning January 1, [1990] **2008**, each insurance producer, unless exempt  
2 pursuant to section 375.016, licensed to sell insurance in this state shall successfully complete  
3 courses of study as required by this section. Any person licensed to act as an insurance producer  
4 shall, during each two years, attend courses or programs of instruction or attend seminars  
5 equivalent to a minimum of [ten] **sixteen** hours of instruction [for a life or accident and health  
6 license or both a life and an accident and health license and a minimum ten hours of instruction  
7 for a property or casualty license or both a property and a casualty license. Sixteen hours of  
8 training will suffice for those with a life, health, accident, property and casualty license]. Of the  
9 sixteen hours' training required [above] **in this subsection**, the hours need not be divided equally

10 **among the lines of authority in which the producer has qualified.** The courses or programs  
11 **attended by the producer during each two-year period** shall include instruction on Missouri  
12 **law, products offered in any line of authority in which the producer is qualified, producers'**  
13 **duties and obligations to the department, and business ethics, including sales suitability.**  
14 Course credit shall be given to members of the general assembly as determined by the  
15 department.

16 2. Subject to approval by the director, the courses or programs of instruction which shall  
17 be deemed to meet the director's standards for continuing educational requirements shall include,  
18 but not be limited to, the following:

- 19 (1) American College Courses (CLU, ChFC);
- 20 (2) Life Underwriters Training Council (LUTC);
- 21 (3) Certified Insurance Counselor (CIC);
- 22 (4) Chartered Property and Casualty Underwriter (CPCU);
- 23 (5) Insurance Institute of America (IIA);
- 24 (6) **Any other professional financial designation approved by the director by rule;**
- 25 (7) An insurance-related course taught by an accredited college or university or qualified  
26 instructor who has taught a course of insurance law at such institution;

27 [(7)] (8) A course or program of instruction or seminar developed or sponsored by any  
28 authorized insurer, recognized producer association or insurance trade association. A local  
29 producer group may also be approved if the instructor receives no compensation for services.

30 3. A person teaching any approved course of instruction or lecturing at any approved  
31 seminar shall qualify for the same number of classroom hours as would be granted to a person  
32 taking and successfully completing such course, seminar or program.

33 4. Excess [classroom] hours accumulated during any two-year period may be carried  
34 forward to the two-year period immediately following the two-year period in which the course,  
35 program or seminar was held.

36 5. For good cause shown, the director may grant an extension of time during which the  
37 educational requirements imposed by this section may be completed, but such extension of time  
38 shall not exceed the period of one calendar year. The director may grant an individual waiver  
39 of the mandatory continuing education requirement upon a showing by the licensee that it is not  
40 feasible for the licensee to satisfy the requirements prior to the renewal date. Waivers may be  
41 granted for reasons including, but not limited to:

- 42 (1) Serious physical injury or illness;
- 43 (2) Active duty in the armed services for an extended period of time;
- 44 (3) Residence outside the United States; or
- 45 (4) The licensee is at least seventy years of age.

46           6. Every person subject to the provisions of this section shall furnish in a form  
47 satisfactory to the director, written certification as to the courses, programs or seminars of  
48 instruction taken and successfully completed by such person. Every provider of continuing  
49 education courses authorized in this state shall, within thirty working days of a licensed producer  
50 completing its approved course, provide certification to the director of the completion in a format  
51 prescribed by the director.

52           7. The provisions of this section shall not apply to those natural persons holding licenses  
53 for any kind or kinds of insurance for which an examination is not required by the law of this  
54 state, nor shall they apply to any limited lines insurance producer license or restricted license as  
55 the director may exempt.

56           8. The provisions of this section shall not apply to a life insurance producer who is  
57 limited by the terms of a written agreement with the insurer to transact only specific life  
58 insurance policies having an initial face amount of five thousand dollars or less, or annuities  
59 having an initial face amount of ten thousand dollars or less, that are designated by the purchaser  
60 for the payment of funeral or burial expenses. The director may require the insurer entering into  
61 the written agreements with the insurance producers pursuant to this subsection to certify as to  
62 the representations of the insurance producers.

63           9. Rules and regulations necessary to implement and administer this section shall be  
64 promulgated by the director, including, but not limited to, rules and regulations regarding the  
65 following:

66           (1) Course content and hour credits: The insurance advisory board established by section  
67 375.019 shall be utilized by the director to assist him in determining acceptable content of  
68 courses, programs and seminars to include classroom equivalency;

69           (2) Filing fees for course approval: Every applicant seeking approval by the director of  
70 a continuing education course under this section shall pay to the director a filing fee of fifty  
71 dollars per course. Fees shall be waived for state and local insurance producer groups. Such fee  
72 shall accompany any application form required by the director. Courses shall be approved for  
73 a period of no more than one year. Applicants holding courses intended to be offered for a  
74 longer period must reapply for approval. Courses approved by the director prior to August 28,  
75 1993, for which continuous certification is sought should be resubmitted for approval sixty days  
76 before the anniversary date of the previous approval.

77           10. All funds received pursuant to the provisions of this section shall be transmitted by  
78 the director to the department of revenue for deposit in the state treasury to the credit of the  
79 [department of] insurance dedicated fund. All expenditures necessitated by this section shall be  
80 paid from funds appropriated from the [department of] insurance dedicated fund by the  
81 legislature.

375.143. In order to effectuate and aid in the interpretation of section 375.141, the  
2 director, under section 374.045, RSMo, may adopt rules and regulations codifying  
3 professional standards of producer competency and trustworthiness in the handling of  
4 applications, premium funds, conflicts of interest, record-keeping, supervision of others,  
5 and customer suitability.

375.145. 1. If the director determines that a person has engaged, is engaging in, or  
2 has taken a substantial step toward engaging in an act, practice or course of business  
3 constituting a violation of sections 375.012 to 375.144 or a rule adopted or order issued  
4 pursuant thereto, or that a person has materially aided or is materially aiding an act,  
5 practice, omission, or course of business constituting a violation of sections 375.012 to  
6 375.144, or a rule adopted or order issued pursuant thereto, the director may issue such  
7 administrative orders as authorized under section 374.046, RSMo. A violation of sections  
8 375.012 to 375.142 is a level two violation under section 374.049, RSMo. A violation of  
9 section 375.144 is a level four violation under 374.049, RSMo.

2. If the director believes that a person has engaged, is engaging in, or has taken  
11 a substantial step toward engaging in an act, practice or course of business constituting a  
12 violation of this section or a rule adopted or order issued pursuant thereto, or that a person  
13 has materially aided or is materially aiding an act, practice, omission, or course of business  
14 constituting a violation of this section or a rule adopted or order issued pursuant thereto,  
15 the director may maintain a civil action for relief authorized under section 374.048, RSMo.  
16 A violation of any of sections 375.012 to 375.142 is a level two violation under section  
17 374.049, RSMo. A violation of section 375.144 is a level four violation under 374.049,  
18 RSMo.

375.152. 1. [If the director finds after a hearing conducted in accordance with chapter  
2 536, RSMo, that any person has violated the provisions of sections 375.147 to 375.153, the  
3 director may order:

4 (1) For each separate violation, imposition of an administrative penalty in an amount of  
5 five hundred dollars. All moneys collected as a result of imposition of such penalties shall be  
6 transferred to the state treasurer for deposit to general revenue of the state;

7 (2) Revocation or suspension of the producer's license, provided that such action may  
8 be taken only after compliance with chapter 621, RSMo;

9 (3) If the director determines that a person has engaged, is engaging in, or has  
10 taken a substantial step toward engaging in an act, practice or course of business  
11 constituting a violation of sections 375.147 to 375.153 or a rule adopted or order issued  
12 pursuant thereto, or that a person has materially aided or is materially aiding an act,  
13 practice, omission, or course of business constituting a violation of sections 375.147 to

14 **375.153 or a rule adopted or order issued pursuant thereto, the director may issue such**  
15 **administrative orders as authorized under section 374.046, RSMo. A violation of any of**  
16 **these sections is a level two violation under section 374.049, RSMo.**

17 **2. If the director believes that a person has engaged, is engaging in, or has taken**  
18 **a substantial step toward engaging in an act, practice or course of business constituting a**  
19 **violation of sections 375.147 to 375.153 or a rule adopted or order issued pursuant thereto,**  
20 **or that a person has materially aided or is materially aiding an act, practice, omission, or**  
21 **course of business constituting a violation of sections 375.147 to 375.153 or a rule adopted**  
22 **or order issued pursuant thereto, the director may maintain a civil action for relief**  
23 **authorized under section 374.048, RSMo. A violation under any of these sections is a level**  
24 **two violation under section 374.049, RSMo. In addition to the relief available in this**  
25 **section, the director may also order** the managing general agent to reimburse the insurer, the  
26 rehabilitator or liquidator of the insurer, for any losses incurred by the insurer caused by a  
27 violation of sections 375.147 to 375.153 committed by the managing general agent.

28 [2. The decision, determination or order of the director made pursuant to subsection 1  
29 of this section shall be subject to judicial review pursuant to sections 536.100 to 536.140,  
30 RSMo.]

31 3. Nothing contained in this section shall affect the right of the director to impose any  
32 other penalties provided for in the insurance law.

33 4. Nothing contained in sections 375.147 to 375.153 is intended to or shall in any  
34 manner limit or restrict the rights of policyholders, claimants and creditors.

375.236. Other provisions of law notwithstanding, the director may suspend or revoke,  
2 after a hearing, the certificate of authority or license of any insurance company including a  
3 reciprocal or interinsurance exchange for the same reasons and upon the same grounds as set  
4 forth in section [375.560] **374.047, RSMo.**

375.306. 1. It [shall not be lawful] **is unlawful** for any person to act within this state as  
2 agent, **producer**, or otherwise, in receiving or procuring applications for insurance, or in any  
3 manner to aid in transacting the business referred to in [sections 375.010 to 375.920] **this**  
4 **chapter** for any company or association doing business in this state, unless the company is  
5 possessed of the amount of capital and of actual paid-up capital, or of premium notes, cash  
6 premiums or guarantee fund, of the kind, character and amounts required of companies organized  
7 under the provisions of [sections 375.010 to 375.920] **this chapter.**

8 2. The guarantee fund of companies other than those of this state shall be deposited with  
9 the proper officer of the state or country under the laws of which the company is organized, or  
10 with the director [of the insurance department of this state], in the manner provided by section

11 379.050, RSMo, in regard to the making of such deposit by companies organized under [sections  
12 375.010 to 375.920] **this chapter.**

13 3. Whenever any insurance company doing business in this state advertises its assets,  
14 either in any newspaper or periodical, or by any sign, circular, card, policy of insurance or  
15 certificate of renewal thereof, it shall, in the same connection, equally conspicuously advertise  
16 its liabilities, and the amount of its assets available for fire and life losses separately, the same  
17 to be determined in the manner required in making statement to the [insurance] department, and  
18 all advertisements purporting to show the amount of capital of the company shall show only the  
19 amount of capital actually paid up in cash.

20 4. [Any insurance company or agent thereof violating the provisions of this section shall  
21 be liable to a fine of not less than fifty dollars nor more than five hundred dollars] **If the director  
22 determines that a person has engaged, is engaging in, or has taken a substantial step  
23 toward engaging in an act, practice or course of business constituting a violation of this  
24 section or a rule adopted or order issued pursuant thereto, or that a person has materially  
25 aided or is materially aiding an act, practice, omission, or course of business constituting  
26 a violation of this section or a rule adopted or order issued pursuant thereto, the director  
27 may issue such administrative orders as authorized under section 374.046, RSMo. A  
28 violation of this section is a level two violation under section 374.049, RSMo.**

29 5. **If the director believes that a person has engaged, is engaging in, or has taken  
30 a substantial step toward engaging in an act, practice or course of business constituting a  
31 violation of this section or a rule adopted or order issued pursuant thereto, or that a person  
32 has materially aided or is materially aiding an act, practice, omission, or course of business  
33 constituting a violation of this section or a rule adopted or order issued pursuant thereto,  
34 the director may maintain a civil action for relief authorized under section 374.048, RSMo.  
35 A violation of this section is a level two violation under section 374.049, RSMo.**

375.310. 1. **It is unlawful for any person, association of individuals, [and] or any  
2 corporation [transacting] to transact in this state any insurance business[, without being] unless  
3 the person, association, or corporation is duly authorized by the director [of the insurance  
4 department of this state so to do, or after the authority so to do has been suspended, revoked, or  
5 has expired, shall be subject to suit by the director who may institute proceedings in the circuit  
6 court of the county or city in which said company was organized, or in which it has, or last had,  
7 its principal or chief office or place of business, or in the county of Cole, to enjoin said company  
8 from the further transaction of its business, either temporarily or perpetually, and for such other  
9 decrees and relief as the court shall deem advisable; or said association of individuals or  
10 corporation shall be liable to a penalty of two hundred and fifty dollars for each offense, which  
11 penalty may be recovered by ordinary civil action in the name of the state, and shall, when**

12 recovered, become part of the school fund, as by law provided for other fines and penalties; suit  
13 for said penalty may be brought by the attorney general, the director of the insurance department,  
14 or any county, circuit or prosecuting attorney, in either the city or county in which the policy was  
15 delivered, or in which the money was paid to any agent of such association or corporation, or in  
16 which the receipt was delivered, or in any county or city in which an attorney for service or any  
17 agent of said association or corporation may be found; and if the plaintiff recover, an attorney  
18 fee to be allowed by the court for each cause of action upon which recovery is had shall be taxed  
19 as and added to the costs; service shall be made of process in any such action, either as in other  
20 civil actions or as provided in sections 375.010 to 375.920 for service on insurance companies]  
21 **under a certificate of authority or appropriate licensure, or is an insurance company**  
22 **exempt from certification under section 375.786.**

23 **2. If the director determines that a person has engaged, is engaging in, or has taken**  
24 **a substantial step toward engaging in an act, practice or course of business constituting a**  
25 **violation of this section or a rule adopted or order issued pursuant thereto, or that a person**  
26 **has materially aided or is materially aiding an act, practice, omission, or course of business**  
27 **constituting a violation of this section or a rule adopted or order issued pursuant thereto,**  
28 **the director may issue such administrative orders as authorized under section 374.046,**  
29 **RSMo. A violation of this section is a level four violation under section 374.049, RSMo.**

30 **3. If the director believes that a person has engaged, is engaging in, or has taken**  
31 **a substantial step toward engaging in an act, practice or course of business constituting a**  
32 **violation of this section or a rule adopted or order issued pursuant thereto, or that a person**  
33 **has materially aided or is materially aiding an act, practice, omission, or course of business**  
34 **constituting a violation of this section or a rule adopted or order issued pursuant thereto,**  
35 **the director may maintain a civil action for relief authorized under section 374.048, RSMo.**  
36 **A violation of this section is a level four violation under section 374.049, RSMo.**

37 **4. Any person who knowingly engages in any act, practice, omission, or course of**  
38 **business in violation of this section is guilty of a class D felony.**

39 **5. The director may refer such evidence as is available concerning violations of this**  
40 **chapter to the proper prosecuting attorney, who with or without a criminal reference, or**  
41 **the attorney general under section 27.030, RSMo, may institute the appropriate criminal**  
42 **proceedings.**

43 **6. Nothing in this section shall limit the power of the state to punish any person for**  
44 **any conduct that constitutes a crime under any other state statute.**

375.445. 1. [When upon investigation the director finds that] **It is unlawful for any**  
2 **insurance company transacting business [in] under the laws of this state [has conducted] to:**  
3 **(1) Conduct its business fraudulently[, is not carrying] ;**

4           **(2) Fail to carry** out its contracts in good faith[, or is] ; **or**

5           **(3)** Habitually and as a matter of business practice compelling claimants under policies  
6 or liability judgment creditors of the insured to either accept less than the amount due under the  
7 terms of the policy or resort to litigation against the company to secure payment of the amount  
8 due[, and that a proceeding in respect thereto would be in the interest of the public, he shall issue  
9 and serve upon the company a statement of the charges in that respect and a notice of a hearing  
10 thereon].

11           2. [If after the hearing the director shall determine that the company has fraudulently  
12 conducted its business as defined in this section, he shall order the company to cease and desist  
13 from the fraudulent practice and may suspend the company's certificate of authority for a period  
14 not to exceed thirty days and may in addition order a forfeiture to the state of Missouri of a sum  
15 not to exceed one thousand dollars, which forfeiture may be recovered by a civil action brought  
16 by and in the name of the director of insurance. The civil action may be brought in the circuit  
17 court of Cole County or, at the option of the director of insurance, in another county which has  
18 venue of an action against the person, partnership or corporation under other provisions of law]  
19 **If the director determines that a person has engaged, is engaging in, or has taken a**  
20 **substantial step toward engaging in an act, practice or course of business constituting a**  
21 **violation of this section or a rule adopted or order issued pursuant thereto, or that a person**  
22 **has materially aided or is materially aiding an act, practice, omission, or course of business**  
23 **constituting a violation of this section or a rule adopted or order issued pursuant thereto,**  
24 **the director may issue such administrative orders as authorized under section 374.046,**  
25 **RSMo. Each practice in violation of this section is a level two violation under section**  
26 **374.049, RSMo. Each act as a part of a practice does not constitute a separate violation**  
27 **under section 374.049, RSMo. The director [of insurance] may also suspend or revoke the**  
28 **license [of an insurer or agent] or certificate of authority of such person for any [such] willful**  
29 **violation.**

30           **3. If the director believes that a person has engaged, is engaging in, or has taken**  
31 **a substantial step toward engaging in an act, practice or course of business constituting a**  
32 **violation of this section or a rule adopted or order issued pursuant thereto, or that a person**  
33 **has materially aided or is materially aiding an act, practice, omission, or course of business**  
34 **constituting a violation of this section or a rule adopted or order issued pursuant thereto,**  
35 **the director may maintain a civil action for relief authorized under section 374.048, RSMo.**  
36 **Each practice violation of this section is a level two violation under section 374.049, RSMo.**  
37 **Each act as part of a practice does not constitute a separate violation under section 374.049,**  
38 **RSMo.**

375.720. 1. Whenever, by chapter 375, or by any other law of this state, the director is authorized or required to take possession of any of the general assets of any insurer, **it is unlawful for** any person or company [who shall] **to** knowingly neglect or refuse to deliver to the director, on [his] order or demand **of the director**, any books, papers, evidences of title or debt, or any property belonging to any such insurer in its, his or their possession, or under his, its or their control[, shall be guilty of a class C felony].

2. **If the director determines that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, the director may issue such administrative orders as authorized under section 374.046, RSMo. A violation of this section is a level three violation under section 374.049, RSMo. The director may also suspend or revoke the license or certificate of authority of such person for any willful violation.**

3. **If the director believes that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, the director may maintain a civil action for relief authorized under section 374.048, RSMo. A violation of this section is a level three violation under section 374.049, RSMo.**

4. **Any person who knowingly engages in any act, practice, omission, or course of business in violation of this section is guilty of a class C felony. If the offender holds a license or certificate of authority under the insurance laws of this state, the court imposing sentence shall order the director to revoke such license.**

5. **The director may refer such evidence as is available concerning violations of this section to the proper prosecuting attorney, who with or without a criminal reference, or the attorney general under section 27.030, RSMo, may institute the appropriate criminal proceedings.**

6. **Nothing in this section shall limit the power of the state to punish any person for any conduct that constitutes a crime under any other state statute.**

375.777. 1. The director shall:

(1) Notify the association of the existence of an insolvent insurer not later than three days after he receives notice of the determination of the insolvency;

4 (2) Upon request of the board of directors, provide the association with a statement of  
5 the net direct written premiums of each member insurer; and

6 (3) Notify the agents of the insolvent insurer of the determination of insolvency and of  
7 the insureds' rights under sections 375.771 to 375.779. Such notification shall be by first class  
8 mail at their last known address, where available, but if sufficient information for notification  
9 by mail is not available, notice by publication in a newspaper of general circulation shall be  
10 sufficient.

11 2. The director may[:

12 (1)] require each agent of the insolvent insurer to give prompt written notice, by first  
13 class mail, at the insured's last known address, to each insured of the insolvent insurer for whom  
14 he was agent of record, provided the agent has received the notification of subsection 1 of this  
15 section[; and

16 (2) Suspend or revoke, after notice and hearing, the certificate of authority to transact  
17 insurance in this state of] .

18 **3. It is unlawful for any member insurer [which fails] to fail to pay an assessment when**  
19 **due or [fails] fail to comply with the plan of operation. [As an alternative, the director may levy**  
20 **an administrative penalty on any member insurer which fails to pay an assessment when due.**  
21 **Such administrative penalty shall not exceed five percent of the unpaid assessment per month,**  
22 **except that no administrative penalty shall be less than one hundred dollars per month.**

23 3. Any final action or order of the director under this section shall be subject to judicial  
24 review in the circuit court of Cole County] **Every day in which the member insurer fails to**  
25 **pay is a separate violation.**

26 **4. If the director determines that a person has engaged, is engaging in, or has taken**  
27 **a substantial step toward engaging in an act, practice or course of business constituting a**  
28 **violation of this section or a rule adopted or order issued pursuant thereto, or that a person**  
29 **has materially aided or is materially aiding an act, practice, omission, or course of business**  
30 **constituting a violation of this section or a rule adopted or order issued pursuant thereto,**  
31 **the director may issue such administrative orders as authorized under section 374.046,**  
32 **RSMo. A violation of this section is a level two violation under section 374.049, RSMo.**  
33 **The director may also suspend or revoke the license or certificate of authority of such**  
34 **person for any willful violation.**

35 **5. If the director believes that a person has engaged, is engaging in, or has taken**  
36 **a substantial step toward engaging in an act, practice or course of business constituting a**  
37 **violation of this section or a rule adopted or order issued pursuant thereto, or that a person**  
38 **has materially aided or is materially aiding an act, practice, omission, or course of business**  
39 **constituting a violation of this section or a rule adopted or order issued pursuant thereto,**

40 **the director may maintain a civil action for relief authorized under section 374.048, RSMo.**  
41 **A violation of this section is a level two violation under section 374.049, RSMo.**

375.780. [Every violation of] **1. A person commits a crime if he or she willfully**  
2 **violates** any of the provisions of [sections 375.010 to 375.920] **this chapter. If** not otherwise  
3 specifically provided for [shall be deemed a misdemeanor, and shall subject the individual,  
4 association of individuals or corporation violating the same to a penalty of not less than fifty nor  
5 more than five hundred dollars for each offense; such penalty may be recovered and sued for  
6 against corporations or associations in the manner provided and by any of the officers designated  
7 in section 375.310, and against individuals by civil action, by information or by indictment, and  
8 an attorney's fee of twenty-five dollars shall be taxed as costs against the defendant, as in said  
9 section; all fines and penalties recovered under sections 375.010 to 375.920 shall be turned into  
10 the school fund, as provided by law for other fines and penalties] , **the crime is a class B**  
11 **misdemeanor.**

12 **2. The director may refer such evidence as is available concerning violations of this**  
13 **section to the proper prosecuting attorney, who with or without a criminal reference, or**  
14 **the attorney general under section 27.030, RSMo, may institute the appropriate criminal**  
15 **proceedings.**

16 **3. Nothing in this section shall limit the power of the state to punish any person for**  
17 **any conduct that constitutes a crime under any other state statute.**

375.786. 1. It [shall be] **is** unlawful for any insurance company to transact insurance  
2 business in this state, as set forth in subsection 2, without a certificate of authority from the  
3 director; provided, however, that this section shall not apply to:

- 4 (1) The lawful transaction of insurance as provided in chapter 384, RSMo;
- 5 (2) The lawful transaction of reinsurance by insurance companies;
- 6 (3) Transactions in this state involving a policy lawfully solicited, written and delivered  
7 outside of this state covering only subjects of insurance not resident, located or expressly to be  
8 performed in this state at the time of issuance, and which transactions are subsequent to the  
9 issuance of such policy;
- 10 (4) Attorneys acting in the ordinary relation of attorney and client in the adjustment of  
11 claims or losses;
- 12 (5) Transactions in this state involving group life and group sickness and accident or  
13 blanket sickness and accident insurance or group annuities where the master policy of such  
14 groups was lawfully issued and delivered in and pursuant to the laws of a state in which the  
15 insurance company was authorized to do an insurance business, to a group organized for  
16 purposes other than the procurement of insurance, and where the policyholder is domiciled or  
17 otherwise has a bona fide situs;

18 (6) Transactions in this state involving any policy of insurance or annuity contract issued  
19 prior to August 13, 1972;

20 (7) Transactions in this state relative to a policy issued or to be issued outside this state  
21 involving insurance on vessels, craft or hulls, cargoes, marine builder's risk, marine protection  
22 and indemnity or other risk, including strikes and war risks commonly insured under ocean or  
23 wet marine forms of policy;

24 (8) Except as provided in chapter 384, RSMo, transactions in this state involving  
25 contracts of insurance issued to one or more industrial insureds; provided that nothing herein  
26 shall relieve an industrial insured from taxation imposed upon independently procured insurance.  
27 An "industrial insured" is hereby defined as an insured:

28 (a) Which procures the insurance of any risk or risks other than life, health and annuity  
29 contracts by use of the services of a full-time employee acting as an insurance manager or buyer  
30 or the services of [a regularly and continuously retained qualified insurance consultant] **an**  
31 **insurance producer whose services are wholly compensated by such insured and not by the**  
32 **insurer;**

33 (b) Whose aggregate annual premiums for insurance excluding workers' compensation  
34 insurance premiums total at least [twenty-five] **one hundred** thousand dollars; and

35 (c) Which has at least twenty-five full-time employees;

36 (9) Transactions in this state involving life insurance, health insurance or annuities  
37 provided to educational or religious or charitable institutions organized and operated without  
38 profit to any private shareholder or individual for the benefit of such institutions and individuals  
39 engaged in the service of such institutions, provided that any company issuing such contracts  
40 under this paragraph shall:

41 (a) File a copy of any policy or contract issued to Missouri residents with the director;

42 (b) File a copy of its annual statement prepared pursuant to the laws of its state of  
43 domicile, as well as such other financial material as may be requested, with the director; and

44 (c) Provide, in such form as may be acceptable to the director, for the appointment of the  
45 director as its true and lawful attorney upon whom may be served all lawful process in any action  
46 or proceeding against such company arising out of any policy or contract it has issued to, or  
47 which is currently held by, a Missouri citizen, and process so served against such company shall  
48 have the same form and validity as if served upon the company;

49 (10) Transactions in this state involving accident, health, personal effects, liability or any  
50 other travel or auto-related products or coverages provided or sold by a rental company after  
51 January 1, 1994, to a renter in connection with and incidental to the rental of motor vehicles.

52 2. Any of the following acts in this state effected by mail or otherwise by or on behalf  
53 of an unauthorized insurance company is deemed to constitute the transaction of an insurance

54 business in this state: (The venue of an act committed by mail is at the point where the matter  
55 transmitted by mail is delivered and takes effect. Unless otherwise indicated, the term "insurance  
56 company" as used in sections 375.786 to 375.790 includes all corporations, associations,  
57 partnerships and individuals engaged as principals in the business of insurance and also includes  
58 interinsurance exchanges and mutual benefit societies.)

59 (1) The making of or proposing to make an insurance contract;

60 (2) The making of or proposing to make, as guarantor or surety, any contract of guaranty  
61 or suretyship as a vocation and not merely incidental to any other legitimate business or activity  
62 of the guarantor or surety;

63 (3) The taking or receiving of any application for insurance;

64 (4) The receiving or collection of any premium, commission, membership fees,  
65 assessments, dues or other consideration for any insurance or any part thereof;

66 (5) The issuance or delivery of contracts of insurance to residents of this state or to  
67 persons authorized to do business in this state;

68 (6) Directly or indirectly acting as an agent for or otherwise representing or aiding on  
69 behalf of another any person or insurance company in the solicitation, negotiation, procurement  
70 or effectuation of insurance or renewals thereof or in the dissemination of information as to  
71 coverage or rates, or forwarding of applications, or delivery of policies or contracts, or inspection  
72 of risks, a fixing of rates or investigation or adjustment of claims or losses or in the transaction  
73 of matters subsequent to effectuation of the contract and arising out of it, or in any other manner  
74 representing or assisting a person or insurance company in the transaction of insurance with  
75 respect to subjects of insurance resident, located or to be performed in this state. The provisions  
76 of this subsection shall not operate to prohibit full-time salaried employees of a corporate insured  
77 from acting in the capacity of an insurance manager or buyer in placing insurance in behalf of  
78 such employer;

79 (7) The transaction of any kind of insurance business specifically recognized as  
80 transacting an insurance business within the meaning of the statutes relating to insurance;

81 (8) The transacting or proposing to transact any insurance business in substance  
82 equivalent to any of the foregoing in a manner designed to evade the provisions of the statutes.

83 3. (1) The failure of an insurance company transacting insurance business in this state  
84 to obtain a certificate of authority shall not impair the validity of any act or contract of such  
85 insurance company and shall not prevent such insurance company from defending any action at  
86 law or suit in equity in any court of this state, but no insurance company transacting insurance  
87 business in this state without a certificate of authority shall be permitted to maintain an action  
88 in any court of this state to enforce any right, claim or demand arising out of the transaction of  
89 such business until such insurance company shall have obtained a certificate of authority.

90 (2) In the event of failure of any such unauthorized insurance company to pay any claim  
91 or loss within the provisions of such insurance contract, any person who assisted or in any  
92 manner aided directly or indirectly in the procurement of such insurance contract shall be liable  
93 to the insured for the full amount of the claim or loss in the manner provided by the provisions  
94 of such insurance contract.

95 **4. If the director determines that a person has engaged, is engaging in, or has taken**  
96 **a substantial step toward engaging in an act, practice or course of business constituting a**  
97 **violation of this section or a rule adopted or order issued pursuant thereto, or that a person**  
98 **has materially aided or is materially aiding an act, practice, omission, or course of business**  
99 **constituting a violation of this section or a rule adopted or order issued pursuant thereto,**  
100 **the director may issue such administrative orders as authorized under section 374.046,**  
101 **RSMo. A violation of this section is a level four violation under section 374.049, RSMo.**

102 **5. If the director believes that a person has engaged, is engaging in, or has taken**  
103 **a substantial step toward engaging in an act, practice or course of business constituting a**  
104 **violation of this section or a rule adopted or order issued pursuant thereto, or that a person**  
105 **has materially aided or is materially aiding an act, practice, omission, or course of business**  
106 **constituting a violation of this section or a rule adopted or order issued pursuant thereto,**  
107 **the director may maintain a civil action for relief authorized under section 374.048, RSMo.**  
108 **A violation of this section is a level four violation under section 374.049, RSMo.**

109 **6. Any person who transacts insurance business without a certificate of authority, as**  
110 **provided in this section, is guilty of a class C felony.**

111 **7. The director may refer such evidence as is available concerning violations of this**  
112 **chapter to the proper prosecuting attorney, who with or without a criminal reference, or**  
113 **the attorney general under section 27.030, RSMo, may institute the appropriate criminal**  
114 **proceedings.**

115 **8. Nothing in this section shall limit the power of the state to punish any person for**  
116 **any conduct that constitutes a crime in any other state statute.**

375.881. [1.] The director may revoke or suspend the certificate of authority of a foreign  
2 insurance company [or may by order require the insurance company to pay to the people of the  
3 state of Missouri a penalty in a sum not exceeding five hundred dollars and upon failure of the  
4 insurance company to pay the penalty within twenty days after the mailing of the order, postage  
5 prepaid, certified, and addressed to the last known place of business of the insurance company,  
6 unless the order is stayed by an order of a court of competent jurisdiction, the director of  
7 insurance may revoke or suspend the license of the insurance company for any period of time]  
8 **under section 374.047, RSMo, or issue such administrative orders as appropriate under**  
9 **section 374.046, RSMo, whenever he finds that the company**

- 10 (1) Is insolvent;
- 11 (2) Fails to comply with the requirements for admission in respect to capital, the  
12 investment of its assets or the maintenance of deposits in this or other state or fails to maintain  
13 the surplus which similar domestic companies transacting the same kinds of business are  
14 required to maintain;
- 15 (3) Is in such a financial condition that its further transaction of business in this state  
16 would be hazardous to policyholders and creditors in this state and to the public;
- 17 (4) Has refused or neglected to pay a valid final judgment against the company within  
18 thirty days after the rendition of the judgment;
- 19 (5) Has refused to submit to the jurisdiction of a court of this state upon the grounds of  
20 diversity of citizenship in a cause of action arising out of business transacted, acts done, or  
21 contracts made in this state by the foreign insurance company;
- 22 (6) Has violated any law of this state or has in this state violated its charter or exceeded  
23 its corporate powers;
- 24 (7) Has refused to submit its books, papers, accounts, records, or affairs to the reasonable  
25 inspection or examination of the director, his actuaries, deputies or examiners;
- 26 (8) Has an officer who has refused upon reasonable demand to be examined under oath  
27 touching its affairs;
- 28 (9) Fails to file its annual statement within thirty days after the date when it is required  
29 by law to file the statement;
- 30 (10) Fails to file with the director a copy of an amendment to its charter or articles of  
31 association within thirty days after the effective date of the amendment;
- 32 (11) Fails to file with the director copies of the agreement and certificate of merger and  
33 the financial statements of the merged companies, if required, within thirty days after the  
34 effective date of the merger;
- 35 (12) Fails to pay any fees, taxes or charges prescribed by the laws of this state within  
36 thirty days after they are due and payable; provided, however, that in case of objection or legal  
37 contest the company shall not be required to pay the tax until thirty days after final disposition  
38 of the objection or legal contest;
- 39 (13) Fails to file any report for the purpose of enabling the director to compute the taxes  
40 to be paid by the company within thirty days after the date when it is required by law to file the  
41 report;
- 42 (14) Has had its corporate existence dissolved or its certificate of authority revoked in  
43 the state or country in which it was organized;
- 44 (15) Has had all its risks reinsured in their entirety in another company; or
- 45 (16) Has ceased to transact the business of insurance in this state for a period of one year.

46 [2. The director shall not revoke or suspend the certificate of authority of a foreign  
47 insurance company until he has given the company at least twenty days' notice of the revocation  
48 or suspension and of the grounds therefor and has afforded the company an opportunity for a  
49 hearing.]

375.940. [1.] Whenever the director shall have reason to believe that any person or  
2 insurer has been engaged or is engaging in this state in any unfair method of competition or any  
3 unfair or deceptive act or practice **in violation of sections 375.930 to 375.948**, and that a  
4 proceeding by [him] **the director** in respect thereto would be to the interest of the public, [he]  
5 **the director** shall issue and serve upon such person or insurer a statement of the charges [in that  
6 respect and a notice of hearing thereon to be held at a time and place fixed in the notice which  
7 shall not be less than twenty days after the date of service thereof.

8 2. At the time and place fixed for such hearing, such person or insurer shall have an  
9 opportunity to be heard to show cause why an order should not be made by the director requiring  
10 such person or insurer to cease and desist from the acts, methods or practices so complained of.  
11 Upon good cause shown, the director shall permit any person to intervene, appear and be heard  
12 at such hearing by counsel or in person. Nothing herein shall preclude the informal disposition  
13 of any case by stipulation, consent order, or default, or by agreed settlement where such  
14 settlement is in conformity with law.

15 3. Nothing contained in sections 375.930 to 375.948 shall require the observance at any  
16 such hearing of formal rules of pleading or evidence.

17 4. Upon such hearing, the director shall have power to examine and cross-examine  
18 witnesses, receive oral and documentary evidence, administer oaths, subpoena witnesses and  
19 compel their attendance, and require the production of books, papers, records, correspondence  
20 and all other written instruments or documents which he deems relevant to the inquiry. The  
21 director, upon any such hearing, shall cause to be made a record of all the evidence and all the  
22 proceedings had at such hearing. In case of a refusal of any person to comply with any subpoena  
23 issued hereunder or to testify with respect to any matter concerning which he may be lawfully  
24 interrogated, the circuit court of Cole County or the county where such party resides, or may be  
25 found, on application of the director, may issue an order requiring such person to comply with  
26 such subpoena and to testify; and any failure to obey any such order of the court may be punished  
27 by the court as a contempt thereof.

28 5. Statements of charges, notices, orders, and other processes of the director under  
29 sections 375.930 to 375.948 may be served by anyone duly authorized by the director either in  
30 the manner provided by law for service of process in civil actions, or by registering or certifying  
31 and mailing a copy thereof to the person affected by such statement, notice, order, or other  
32 process at his or its residence or principal office or place of business. The verified return by the

33 person so serving such statement, notice, order or other process, setting forth the manner of such  
34 service, shall be proof of the same, and the return postcard receipt for such statement, notice,  
35 order or other process, registered and mailed as aforesaid, shall be proof of the service of the  
36 same] **under the procedures set forth in section 374.046, RSMo.**

375.942. 1. [If, after such hearing, the director determines that the person charged has  
2 engaged in an unfair method of competition or in an unfair or deceptive act or practice prohibited  
3 by section 375.934 or 375.937, he shall reduce his findings to writing and shall issue and cause  
4 to be served upon the person charged with the violation a copy of such findings and an order  
5 requiring such person to cease and desist from engaging in such method of competition, act or  
6 practice, and thereafter the director may, at his discretion, order one or more of the following:

7 (1) Payment of a monetary penalty of not more than one thousand dollars for each  
8 violation but not to exceed an aggregate penalty of one hundred thousand dollars in any  
9 twelve-month period unless the violation was committed flagrantly and in conscious disregard  
10 of section 375.934 or 375.937, in which case the penalty shall be not more than twenty-five  
11 thousand dollars for each violation but not to exceed an aggregate penalty of two hundred fifty  
12 thousand dollars in any twelve-month period;

13 (2) Suspension or revocation of the insurer's license if such insurer knew or reasonably  
14 should have known it was in violation of section 375.934 or 375.937.

15 2. Until the expiration of the time allowed under section 375.944 for filing a petition for  
16 judicial review, if no such petition has been duly filed within such time or, if a petition for  
17 review has been filed within such time, then until the transcript of the record in the proceeding  
18 has been filed in the circuit court of Cole County, the director may at any time, upon such notice  
19 and in such manner as he shall deem proper, modify or set aside in whole or in part any order  
20 issued by him under this section.

21 3. After the expiration of the time allowed for filing such a petition for review, if no such  
22 petition has been duly filed within such time, the director may at any time, after notice and  
23 opportunity for hearing, reopen and alter, modify or set aside, in whole or in part, any order  
24 issued by him under this section, whenever in his opinion conditions of fact or of law have so  
25 changed as to require such action or if the public interest shall so require.

26 4. Nothing contained in sections 375.930 to 375.948 shall be construed to prohibit the  
27 director and the person from agreeing to a voluntary forfeiture with or without proceedings being  
28 instituted. Any sum so agreed upon shall be paid into the school fund as provided by law for  
29 other fines and penalties] **If the director determines that an insurer has engaged, is engaging,  
30 or has taken a substantial step toward engaging in an act, practice, or course of business  
31 constituting a violation of sections 375.930 to 375.948 or a rule adopted or order issued  
32 pursuant thereto, or that a person has materially aided or is materially aiding a practice**

33 **constituting a violation of sections 375.930 to 375.948 or a rule adopted or order issued**  
34 **pursuant thereto, the director may issue such administrative orders as authorized under**  
35 **section 374.046, RSMo. Each practice in violation of section 375.934 is a level two violation**  
36 **under section 374.049, RSMo. Each act as part of a trade practice does not constitute a**  
37 **separate violation under section 374.049, RSMo. The director may also suspend or revoke**  
38 **the license or certificate of authority of an insurer for any willful violation.**

39 **2. If the director believes that an insurer has engaged, is engaging in, or has taken**  
40 **a substantial step toward engaging in an act, practice or course of business constituting a**  
41 **violation of sections 375.930 to 375.948 or a rule adopted or order issued pursuant thereto,**  
42 **or that a person has materially aided or is materially aiding an act, practice, omission, or**  
43 **course of business conduct constituting a violation of sections 375.930 to 375.948 or a rule**  
44 **adopted or order issued pursuant thereto, the director may maintain a civil action for relief**  
45 **authorized under section 374.048, RSMo. Each practice in violation of section 375.934 is**  
46 **a level two violation under section 374.049, RSMo. Each act as part of a trade practice**  
47 **does not constitute a separate violation under section 374.049, RSMo.**

375.946. [Any person who violates] **It is unlawful for any person to violate any**  
2 **provision of** a cease and desist order of the director under section 375.942[, while such order is  
3 in effect, may, after notice and hearing, and upon order of the director, be subject to either or  
4 both of the following:

5 (1) A monetary penalty of not more than twenty-five thousand dollars for each and every  
6 act or violation not to exceed an aggregate amount of two hundred fifty thousand dollars  
7 pursuant to any such hearing; or

8 (2) Suspension or revocation of such person's license or certificate of authority]. **The**  
9 **director may institute an action under sections 374.046 and 374.047, RSMo, as necessary**  
10 **to enforce any such order.**

375.994. 1. Department investigators shall have the power to serve subpoenas issued  
2 for the examination, investigation, and trial of all offenses determined by their investigations.

3 2. It is unlawful for any person to interfere, either by abetting or assisting such resistance  
4 or otherwise interfering, with department investigators in the duties imposed upon them by law  
5 or department rule.

6 3. Any moneys, or other property which is awarded to the department as costs of  
7 investigation, or as a fine, shall be credited to the [department of] insurance dedicated fund  
8 created by section 374.150, RSMo.

9 4. **If the director determines that a person has engaged, is engaging in, or has taken**  
10 **a substantial step toward engaging in an act, practice or course of business constituting a**  
11 **violation of section 375.991 or a rule adopted or order issued pursuant thereto, or that a**

12 **person has materially aided or is materially aiding an act, practice, omission, or course of**  
13 **business constituting a violation of section 375.991 or a rule adopted or order issued**  
14 **pursuant thereto, the director may issue such administrative orders as authorized under**  
15 **section 374.046, RSMo. A violation of any of these sections is a level two violation under**  
16 **section 374.049, RSMo. The director may also suspend or revoke the license or certificate**  
17 **of authority of such person for any willful violation.**

18 **5. If the director believes that a person has engaged, is engaging in, or has taken**  
19 **a substantial step toward engaging in an act, practice or course of business constituting a**  
20 **violation of section 375.991 or a rule adopted or order issued pursuant thereto, or that a**  
21 **person has materially aided or is materially aiding an act, practice, omission, or course of**  
22 **business constituting a violation of section 375.991 or a rule adopted or order issued**  
23 **pursuant thereto, the director may maintain a civil action for relief authorized under**  
24 **section 374.048, RSMo. A violation of any of these sections is a level two violation under**  
25 **section 374.049, RSMo.**

26 **6.** Nothing in this section shall be construed as prohibiting the department of insurance  
27 from regulating unfair or fraudulent trade practices as provided for in sections 375.930 to  
28 375.948.

29 [5. In the event] **7. If** the director determines that a person regulated under this chapter  
30 has conducted its business fraudulently with respect to sections 375.991 to 375.994, or has as a  
31 matter of business practice abused its rights under said sections, such conduct shall [be  
32 considered] **constitute** either an unfair trade practice under the provisions of sections 375.930  
33 to 375.948 or an unfair claims settlement practice under the provisions of sections 375.1000 to  
34 375.1018. [The director shall have the power and authority, pursuant to the unfair trade practices  
35 act and the unfair claims settlement practices act to subject such persons to the monetary penalty  
36 or suspend or revoke such person's license or certificate of authority, under such acts.]

375.1010. 1. [Whenever the director shall have reason to believe that any insurer has  
2 been engaged or is engaging in this state in any improper claims practice, and that a proceeding  
3 by him in respect thereto would be to the interest of the public, he shall issue and serve upon  
4 such person or insurer a statement of the charges in that respect and a notice of hearing thereon  
5 to be held at a time and place fixed in the notice which shall not be less than twenty days after  
6 the date of service thereof.

7 2. At the time and place fixed for such hearing, such insurer shall have an opportunity  
8 to be heard to show cause why an order should not be made by the director requiring such insurer  
9 to cease and desist from the acts, methods or practices so complained of. Upon good cause  
10 shown, the director shall permit any person to intervene, appear and be heard at such hearing by  
11 counsel or in person. Nothing in sections 375.1000 to 375.1018 shall preclude the informal

12 disposition of any case by stipulation, consent order, or default, or by agreed settlement where  
13 such settlement is in conformity with law.

14 3. Nothing contained in sections 375.1000 to 375.1018 shall require the observance at  
15 any such hearing of formal rules of pleading or evidence.

16 4. Upon such hearing, the director may examine and cross-examine witnesses, receive  
17 oral and documentary evidence, administer oaths, subpoena witnesses and compel their  
18 attendance, and require the production of books, papers, records, correspondence and all other  
19 written instruments or documents which he deems relevant to the inquiry. The director, upon  
20 any such hearing, shall cause to be made a record of all the evidence and all the proceedings had  
21 at such hearing. In case of a refusal of any person to comply with any subpoena issued hereunder  
22 or to testify with respect to any matter concerning which he may be lawfully interrogated, the  
23 circuit court of Cole County or the county where such party resides, or may be found, on  
24 application of the director, may issue an order requiring such person to comply with such  
25 subpoena and to testify; and any failure to obey any such order of the court may be punished by  
26 the court as a contempt thereof.

27 5. Statements of charges, notices, orders, and other processes of the director under  
28 sections 375.1000 to 375.1018 may be served by anyone duly authorized by the director either  
29 in the manner provided by law for service of process in civil actions, or by registering or  
30 certifying and mailing a copy thereof to the person affected by such statement, notice, order, or  
31 other process at his or its residence or principal office or place of business. The verified return  
32 by the person so serving such statement, notice, order or other process, setting forth the manner  
33 of such service, shall be proof of the same, and the return postcard receipt for such statement,  
34 notice, order or other process, registered and mailed as aforesaid, shall be proof of the service  
35 of the same] **If the director determines that a person has engaged, is engaging in, or has  
36 taken a substantial step toward engaging in an act, practice or course of business  
37 constituting a violation of sections 375.1000 to 375.1018 or a rule adopted or order issued  
38 pursuant thereto, or that a person has materially aided or is materially aiding an act,  
39 practice, omission, or course of business constituting a violation of sections 375.1000 to  
40 375.1018 or a rule adopted or order issued pursuant thereto, the director may issue such  
41 administrative orders as authorized under section 374.046, RSMo. Each practice in  
42 violation of section 375.1005 is a level two violation under section 374.049, RSMo. Each  
43 act as part of a claims settlement practice does not constitute a separate violation under  
44 section 374.049, RSMo. The director may also suspend or revoke the license or certificate  
45 of authority of an insurer for any willful violation.**

46 **2. If the director believes that an insurer has engaged, is engaging in, or has taken  
47 a substantial step toward engaging in an act, practice or course of business constituting a**

48 violation of sections 375.1000 to 375.1018 or a rule adopted or order issued pursuant  
49 thereto, or that a person has materially aided or is materially aiding an act, practice,  
50 omission, or course of business constituting a violation of sections 375.1000 to 375.1018 or  
51 a rule adopted or order issued pursuant thereto, the director may maintain a civil action  
52 for relief authorized under section 374.048, RSMo. Each practice in violation of section  
53 375.1005 is a level two violation under section 374.049, RSMo. Each act as part of a claims  
54 settlement practice does not constitute a separate violation under section 374.049, RSMo.

375.1014. 1. [Any person, including any person who has been permitted to intervene,  
2 who is aggrieved by a final order or decision of the director shall be entitled to judicial review  
3 thereof.

4 2. The court shall make and enter upon the pleadings evidence and proceedings set forth  
5 in the transcript a degree modifying, affirming or reversing the order of the director, in whole or  
6 in part. To the extent that the order of the director is affirmed, the court shall thereupon issue  
7 its own order commanding obedience to the terms of such order of the director. If either party  
8 shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction  
9 of the court that such additional evidence is material and that there were reasonable grounds for  
10 the failure to adduce such evidence in the proceeding before the director, the court may order  
11 such additional evidence to be taken before the director and to be adduced upon the hearing in  
12 such manner and upon such terms and conditions as the court may deem proper. The director  
13 may modify his findings of fact, or make new findings by reason of the additional evidence so  
14 taken, and he shall file such modified or new findings which are supported by evidence on the  
15 record and his recommendation, if any, for the modification or setting aside of his original order,  
16 with the return of such additional evidence.

17 3. An order issued by the director under section 375.1012 shall become final:

18 (1) Upon the expiration of the time allowed for filing a petition for review if no such  
19 petition has been duly filed within such time; except that the director may thereafter modify or  
20 set aside his order to the extent provided in subsection 2 of section 375.1012; or

21 (2) Upon the final decision of the court if the court directs that the order of the director  
22 be affirmed or the petition for review dismissed.

23 4.] **A final order issued by the director under sections 375.1000 to 375.1018 is**  
24 **subject to judicial review in accordance with the provisions of chapter 536, RSMo, in the**  
25 **circuit court of Cole County.**

26 2. No order of the director under section 375.942 or order of a court to enforce the same  
27 shall in any way relieve or absolve any person affected by such order from any liability under any  
28 other laws of this state.

375.1016. [Any person who violates] **It is unlawful for any person to violate any provision of** a cease and desist order of the director under section 375.1012, [while such order is in effect, may, after notice and hearing, and upon order of the director, be subject to either or both of the following:

(1) A monetary penalty of not more than twenty-five thousand dollars for each and every act or violation not to exceed an aggregate amount of two hundred fifty thousand dollars pursuant to any such hearing; or

(2) Suspension or revocation of such person's license or certificate of authority] **and the director may institute an action under sections 374.046 and 374.047, RSMo, as necessary to enforce any such order.**

375.1135. 1. [A reinsurance intermediary, insurer or reinsurer found by the director, after a hearing conducted in accordance with chapter 536, RSMo, to be in violation of any provisions of sections 375.1110 to 375.1140, shall:

(1) For each separate violation, pay a penalty in an amount not exceeding five thousand dollars;

(2) Be subject to revocation or suspension of its license; and

(3)] **If the director determines that a reinsurance intermediary, insurer, or reinsurer has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of sections 375.1110 to 375.1140 or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of sections 375.1110 to 375.1140 or a rule adopted or order issued pursuant thereto, the director may issue such administrative orders as authorized under section 374.046, RSMo. A violation of any of these sections is a level two violation under section 374.049, RSMo. The director may also suspend or revoke the license or certificate of authority of a reinsurance intermediary, insurer, or reinsurer for any willful violation.**

**2. If the director believes that a reinsurance intermediary, insurer, or reinsurer has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of sections 375.1110 to 375.1140 or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of sections 375.1110 to 375.1140 or a rule adopted or order issued pursuant thereto, the director may maintain a civil action for relief authorized under section 374.048, RSMo. A violation of any of these sections is a level two violation under section 374.049, RSMo.**

**3. In addition to any other relief authorized by sections 374.046 and 374.047, RSMo, if a violation was committed by the reinsurance intermediary, such reinsurance**

27 intermediary shall make restitution to the insurer, reinsurer, rehabilitator or liquidator of the  
28 insurer or reinsurer for the net losses incurred by the insurer or reinsurer attributable to such  
29 violation.

30 [2. The decision, determination or order of the director pursuant to subsection 1 of this  
31 section shall be subject to judicial review pursuant to sections 536.100 to 536.140, RSMo.

32 3. Nothing contained in this section shall affect the right of the director to impose any  
33 other penalties provided by law.]

34 4. Nothing contained in sections 375.1110 to 375.1140 is intended to or shall in any  
35 manner limit or restrict the rights of policyholders, claimants, creditors or other third parties or  
36 confer any rights to such persons.

375.1156. 1. Any officer, manager, director, trustee, owner, employee or agent of any  
2 insurer, or any other persons with authority over or in charge of any segment of the insurer's  
3 affairs, shall cooperate with the director or any receiver in any proceeding under sections  
4 375.1150 to 375.1246 or any investigation preliminary to the proceeding. The term "person" as  
5 used in this section, shall include any person who exercises control directly or indirectly over  
6 activities of the insurer through any holding company or other affiliate of the insurer. "To  
7 cooperate" shall include, but shall not be limited to, the following:

8 (a) To reply promptly in writing to any inquiry from the director requesting such a reply;  
9 and

10 (b) To make available to the director any books, accounts, documents, or other records  
11 or information or property of or pertaining to the insurer and in its possession, custody or control.

12 2. [No person shall] **It is unlawful for any person included in subsection 1 of this**  
13 **section to** obstruct or interfere with the director in the conduct of any delinquency proceeding  
14 or any investigation preliminary or incidental thereto.

15 3. This section shall not be construed to abridge otherwise existing legal rights, including  
16 the right to resist a petition for liquidation or other delinquency proceedings, or other orders.

17 4. [Any person included within subsection 1 of this section who fails to cooperate with  
18 the director, or any person who knowingly obstructs or interferes with the director in the conduct  
19 of any delinquency proceeding or any investigation preliminary or incidental thereto, or who  
20 knowingly violates any order the director issued validly under sections 375.1150 to 375.1246  
21 shall be guilty of a class A misdemeanor, and, in addition thereto, after a hearing, shall be subject  
22 to the imposition by the director of an administrative penalty not to exceed ten thousand dollars  
23 for each occurrence or violation and shall be subject further to the revocation or suspension of  
24 any insurance licenses issued by the director. Moneys collected pursuant to the imposition of  
25 such administrative penalties shall be transferred to the state treasurer and deposited to the  
26 general revenue fund.

27           5.] In any proceeding under sections 375.1150 to 375.1246, the director and his deputies  
28 shall be responsible on their official bonds for the faithful performance of their duties. If the  
29 court deems it desirable for the protection of the assets, it may at any time require an additional  
30 bond from the director or his deputies, and such bonds shall be paid for out of the assets of the  
31 insurer as a cost of administration.

375.1160. 1. As used in this section:

- 2           (1) "Exceeded its powers" means one or more of the following conditions:
- 3           (a) The insurer has refused to permit examination of its books, papers, accounts, records  
4 or affairs by the director, his deputy, employees or duly commissioned examiners;
- 5           (b) A domestic insurer has unlawfully removed from this state or is unable to produce  
6 books, papers, accounts or records necessary for an examination of the insurer;
- 7           (c) The insurer has failed to promptly comply with the applicable financial reporting  
8 statutes or rules and requests relating thereto;
- 9           (d) The insurer has neglected or refused to observe an order of the director to make good,  
10 within the time prescribed by law, any prohibited deficiency in its capital, capital stock or  
11 surplus;
- 12           (e) The insurer is continuing to transact insurance or write business after its license has  
13 been revoked or suspended by the director;
- 14           (f) The insurer, by contract or otherwise, has unlawfully or has in violation of an order  
15 of the director or has without first having obtained written approval of the director if approval  
16 is required by law:
- 17           a. Totally reinsured its entire outstanding business, or  
18           b. Merged or consolidated substantially its entire property or business with another  
19 insurer;
- 20           (g) The insurer engaged in any transaction in which it is not authorized to engage under  
21 the laws of this state;
- 22           (h) A domestic insurer has committed or engaged in, or is about to commit or engage in,  
23 any act, practice or transaction that would subject it to delinquency proceedings under sections  
24 375.1150 to 375.1246; or
- 25           (i) The insurer refused to comply with a lawful order of the director;
- 26           (2) "Consent" means agreement to administrative supervision by the insurer.
- 27           2. (1) An insurer may be subject to administrative supervision by the director if upon  
28 examination or at any other time it appears in the director's discretion that:
- 29           (a) The insurer's condition renders the continuance of its business hazardous to the public  
30 or to its insureds;

31 (b) The insurer exceeded its powers granted under its certificate of authority and  
32 applicable law;

33 (c) The insurer has failed to comply with the laws of this state relating to insurance;

34 (d) The business of the insurer is being conducted fraudulently; or

35 (e) The insurer gives its consent.

36 (2) If the director determines that the conditions set forth in subdivision (1) of this  
37 subsection exist, the director shall:

38 (a) Notify in writing the insurer of his determination;

39 (b) Furnish to the insurer a written list of his requirements to rescind his determination;  
40 and

41 (c) Notify the insurer that it is under the supervision of the director and that the director  
42 is applying and effectuating the provisions of this section.

43 (3) The notice of supervision under this subsection and any order issued pursuant to this  
44 section shall be served upon the insurer in writing by registered mail. The notice of supervision  
45 shall state the conduct, condition or ground upon which the director bases his order.

46 (4) If placed under administrative supervision, the insurer shall have sixty days, or  
47 another period of time as designated by the director, to comply with the requirements of the  
48 director subject to the provisions of this section. In the event of such insurer's failure to comply  
49 with such time periods, the director may institute proceedings under section 375.1165 or  
50 375.1175 to have a rehabilitator or liquidator appointed, or to extend the period of supervision.

51 (5) If it is determined that none of the conditions giving rise to the supervision exist, the  
52 director shall release the insurer from supervision.

53 3. (1) Except as set forth in this subsection, all proceedings, hearings, notices, orders,  
54 correspondence, reports, records and other information in the possession of the director or the  
55 department [of insurance] relating to the supervision of any insurer are confidential except as  
56 provided by this section.

57 (2) Personnel of the department [of insurance] shall have access to these proceedings,  
58 hearings, notices, orders, correspondence, reports, records or information as permitted by the  
59 director.

60 (3) The director may open the proceedings or hearings or disclose the notices, orders,  
61 correspondence, reports, records or information to a department, agency or instrumentality of this  
62 or another state or the United States if the director determines that the disclosure is necessary or  
63 proper for the enforcement of the laws of this or another state of the United States.

64 (4) The director may open the proceedings or hearings or make public the notices, orders,  
65 correspondence, reports, records or other information if the director deems that it is in the best

66 interest of the public or in the best interest of the insurer, its insureds, creditors or the general  
67 public.

68 (5) This subsection does not apply to hearings, notices, correspondence, reports, records  
69 or other information obtained upon the appointment of a receiver for the insurer by a court of  
70 competent jurisdiction.

71 4. During the period of supervision, the director or his designated appointee shall serve  
72 as the administrative supervisor. The director may provide that the insurer shall not do any of  
73 the following things during the period of supervision, without the prior approval of the director  
74 or the appointed supervisor:

75 (1) Dispose of, convey or encumber any of its assets or its business in force;

76 (2) Withdraw any of its bank accounts;

77 (3) Lend any of its funds;

78 (4) Invest any of its funds;

79 (5) Transfer any of its property;

80 (6) Incur any debt, obligation or liability;

81 (7) Merge or consolidate with another company;

82 (8) Approve new premiums or renew any policies;

83 (9) Enter into any new reinsurance contract or treaty;

84 (10) Terminate, surrender, forfeit, convert or lapse any insurance policy, certificate or  
85 contract, except for nonpayment of premiums due;

86 (11) Write any new or renewal business;

87 (12) Release, pay or refund premium deposits, accrued cash or loan values, unearned  
88 premiums, or other reserves on any insurance policy, certificate or contract;

89 (13) Make any material change in management; or

90 (14) Increase salaries and benefits of officers or directors or the preferential payment of  
91 bonuses, dividends or other payments deemed preferential.

92 5. Any insurer subject to a supervision order under this section may seek review pursuant  
93 to section 536.150, RSMo, of that order within thirty days of the entry of the order of  
94 supervision. Such a request for a hearing shall not stay the effect of the order.

95 6. During the period of supervision the insurer may contest an action taken or proposed  
96 to be taken by the administrative supervisor specifying the manner in which the action being  
97 complained of would not result in improving the condition of the insurer. An insurer may  
98 request review pursuant to section 536.150, RSMo, of written denial of the insurer's request to  
99 reconsider pursuant to this subsection.

100 7. If any person has violated any supervision order issued under this section which as to  
101 him was still in effect, the director may [impose an administrative penalty in an amount not to

102 exceed ten thousand dollars for each violation. Moneys collected pursuant to the imposition of  
103 such penalties shall be transferred to the state treasurer and deposited to the general revenue  
104 fund.

105 8. The director or administrative supervisor may apply for, and any court of general  
106 jurisdiction may grant, such restraining orders, preliminary and permanent injunctions, and other  
107 orders as may be deemed necessary and proper to enforce a supervision order.

108 9.] **initiate an action under section 375.1161.**

109 8. In the event that any person, subject to the provisions of sections 375.1150 to  
110 375.1246, including those persons described in subsection 1 of section 375.1156, shall  
111 knowingly violate any valid order of the director issued under the provisions of this section and,  
112 as a result of such violation, the net worth of the insurer shall be reduced or the insurer shall  
113 suffer loss it would not otherwise have suffered, said person shall become personally liable to  
114 the insurer for the amount of any such reduction or loss. The director or administrative  
115 supervisor is authorized **under subsection 1 of section 375.1161** to bring an action on behalf  
116 of the insurer in any court of competent jurisdiction to recover the amount of reduction or loss  
117 together with any costs.

118 [10.] 9. Nothing contained in sections 375.1150 to 375.1246 shall preclude the director  
119 from initiating judicial proceedings to place an insurer in conservation, rehabilitation or  
120 liquidation proceedings or other delinquency proceedings, however designated under the laws  
121 of this state, regardless of whether the director has previously initiated administrative supervision  
122 proceedings under this section against the insurer.

123 [11.] 10. The director may adopt reasonable rules necessary for the implementation of  
124 this section.

125 [12.] 11. Notwithstanding any other provision of law, the director may meet with an  
126 administrative supervisor appointed under this section and with the attorney or other  
127 representative of the administrative supervisor, without the presence of any other person, at the  
128 time of any proceeding or during the pendency of any proceeding held under authority of this  
129 section to carry out his duties under this section or for the administrative supervisor to carry out  
130 his duties under this section.

131 [13.] 12. There shall be no liability on the part of, and no cause of action of any nature  
132 shall arise against, the director or the department of insurance or its employees or agents for any  
133 action taken by them in the performance of their powers and duties under this section.

**375.1161. 1. If the director determines that a person has engaged, is engaging in,  
2 or has taken a substantial step toward engaging in an act, practice or course of business  
3 constituting a violation of sections 375.1150 to 375.1246 or a rule adopted or order issued  
4 pursuant thereto, or that a person has materially aided or is materially aiding an act,**

5 **practice, omission, or course of business constituting a violation of sections 375.1150 to**  
6 **375.1246 or a rule adopted or order issued pursuant thereto, the director may issue such**  
7 **administrative orders as authorized under section 374.046, RSMo. A violation of any of**  
8 **these sections is a level four violation under section 374.049, RSMo. The director may also**  
9 **suspend or revoke the license or certificate of authority of such person for any willful**  
10 **violation.**

11 **2. If the director believes that a person has engaged, is engaging in, or has taken**  
12 **a substantial step toward engaging in an act, practice or course of business constituting a**  
13 **violation of sections 375.1150 to 375.1246 or a rule adopted or order issued pursuant**  
14 **thereto, or that a person has materially aided or is materially aiding an act, practice,**  
15 **omission, or course of business constituting a violation of sections 375.1150 to 375.1246 or**  
16 **a rule adopted or order issued pursuant thereto, the director may maintain a civil action**  
17 **for relief authorized under section 374.048, RSMo. A violation of any of these sections is**  
18 **a level four violation under section 374.049, RSMo.**

375.1204. 1. [An agent, broker,] **A producer**, premium finance company, or any other  
2 person, other than the insured, responsible for the payment of a premium, shall be obligated to  
3 pay any unpaid earned premium due the insurer at the time of the declaration of insolvency as  
4 shown on the records of the insurer. The liquidator shall also have the right to recover from such  
5 person any part of an unearned premium that represents commission of such person. Credits or  
6 setoffs or both shall not be allowed to [an agent, broker,] **a producer** or premium finance  
7 company for any amounts advanced to the insurer by the [agent, broker,] **producer** or premium  
8 finance company on behalf of, but in the absence of a payment by the insured. An insured shall  
9 be obligated to pay any unpaid earned premium due the insurer at the time of the declaration of  
10 insolvency, as shown on the records of the insurer.

11 2. [Upon satisfactory evidence of a violation of this section, the director may pursue  
12 either one or both of the following courses of action:

13 (1) Suspend or revoke or refuse to renew any licenses issued by the department of  
14 insurance to such offending party or parties;

15 (2) Impose an administrative penalty of not more than one thousand dollars for each and  
16 every act in violation of this section by said party or parties. All amounts collected as a result of  
17 imposition of such administrative penalties shall be paid to the state treasurer for deposit to the  
18 general revenue fund.

19 3. Before the director shall take any action as set forth in subsection 2 of this section, he  
20 shall give written notice to the person, company, association or exchange accused of violating  
21 the law, stating specifically the nature of the alleged violation and fixing a time and place, at  
22 least ten days thereafter, when a hearing on the matter shall be held. After such hearing, or upon

23 failure of the accused to appear at such hearing, the director, if he shall find such violation, shall  
24 impose such of the penalties under subsection 2 of this section as he deems advisable.

25 4. When the director shall take any action provided by subsection 2 of this section, the  
26 party aggrieved may appeal said action to the court within thirty days of the director's decision]

27 **If the director determines that a person has engaged, is engaging in, or has taken a**  
28 **substantial step toward engaging in an act, practice or course of business constituting a**  
29 **violation of this section or a rule adopted or order issued pursuant thereto, or that a person**  
30 **has materially aided or is materially aiding an act, practice, omission, or course of business**  
31 **constituting a violation of this section or a rule adopted or order issued pursuant thereto,**  
32 **the director may issue such administrative orders as authorized under section 374.046,**  
33 **RSMo. A violation of this section is a level one violation under section 374.049, RSMo.**  
34 **The director may also suspend, revoke, or refuse to renew any license issued by the**  
35 **director to any offending person for any willful violation.**

36 3. **If the director believes that a person has engaged, is engaging in, or has taken**  
37 **a substantial step toward engaging in an act, practice or course of business constituting a**  
38 **violation of this section or a rule adopted or order issued pursuant thereto, or that a person**  
39 **has materially aided or is materially aiding an act, practice, omission, or course of business**  
40 **constituting a violation of this section or a rule adopted or order issued pursuant thereto,**  
41 **the director may maintain a civil action for relief authorized under section 374.048, RSMo.**  
42 **A violation of this section is a level one violation under section 374.049, RSMo.**

375.1306. 1. An employer shall not use any genetic information or genetic test results,  
2 as those terms are defined in subdivisions (3) and (4) of section 375.1300, of an employee or  
3 prospective employee to distinguish between, discriminate against, or restrict any right or benefit  
4 otherwise due or available to such employee or prospective employee. The requirements of this  
5 section shall not prohibit:

6 (1) Underwriting in connection with individual or group life, disability income or  
7 long-term care insurance;

8 (2) Any action required or permissible by law or regulation;

9 (3) Action taken with the written permission of an employee or prospective employee  
10 or such person's authorized representative; or

11 (4) The use of genetic information when such information is directly related to a person's  
12 ability to perform assigned job responsibilities.

13 2. [Any person who violates the provisions of this section shall be fined not more than  
14 five hundred dollars for each violation of this section] **If the director determines that a person**  
15 **has engaged, is engaging in, or has taken a substantial step toward engaging in an act,**  
16 **practice or course of business constituting a violation of this section or a rule adopted or**

17 order issued pursuant thereto, or that a person has materially aided or is materially aiding  
18 an act, practice, omission, or course of business constituting a violation of this section or  
19 a rule adopted or order issued pursuant thereto, the director may issue such administrative  
20 orders as authorized under section 374.046, RSMo. A violation of any of these sections is  
21 a level two violation under section 374.049, RSMo.

22 **3. If the director believes that a person has engaged, is engaging in, or has taken**  
23 **a substantial step toward engaging in an act, practice or course of business constituting a**  
24 **violation of this section or a rule adopted or order issued pursuant thereto, or that a person**  
25 **has materially aided or is materially aiding an act, practice, omission, or course of business**  
26 **constituting a violation of this section or a rule adopted or order issued pursuant thereto,**  
27 **the director may maintain a civil action for relief authorized under section 374.048, RSMo.**  
28 **A violation of any of these sections is a level two violation under section 374.049, RSMo.**

375.1309. 1. Any person who, in the ordinary course of business, practice of a  
2 profession or rendering of a service, creates, stores, receives or furnishes genetic information,  
3 as such term is defined in subdivision (3) of section 375.1300, shall hold such information as  
4 confidential medical records and shall not disclose such genetic information except pursuant to  
5 written authorization of the person to whom such information pertains or to that person's  
6 authorized representative. The requirements of this section shall not apply to:

- 7 (1) Statistical data compiled without reference to the identity of an individual;
- 8 (2) Health research conducted in accordance with the provisions of the federal common  
9 rule protecting the rights and welfare of research participants (45 CFR 46 and 21 CFR 50 and  
10 56), or to health research using medical archives or databases in which the identity of individuals  
11 is protected from disclosure by coding or encryption, or by removing all identities;
- 12 (3) The release of such information pursuant to legal or regulatory process; or
- 13 (4) The release of such information for body identification.

14 2. [Any person who violates the provisions of this section shall be fined not more than  
15 five hundred dollars] **If the director determines that a person has engaged, is engaging in,**  
16 **or has taken a substantial step toward engaging in an act, practice or course of business**  
17 **constituting a violation of this section or a rule adopted or order issued pursuant thereto,**  
18 **or that a person has materially aided or is materially aiding an act, practice, omission, or**  
19 **course of business constituting a violation of this section or a rule adopted or order issued**  
20 **pursuant thereto, the director may issue such administrative orders as authorized under**  
21 **section 374.046, RSMo. A violation of any of these sections is a level two violation under**  
22 **section 374.049, RSMo.**

23 **3. If the director believes that a person has engaged, is engaging in, or has taken**  
24 **a substantial step toward engaging in an act, practice or course of business constituting a**

25 **violation of this section or a rule adopted or order issued pursuant thereto, or that a person**  
26 **has materially aided or is materially aiding an act, practice, omission, or course of business**  
27 **constituting a violation of this section or a rule adopted or order issued pursuant thereto,**  
28 **the director may maintain a civil action for relief authorized under section 374.048, RSMo.**  
29 **A violation of any of these sections is a level two violation under section 374.049, RSMo.**

376.309. 1. As used in this section, "separate account" means an account established by  
2 an insurance company, into which any amounts paid to or held by such company under  
3 applicable contracts are credited and the assets of which, subject to the provisions of this section,  
4 may be invested in such investments as shall be authorized by a resolution adopted by such  
5 company's board of directors. The income, if any, and gains and losses, realized or unrealized,  
6 on such account shall be credited to or charged against the amounts allocated to such account  
7 without regard to other income, gains or losses of the company. If and to the extent so provided  
8 under the applicable contracts, that portion of the assets of any such separate account equal to  
9 the reserves and other contract liabilities with respect to such account shall not be chargeable  
10 with liabilities arising out of any other business the company may conduct.

11 2. Any domestic life insurance company may, after adoption of a resolution by its board  
12 of directors, establish one or more separate accounts, and may allocate to such account or  
13 accounts any amounts paid to or held by it which are to be applied under the terms of an  
14 individual or group contract to provide benefits payable in fixed or in variable dollar amounts  
15 or in both.

16 3. To the extent it deems necessary to comply with any applicable federal or state act,  
17 the company may, with respect to any separate account or any portion thereof, provide for the  
18 benefit of persons having beneficial interests therein special voting and other rights and special  
19 procedures for the conduct of the business and affairs of such separate account or portion thereof,  
20 including, without limitation, special rights and procedures relating to investment policy,  
21 investment advisory services, selection of public accountants, and selection of a committee, the  
22 members of which need not be otherwise affiliated with the company, to manage the business  
23 and affairs of such separate account or portion thereof; and the corporate charter of such  
24 company shall be deemed amended to authorize the company to do so. The provisions of this  
25 section shall not affect existing laws pertaining to the voting rights of such company's  
26 policyholders.

27 4. The amounts allocated to any separate account and the accumulations thereon may be  
28 invested and reinvested without regard to any requirements or limitations prescribed by the laws  
29 of this state governing the investments of life insurance companies, and the investments in such  
30 separate account or accounts shall not be taken into account in applying the investment  
31 limitations, including but not limited to quantitative restrictions, otherwise applicable to the

32 investments of the company, except that to the extent that the company's reserve liability with  
33 regard to benefits guaranteed as to principal amount and duration, and funds guaranteed as to  
34 principal amount or stated rate of interest, is maintained in any separate account, a portion of the  
35 assets of such separate account at least equal to such reserve liability shall be, except as the  
36 director [of insurance] might otherwise approve, invested in accordance with the laws of this  
37 state governing the general investment account of any company. As used herein, the expression  
38 "general investment account" shall mean all of the funds, assets and investments of the company  
39 which are not allocated in a separate account. The provisions of section 376.170 relating to  
40 deposits for registered policies shall not be applicable to funds and investments allocated to  
41 separate accounts. No investment in the separate account or in the general investment account  
42 of a life insurance company shall be transferred by sale, exchange, substitution or otherwise from  
43 one account to another unless, in case of a transfer into a separate account, the transfer is made  
44 solely to establish the account or to support the operation of the contracts with respect to the  
45 separate account to which the transfer is made or unless the transfer, whether into or from a  
46 separate account, is made by a transfer of cash, or by a transfer of other assets having a readily  
47 determinable market value, provided that such transfer of other assets is approved by the director  
48 [of insurance] and is for assets of equivalent value. Such transfer shall be deemed approved to  
49 the extent the assets of a separate account so transferred have been paid to or are being held by  
50 the company in connection with a pension, retirement or profit-sharing plan subject to the  
51 provisions of the Internal Revenue Code, as amended, and the Employee Retirement Income  
52 Security Act of 1974, as amended. The director [of insurance] may withdraw such deemed  
53 approval by providing written notice to the company that its financial condition or past practices  
54 require such withdrawal. The director [of insurance] may approve other transfers among such  
55 accounts if the director concludes that such transfers would be equitable.

56         5. Unless otherwise approved by the director [of insurance], assets allocated to a separate  
57 account shall be valued at their market value on the date of valuation, or if there is no readily  
58 available market, then as provided under the terms of the contract or the rules or other written  
59 agreement applicable to such separate account; provided, that the portion of the assets of such  
60 separate account at least equal to the company's reserve liability with regard to the guaranteed  
61 benefits and funds referred to in subsection 4 of this section, if any, shall be valued in accordance  
62 with the rules otherwise applicable to the company's assets.

63         6. The director [of insurance] shall have the sole and exclusive authority to regulate the  
64 issuance and **authority to regulate the** sale of contracts under which amounts are to be allocated  
65 to one or more separate accounts as provided herein, and to issue such reasonable rules,  
66 regulations and licensing requirements as [he] **the director** shall deem necessary to carry out the  
67 purposes and provisions of this section; and [such contracts,] the companies [which] **that** issue

68 [them and the agents or other persons who sell them] **such contracts** shall not be subject to  
69 [sections 409.101 to 409.419, RSMo, or amendments thereto, nor to the jurisdiction of the]  
70 **registration with the** commissioner of securities. **The director may, subject to the provisions**  
71 **of section 374.185, RSMo, consult and cooperate with the commissioner of securities in**  
72 **investigations arising from the offer and sale of contracts regulated under this section and**  
73 **may request assistance from the commissioner of securities in any proceeding arising from**  
74 **the offer and sale of any such contracts.**

75 7. No domestic life insurance company, and no other life insurance company admitted  
76 to transact business in this state, shall be authorized to deliver within this state any contract under  
77 which amounts are to be allocated to one or more separate accounts as provided herein until said  
78 company has satisfied the director [of insurance] that its condition or methods of operation in  
79 connection with the issuance of such contracts will not render its operation hazardous to the  
80 public or its policyholders in this state. In determining the qualifications of a company  
81 requesting authority to deliver such contracts within this state, the director [of insurance] shall  
82 consider, among other things:

83 (1) The history and financial condition of the company;

84 (2) The character, responsibility and general fitness of the officers and directors of the  
85 company; and

86 (3) In the case of a company other than a domestic company, whether the statutes and  
87 regulations of the jurisdiction of its incorporation provide a degree of protection to policyholders  
88 and the public which is substantially equal to that provided by this section and the rules and  
89 regulations issued thereunder.

90 8. An authorized life insurance company, whether domestic, foreign or alien, which  
91 issues contracts under which amounts are to be allocated to one or more separate accounts as  
92 provided herein, and which is a subsidiary of or affiliated through common management or  
93 ownership with another life insurance company authorized to do business in this state, may be  
94 deemed to have met the provisions of subsection 7 of this section if either it or the parent or  
95 affiliated company meets the requirements thereof.

96 9. If the contract provides for payment of benefits in variable amounts, it shall contain  
97 a statement of the essential features of the procedure to be followed by the company in  
98 determining the dollar amount of such variable benefits. Any such contract, including a group  
99 contract, and any certificate issued thereunder, shall state that such dollar amount may decrease  
100 or increase and shall contain on its first page a statement that the benefits thereunder are on a  
101 variable basis.

102 10. Except as otherwise provided in this section, all pertinent provisions of the insurance  
103 laws of this state shall apply to separate accounts and contracts relating thereto.

376.620. [In all suits upon policies of insurance on life hereafter issued by any company  
2 doing business in this state, to a citizen of this state, it shall be no defense that the insured  
3 committed suicide, unless it shall be shown to the satisfaction of the court or jury trying the  
4 cause, that the insured contemplated suicide at the time he made his application for the policy,  
5 and any stipulation in the policy to the contrary shall be void.] **1. Any life insurance or  
6 certificate issued or delivered in this state, may exclude or restrict liability of death as the  
7 result of suicide in the event the insured, while sane or insane, dies as a result of suicide  
8 within one year from the date of the issue of the policy or certificate.**

**2. Any life insurance policy or certificate which contains any exclusion or  
9 restriction under subsection 1 of this section shall also provide that in the event the insured  
10 dies as a result of suicide within one year from the date of issue of the policy that the  
11 insurer shall promptly refund all premiums paid for coverage on such insured.  
12**

376.889. [In addition to any other applicable penalties, the director may require issuers  
2 violating any provision of sections 376.850 to 376.890 or regulations promulgated pursuant to  
3 sections 376.850 to 376.890 to cease marketing any Medicare supplement policy or certificate  
4 in this state which is related directly or indirectly to a violation, or may require such issuer to  
5 take such actions as are necessary to comply with the provisions of sections 376.850 to 376.890,  
6 or both] **1. If the director determines that a person has engaged, is engaging in, or has  
7 taken a substantial step toward engaging in an act, practice or course of business  
8 constituting a violation of sections 376.850 to 376.890 or a rule adopted or order issued  
9 pursuant thereto, or that a person has materially aided or is materially aiding an act,  
10 practice, omission, or course of business constituting a violation of sections 376.850 to  
11 376.890 or a rule adopted or order issued pursuant thereto, the director may issue such  
12 administrative orders as authorized under section 374.046, RSMo. A violation of any of  
13 these sections is a level two violation under section 374.049, RSMo.**

**2. If the director believes that a person has engaged, is engaging in, or has taken  
14 a substantial step toward engaging in an act, practice or course of business constituting a  
15 violation of sections 376.850 to 376.890 or a rule adopted or order issued pursuant thereto,  
16 or that a person has materially aided or is materially aiding an act, practice, omission, or  
17 course of business constituting a violation of sections 376.850 to 376.890 or a rule adopted  
18 or order issued pursuant thereto, the director may maintain a civil action for relief  
19 authorized under section 374.048, RSMo. A violation of any of these sections is a level two  
20 violation under section 374.049, RSMo.  
21**

376.1094. 1. The **director shall suspend or revoke the** certificate of authority of an  
2 administrator [shall be suspended or revoked] if the director finds that the administrator:

3 (1) Is in an unsound financial condition;

4 (2) Is using such methods or practices in the conduct of its business so as to render its  
5 further transaction of business in this state hazardous or injurious to insured persons or the  
6 public; or

7 (3) Has failed to satisfy any judgment rendered against it in this state within sixty days  
8 after the judgment has become final.

9 2. The director may, in his discretion, suspend or revoke the certificate of authority of  
10 an administrator if the director finds that the administrator or any of its officers, directors or any  
11 individual responsible for the conduct of its affairs as described in subdivision (3) of subsection  
12 2 of section 376.1092:

13 (1) Has violated any lawful rule or order of the director or any provision of the insurance  
14 laws of this state;

15 (2) Has refused to be examined or to produce its accounts, records and files for  
16 examination, or if any of its officers has refused to give information with respect to its affairs or  
17 has refused to perform any other legal obligation as to such examination, when required by the  
18 director;

19 (3) Has, without just cause, refused to pay proper claims or perform services arising  
20 under its contracts or has, without just cause, caused covered individuals to accept less than the  
21 amount due them or caused covered individuals to employ attorneys or bring suit against the  
22 administrator to secure full payment or settlement of such claims;

23 (4) Is affiliated with or under the same general management or interlocking directorate  
24 or ownership as another administrator or insurer which unlawfully transacts business in this state  
25 without having a certificate of authority;

26 (5) At any time fails to meet any qualification for which issuance of the certificate could  
27 have been refused had such failure then existed and been known to the department;

28 (6) Has been convicted of, or has entered a plea of guilty or nolo contendere to, a felony  
29 without regard to whether adjudication was withheld;

30 (7) Is not competent, trustworthy, financially responsible or of good personal and  
31 business reputation, has had an insurance or administrator license denied for cause by any state  
32 or been subject to any form of administrative, civil or criminal action by any federal or state  
33 agency or court resulting in some form of discipline or sanction; or

34 (8) Is under suspension or revocation in another state.

35 3. The director may, in his discretion and without advance notice or hearing thereon,  
36 immediately suspend the certificate of any administrator if the director finds that one or more of  
37 the following circumstances exist:

38 (1) The administrator is insolvent or impaired;

39 (2) A proceeding for receivership, conservatorship, rehabilitation, or other delinquency  
40 proceeding regarding the administrator has been commenced in any state;

41 (3) The financial condition or business practices of the administrator otherwise poses an  
42 imminent threat to the public health, safety or welfare of the residents of this state.

43 4. [If the director finds that one or more grounds exist for the suspension or revocation  
44 of a certificate of authority issued under sections 376.1075 to 376.1095, the director may, in lieu  
45 of such suspension or revocation, bring a civil action against the administrator in a court of  
46 competent jurisdiction. The court may impose a fine upon the administrator of not more than  
47 fifty thousand dollars, such fine to be payable to the Missouri state school fund] **If the director  
48 determines that a person has engaged, is engaging in, or has taken a substantial step  
49 toward engaging in an act, practice or course of business constituting a violation of sections  
50 376.1075 to 376.1095 or a rule adopted or order issued pursuant thereto, or that a person  
51 has materially aided or is materially aiding an act, practice, omission, or course of business  
52 constituting a violation of sections 376.1075 to 376.1095 or a rule adopted or order issued  
53 pursuant thereto, the director may issue such administrative orders as authorized under  
54 section 374.046, RSMo. A violation of any of these sections is a level three violation under  
55 section 374.049, RSMo.**

56 5. **If the director believes that a person has engaged, is engaging in, or has taken  
57 a substantial step toward engaging in an act, practice or course of business constituting a  
58 violation of sections 376.1075 to 376.1095 or a rule adopted or order issued pursuant  
59 thereto, or that a person has materially aided or is materially aiding an act, practice,  
60 omission, or course of business constituting a violation of sections 376.1075 to 376.1095 or  
61 a rule adopted or order issued pursuant thereto, the director may maintain a civil action  
62 for relief authorized under section 374.048, RSMo. A violation of any of these sections is  
63 a level three violation under section 374.049, RSMo.**

**376.1500. As used in sections 376.1500 to 376.1532, the following words or phrases  
2 mean:**

3 (1) **"Director", the director of the department of insurance, financial institutions  
4 and professional registration;**

5 (2) **"Direct contract", a contractual arrangement tying the ultimate seller  
6 purporting to offer discounts through the discount card to the health care provider, which  
7 expressly states the intent of this agreement to be used for the purpose of offering discounts  
8 on health-related purchases to uninsured or non-covered persons;**

9 (3) **"Discount card", a card or any other purchasing mechanism or device, which  
10 is not insurance, that purports to offer discounts or access to discounts in health-related  
11 purchases from health care providers;**

12 (4) "Discount medical plan", a business arrangement or contract in which a person,  
13 in exchange for fees, dues, charges, or other consideration, provides access for plan  
14 members to providers of medical services and the right to receive medical services from  
15 those providers at a discount. The term does not include any product regulated as an  
16 insurance product, group health service product or membership in a health maintenance  
17 organization in this state or discounts provided by an insurer, group health service, or  
18 health maintenance organizations where those discounts are provided at no cost to the  
19 insured or member and are offered due to coverage with a licensed insurer, group health  
20 service, or health maintenance organization;

21 (5) "Discount medical plan organization", a person or an entity that operates a  
22 discount medical plan;

23 (6) "Health care provider", any person or entity licensed by this state to provide  
24 health care services including, but not limited to physicians, hospitals, home health  
25 agencies, pharmacies, and dentists;

26 (7) "Health care provider network", an entity which directly contracts with  
27 physicians and hospitals and has contractual rights to negotiate on behalf of those health  
28 care providers with a discount medical plan organization to provide medical services to  
29 members of the discount medical plan organization;

30 (8) "Marketer", a person or entity who markets, promotes, sells or distributes a  
31 discount medical plan, including a private label entity that places its name on and markets  
32 or distributes a discount medical plan but does not operate a discount medical plan;

33 (9) "Medical services", any care, service or treatment of illness or dysfunction of,  
34 or injury to, the human body including, but not limited to, physician care, inpatient care,  
35 hospital surgical services, emergency services, ambulance services, dental care services,  
36 vision care services, mental health services, substance abuse services, chiropractic services,  
37 podiatric care services, laboratory services, and medical equipment and supplies. The term  
38 does not include pharmaceutical supplies or prescriptions;

39 (10) "Member", any person who pays fees, dues, charges, or other consideration  
40 for the right to receive the purported benefits of a discount medical plan; and

41 (11) "Person", an individual, corporation, business trust, estate, trust, partnership,  
42 association, joint venture, limited liability company, or any other government or  
43 commercial entity.

2 376.1502. It is unlawful to transact business in this state as a discount medical plan  
organization, unless the organization is:

3           (1) A corporation, limited liability corporation, partnership, limited liability  
4 partnership or other legal entity organized under the laws of this state or, if a foreign  
5 entity, authorized to transact business in this state; and

6           (2) Registered as a discount medical plan organization with the director or duly  
7 authorized by the director as an insurance company, licensed health maintenance  
8 organization, licensed group health service organization or third party administrator.

**376.1504. 1. To register as a discount medical plan organization, an applicant shall:**

2           (1) File with the director an application on a form approved and adopted by the  
3 director; and

4           (2) Pay to the director an application fee of two hundred fifty dollars.

5           2. A registration is valid for a one-year term and expires one year following the  
6 registration date unless it is renewed as provided in this section.

7           3. Before it expires, a registrant may renew the registration for an additional one-  
8 year term if the registrant:

9           (1) Otherwise is qualified to receive a registration;

10           (2) Files with the director a renewal application on a form approved and adopted  
11 by the director; and

12           (3) Pays a renewal fee of two hundred fifty dollars.

13           4. All amounts collected as registration or renewal fees shall be deposited into the  
14 insurance dedicated fund.

15           5. Nothing in this subsection shall require a provider who provides discounts to his  
16 or her own patients to obtain and maintain a registration as a discount medical plan  
17 organization.

**376.1506. 1. The director may examine or investigate the business and affairs of**  
2 **any discount medical plan organization under the authority of sections 374.190 and**  
3 **374.202 to 374.207, RSMo. The director may require any discount medical plan**  
4 **organization or applicant to produce any records, books, files, advertising and solicitation**  
5 **materials, or other information and may take statements under oath to determine whether**  
6 **the discount medical plan organization or applicant is in violation of the law. The expenses**  
7 **incurred in conducting any examination shall be paid by the discount medical plan**  
8 **organization under sections 374.202 to 374.207, RSMo.**

9           2. Failure by the discount medical plan organization to pay the expenses incurred  
10 under this subsection shall be grounds for denial or revocation of the discount medical plan  
11 organization's registration.

**376.1508. 1. A discount medical plan organization may charge a reasonable one-**  
2 **time processing fee and a periodic charge as long as the fee is disclosed to the applicant.**

3           **2. If the member cancels the membership within the first thirty days after receipt**  
4 **of the discount card and other membership materials, the member shall receive a**  
5 **reimbursement of all periodic charges paid. The return of all periodic charges shall be**  
6 **made within thirty days of the date of the cancellation. If all of the periodic charges have**  
7 **not been paid within thirty days, interest shall be assessed and paid on the proceeds at a**  
8 **rate of the treasury bill rate of the preceding calendar year, plus two percentage points.**

9           **3. The right of cancellation shall be set out in the contract on the first page, in ten-**  
10 **point type or larger.**

11           **4. If a discount medical plan charges for a time period in excess of one month, the**  
12 **plan shall, in the event of cancellation of the membership by either party, make a pro rata**  
13 **reimbursement of all periodic charges to the member.**

**376.1510. A discount medical plan organization shall not:**

2           **(1) Use in its advertisements, marketing material, brochures, and discount cards**  
3 **the terms "insurance", "health plan", "coverage", "copay", "copayments", "preexisting**  
4 **conditions", "guaranteed issue", "premium", "PPO", "preferred provider organization",**  
5 **or other terms in a manner that could reasonably mislead a person to believe that the**  
6 **discount medical plan is health insurance;**

7           **(2) Except for hospital services, have restrictions on free access to plan providers**  
8 **including waiting periods and notification periods;**

9           **(3) Pay providers any fees for medical services; or**

10           **(4) Collect or accept money from a member for payment to a provider for specific**  
11 **medical services furnished or to be furnished to the member, unless the organization is**  
12 **licensed by the director to act as an administrator.**

**376.1512. 1. The following disclosures, to be printed in not less than twelve-point**  
2 **type, shall be made in writing to any prospective member and shall appear on the first page**  
3 **of any advertisements, marketing materials or brochures relating to a discount medical**  
4 **plan:**

5           **(1) The plan is not insurance;**

6           **(2) The plan provides discounts with certain health care providers for medical**  
7 **services;**

8           **(3) The plan does not make payments directly to the providers of medical services;**

9           **(4) The plan member is obligated to pay for all health care services but will receive**  
10 **a discount from those health care providers who have contracted with the discount plan**  
11 **organization; and**

12           **(5) The name and the location of the registered discount medical plan organization,**  
13 **including the current telephone number of the registered discount medical plan**

14 organization or other entity responsible for customer service for the plan, if different from  
15 the registered discount medical plan organization.

16 2. If the discount medical plan is sold, marketed, or solicited by telephone, the  
17 disclosures required by this section shall be made orally and provided in the initial written  
18 materials that describe the benefits under the discount medical plan provided to the  
19 prospective or new member.

376.1514. 1. All providers offering medical services to members under a discount  
2 medical plan shall provide such services pursuant to a written agreement. The agreement  
3 may be entered into directly by the health care provider or by a health care provider  
4 network to which the provider belongs if the provider network has contracts with the  
5 health care provider that allow the provider network to contract on behalf of the health  
6 care provider.

7 2. A health care provider agreement shall provide the following:

8 (1) A description of the services and products to be provided at a discount;

9 (2) The amount or amounts of the discounts or, alternatively, a fee schedule which  
10 reflects the health care provider's discounted rates; and

11 (3) A provision that the health care provider will not charge members more than  
12 the discounted rates.

13 3. A health care provider agreement with a health care provider network shall  
14 require that the health care provider network have written agreements with its health care  
15 providers that:

16 (1) Contain the terms described in this subsection;

17 (2) Authorize the health care provider network to contract with the discount  
18 medical plan organization on behalf of the provider; and

19 (3) Require the network to maintain an up-to-date list of its contracted health care  
20 providers and to provide that list on a quarterly basis to the discount medical plan  
21 organization.

22 4. The discount medical plan organization shall maintain a copy of each active  
23 health care provider agreement into which it has entered.

376.1516. 1. Each benefit under the discount medical plan and every disclosure  
2 required under sections 376.1500 to 376.1532, shall be included in a written agreement  
3 between the discount medical plan organization and the member.

4 2. All forms used, including the written agreement pursuant to this section, shall  
5 be filed with the director prior to any sale, marketing or advertising of the discount  
6 medical plan in this state. Every form filed shall be identified by a unique form number

7 placed in the lower left corner of each form. A filing fee of twenty-five dollars per form  
8 shall be payable to the director for deposit into the insurance dedicated fund.

376.1518. 1. Each discount medical plan organization registered pursuant to  
2 sections 376.1500 to 376.1532, except an affiliate shall, at all times, maintain a net worth  
3 of at least one hundred fifty thousand dollars.

4 2. The director may not allow a registration unless the discount medical plan  
5 organization has a net worth of at least one hundred fifty thousand dollars.

376.1520. Each discount medical plan organization required to be registered  
2 pursuant to this section shall provide the director at least thirty days' advance notice of any  
3 change in the discount medical plan organization's name, address, principal business  
4 address, or mailing address.

376.1522. Each discount medical plan organization shall maintain a current list of  
2 the names and addresses of the providers with which it has contracted on a web site page,  
3 the address of which shall be prominently displayed on all its advertisements, marketing  
4 materials, brochures, and discount cards. This section applies to those providers with  
5 whom the discount medical plan organization has contracted directly, as well as those who  
6 are members of a provider network with which the discount medical plan organization has  
7 contracted.

376.1524. 1. All advertisements, marketing materials, brochures and discount  
2 cards used by marketers shall be approved in writing for such use by the discount medical  
3 plan organization.

4 2. The discount medical plan organization shall have an executed written  
5 agreement with a marketer prior to the marketer's marketing, promoting, selling, or  
6 distributing the discount medical plan.

376.1526. 1. A discount medical plan organization required to be registered  
2 pursuant to sections 376.1500 to 376.1532 shall maintain a surety bond with the director,  
3 having at all times a value of not less than thirty-five thousand dollars, for use by the  
4 director in protecting plan members.

5 2. No judgment creditor or other claimant of a discount medical plan organization,  
6 other than the director, shall have the right to levy upon the surety bond held pursuant to  
7 the provisions of this subsection.

376.1528. The director under the provisions of section 374.045, RSMo, may  
2 promulgate rules to administer and interpret the provisions of sections 376.1500 to  
3 376.1532.

376.1530. 1. The director may deny a registration to an applicant or refuse to renew, suspend, or revoke the registration of a registrant if the applicant or registrant, or an officer, director, or employee of the applicant or registrant:

(1) Makes a material misstatement or misrepresentation in an application for registration;

(2) Fraudulently or deceptively obtains or attempts to obtain a registration for the applicant or registrant or for another;

(3) Has advertised, merchandised or attempted to merchandise its services in such a manner as to misrepresent its services or capacity for service or has engaged in deceptive, misleading or unfair practices with respect to advertising or merchandising;

(4) In connection with the advertisement, offer, sale or administration of a health care discount program, makes any untrue statement of material fact, conceals any material fact, uses any deception or commits fraud or engages in any dishonest activity;

(5) Is not fulfilling its obligations as a discount medical plan organization;

(6) Does not have the minimum net worth as required by sections 376.1500 to 376.1532;

(7) Violates any provision of sections 376.1500 to 376.1532, or any law or regulation of this state relating to insurance or the provision of medical care; or

(8) Continued operation of the organization would be hazardous to its members.

2. If the director has cause to believe that grounds for the suspension or revocation of a registration exist, the director shall notify the discount medical plan organization in writing, specifically stating the grounds for suspension or revocation, and shall provide opportunity for a hearing on the matter before the director.

3. When the registration of a discount medical plan organization is surrendered or revoked, such organization shall proceed, immediately following the effective date of the order of revocation, to wind up its affairs transacted under the registration. The organization may not engage in any further advertising, solicitation, collecting of fees, or renewal of contracts.

376.1532. 1. If the director determines that a person has engaged, is engaging, or has taken a substantial step toward engaging in a violation of sections 376.1500 to 376.1532, or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of sections 376.1500 to 376.1532 or a rule adopted or order issued pursuant thereto, the director may issue such administrative orders as authorized under section 374.046, RSMo. A violation of sections 376.1500 to 376.1532 is a level two violation under

8 **section 374.049, RSMo. The director of insurance may also suspend or revoke the license**  
9 **or certificate of authority of such person for any willful violation.**

10 **2. If the director believes that a person has engaged, is engaging, or has taken a**  
11 **substantial step toward engaging in a violation of sections 376.1500 to 376.1532 or a rule**  
12 **adopted or order issued pursuant thereto, or that a person has materially aided or is**  
13 **materially aiding an act, practice, omission or course of business constituting a violation**  
14 **of sections 376.1500 to 376.1532 or a rule adopted or order issued pursuant thereto, the**  
15 **director may maintain a civil action for relief authorized under section 374.048, RSMo.**  
16 **A violation of sections 376.1500 to 376.1532 is a level two violation under section 374.049,**  
17 **RSMo.**

379.361. 1. [The director may, if he finds that any insurer or filing organization has  
2 violated any provision of section 379.017 and sections 379.316 to 379.361, impose a penalty of  
3 not more than five hundred dollars for each violation, but if he finds the violation to be willful,  
4 he may impose a penalty of not more than five thousand dollars for each violation. These  
5 penalties may be in addition to any other penalty provided by law.

6 2. The director may suspend the license of any rating organization or insurer which fails  
7 to comply with an order of the director within the time limited by such order, or any extension  
8 thereof which the director may grant. The director shall not suspend the license of any rating  
9 organization or insurer for failure to comply with an order until the time prescribed for an appeal  
10 therefrom has expired or if an appeal has been taken, until the order has been affirmed. The  
11 director may determine when a suspension of license shall become effective and it shall remain  
12 in effect for the period fixed by him, unless he modifies or rescinds such suspension or until the  
13 order upon which such suspension is based is modified, rescinded or reversed.

14 3. No penalty shall be imposed or no license shall be suspended or revoked except upon  
15 a written order of the director, stating his findings, made after a hearing held upon not less than  
16 ten days' written notice to such person or organization specifying the alleged violation] **If the**  
17 **director determines that any insurer or filing organization has engaged, is engaging in, or**  
18 **has taken a substantial step toward engaging in an act, practice or course of business**  
19 **constituting a violation of section 379.017 and sections 379.316 to 379.361 or a rule adopted**  
20 **or order issued pursuant thereto, or that a person has materially aided or is materially**  
21 **aiding an act, practice, omission, or course of business constituting a violation of section**  
22 **379.017 and sections 379.316 to 379.361 or a rule adopted or order issued pursuant thereto,**  
23 **the director may issue such administrative orders as authorized under section 374.046,**  
24 **RSMo. A violation of any of these sections is a level two violation under section 374.049,**  
25 **RSMo. The practice of using a rate not in effect under section 379.321, if caused by a**  
26 **single act or omission by the insurer or filing organization, is a level two violation under**

27 section 374.049, RSMo. Each act as part of a rating violation does not constitute a separate  
28 violation under section 374.049, RSMo. The director may also suspend or revoke the  
29 license or certificate of authority of an insurer or filing company for any willful violation.

30 **2. If the director believes that a person has engaged, is engaging in, or has taken**  
31 **a substantial step toward engaging in an act, practice or course of business constituting a**  
32 **violation of section 379.017 and sections 379.316 to 379.361 or a rule adopted or order**  
33 **issued pursuant thereto, or that a person has materially aided or is materially aiding an**  
34 **act, practice, omission, or course of business constituting a violation of section 379.017 and**  
35 **sections 379.316 to 379.361 or a rule adopted or order issued pursuant thereto, the director**  
36 **may maintain a civil action for relief authorized under section 374.048, RSMo. A violation**  
37 **of any of these sections is a level two violation under section 374.049, RSMo. The practice**  
38 **of using a rate not in effect under section 379.321, if caused by a single act or omission by**  
39 **the insurer or filing organization, is a level two violation under section 374.049, RSMo.**  
40 **Each act as part of a rating violation does not constitute a separate violation under section**  
41 **374.049, RSMo.**

379.510. [Any person or organization who willfully violates a final order of the director  
2 under sections 379.420 to 379.510 shall be deemed guilty of a misdemeanor and shall upon  
3 conviction thereof be punished by a fine not to exceed five hundred dollars for such violation]

4 **1. If the director determines that any person has violated a final order of the director**  
5 **under sections 379.420 to 379.510, the director may issue such administrative orders as**  
6 **authorized under section 374.046, RSMo. A violation of any of these sections is a level two**  
7 **violation under section 374.049, RSMo.**

8 **2. If the director believes that a person has violated a final order of the director**  
9 **under sections 379.420 to 379.510, the director may maintain a civil action for relief**  
10 **authorized under section 374.048, RSMo. A violation of any of these sections is a level two**  
11 **violation under section 374.049, RSMo.**

379.790. **1. It is unlawful for any attorney [who shall] to exchange any contracts of**  
2 **indemnity of the kind and character specified in sections 379.650 to 379.790, or directly or**  
3 **indirectly solicit or negotiate any applications for same without first complying with the**  
4 **foregoing provisions[, shall be deemed guilty of a misdemeanor, and upon conviction thereof**  
5 **shall be subject to a fine of not less than one hundred dollars nor more than one thousand dollars;**  
6 **provided] . However, [that] the director [of insurance] may, in his discretion and on such terms**  
7 **as he may prescribe, issue a permit for organization purposes, the permit to continue in force or**  
8 **be canceled at the pleasure of the director [of insurance].**

9 **2. If the director determines that a person has engaged, is engaging in, or has taken**  
10 **a substantial step toward engaging in an act, practice or course of business constituting a**

11 violation of this section or a rule adopted or order issued pursuant thereto, or that a person  
12 has materially aided or is materially aiding an act, practice, omission, or course of business  
13 constituting a violation of this section or a rule adopted or order issued pursuant thereto,  
14 the director may issue such administrative orders as authorized under section 374.046,  
15 RSMo. A violation of this section is a level one violation under section 374.049, RSMo.

16 **3. If the director believes that a person has engaged, is engaging in, or has taken**  
17 **a substantial step toward engaging in an act, practice or course of business constituting a**  
18 **violation of this section or a rule adopted or order issued pursuant thereto, or that a person**  
19 **has materially aided or is materially aiding an act, practice, omission, or course of business**  
20 **constituting a violation of this section or a rule adopted or order issued pursuant thereto,**  
21 **the director may maintain a civil action for relief authorized under section 374.048, RSMo.**  
22 **A violation of this section is a level one violation under section 374.049, RSMo.**

380.391. [No] **1. It is unlawful for any officer, director, member, agent or employee**  
2 **of any company operating under the provisions of sections 380.201 to [380.591 shall,] 380.611**  
3 **to directly or indirectly, use or employ, or permit others to use or employ, any of the money,**  
4 **funds or securities of the company for private profit or gain[, and any such use shall be deemed**  
5 **a felony, punishable, upon conviction, by imprisonment by the department of corrections and**  
6 **human resources for not less than two years nor more than five years for each offense].**

7 **2. Any person who willfully engages in any act, practice, omission, or course of**  
8 **business in violation of this section is guilty of a class D felony.**

9 **3. The director may refer such evidence as is available concerning violations of this**  
10 **section to the proper prosecuting attorney, who with or without a criminal reference, or**  
11 **the attorney general under section 27.030, RSMo, may institute the appropriate criminal**  
12 **proceedings.**

13 **4. Nothing in this section shall limit the power of the state to punish any person for**  
14 **any conduct that constitutes a crime in any other state statute.**

380.571. 1. [The director may issue cease and desist orders whenever it appears to him  
2 upon competent and substantial evidence that any company operating under the provisions of  
3 sections 380.201 to 380.591 is acting in violation of those laws or any other applicable laws or  
4 any rule or regulation promulgated by the director pursuant thereto. Before any cease and desist  
5 order shall be issued, a copy of the proposed order together with an order to show cause why  
6 such cease and desist order should not be issued shall be served either personally or by certified  
7 mail on the company named therein.

8 2. Upon issuing any order to show cause, the director shall notify the company named  
9 therein that it is entitled to a public hearing before the director if a request for a hearing is made  
10 in writing to the director within fifteen days from the day of the service of the order to show

11 cause why the cease and desist order should not be issued. The cease and desist order shall be  
12 issued fifteen days after the service of the order to show cause if no request for a public hearing  
13 is made as above provided.

14 3. Upon receipt of a request for a hearing, the director shall set a time and place for the  
15 hearing which shall not be less than ten days or more than fifteen days from the receipt of the  
16 request or as otherwise agreed upon by the parties. Notice of the time and place shall be given  
17 by the director not less than five days before the hearing.

18 4. At the hearing the company may be represented by counsel and shall be entitled to be  
19 advised of the nature and source of any adverse evidence procured by the director, and shall be  
20 given the opportunity to submit any relevant written or oral evidence in its behalf to show cause  
21 why the cease and desist order should not be issued.

22 5. At the hearing the director shall have such powers as are conferred upon him by the  
23 provisions of section 374.190, RSMo.

24 6. At the conclusion of the hearing, or within ten days thereafter, the director shall issue  
25 the cease and desist order as proposed or as subsequently modified, or notify the company that  
26 no order will be issued.

27 7. The circuit court of Cole County shall have jurisdiction to review any cease and desist  
28 order of the director under the provisions of sections 536.100 to 536.150, RSMo; and, if any  
29 company against whom an order is issued fails to request judicial review, or if, after judicial  
30 review, the director's cease and desist order is upheld, the order shall become final.

31 8. If any company willfully violates any provision of any cease and desist order of the  
32 director after it becomes final, it may be penalized by the director by a fine of not more than one  
33 thousand dollars.

34 9. The director of insurance may in addition to a monetary fine, suspend or revoke the  
35 certificate of authority of any company violating a cease and desist order] **If the director**  
36 **determines that any person has engaged, is engaging in, or has taken a substantial step**  
37 **toward engaging in an act, practice or course of business constituting a violation of sections**  
38 **380.201 to 380.611 or a rule adopted or order issued pursuant thereto, or that a person has**  
39 **materially aided or is materially aiding an act, practice, omission, or course of business**  
40 **constituting a violation of sections 380.201 to 380.611 or a rule adopted or order issued**  
41 **pursuant thereto, the director may issue such administrative orders as authorized under**  
42 **section 374.046, RSMo. A violation of any of these sections is a level two violation under**  
43 **section 374.049, RSMo, except a violation of section 380.391 is a level four violation under**  
44 **section 374.049, RSMo. The director may also suspend or revoke the certificate of**  
45 **authority of such person for any willful violation.**

46           **2. If the director believes that a person has engaged, is engaging in, or has taken**  
47 **a substantial step toward engaging in an act, practice or course of business constituting a**  
48 **violation of sections 380.201 to 380.611 or a rule adopted or order issued pursuant thereto,**  
49 **or that a person has materially aided or is materially aiding an act, practice, omission, or**  
50 **course of business constituting a violation of sections 380.201 to 380.611 or a rule adopted**  
51 **or order issued pursuant thereto, the director may maintain a civil action for relief**  
52 **authorized under section 374.048, RSMo. A violation of any of these sections is a level two**  
53 **violation under section 374.049, RSMo, except a violation of section 380.391 is a level four**  
54 **violation under section 374.049, RSMo.**

          384.054. Any tax imposed by sections 384.011 to 384.071 which is delinquent in  
2 payment shall be subject to a penalty of **one percent of the tax per diem up to** ten percent of  
3 the tax. Any delinquent tax shall bear interest at the rate determined under section 32.065,  
4 RSMo, from the time such tax is due.

          384.071. 1. **If the director determines that a person has engaged, is engaging in, or**  
2 **has taken a substantial step toward engaging in an act, practice or course of business**  
3 **constituting a violation of sections 384.011 to 384.071 or a rule adopted or order issued**  
4 **pursuant thereto, or that a person has materially aided or is materially aiding an act,**  
5 **practice, omission, or course of business constituting a violation of sections 384.011 to**  
6 **384.071 or a rule adopted or order issued pursuant thereto, the director may issue such**  
7 **administrative orders as authorized under section 374.046, RSMo. A violation of any of**  
8 **these sections is a level three violation under section 374.049, RSMo.**

9           **2. If the director believes that a person has engaged, is engaging in, or has taken**  
10 **a substantial step toward engaging in an act, practice or course of business constituting a**  
11 **violation of sections 384.011 to 384.071 or a rule adopted or order issued pursuant thereto,**  
12 **or that a person has materially aided or is materially aiding an act, practice, omission, or**  
13 **course of business constituting a violation of sections 384.011 to 384.071 or a rule adopted**  
14 **or order issued pursuant thereto, the director may maintain a civil action for relief**  
15 **authorized under section 374.048, RSMo. A violation of any of these sections is a level**  
16 **three violation under section 374.049, RSMo.**

17           **3.** Any surplus lines licensee who in this state represents or aids a nonadmitted insurer  
18 in violation of the provisions of sections 384.011 to 384.071 may be found guilty of a **class B**  
19 misdemeanor and subject to a fine not in excess of one thousand dollars.

20           [2. In addition to any other penalty provided for herein or otherwise provided by law,  
21 including any suspension, revocation or refusal to renew a license, any person, firm, association  
22 or corporation violating any provision of sections 384.011 to 384.071 shall be liable to a penalty

23 not exceeding one thousand dollars for the first offense, and not exceeding two thousand dollars  
24 for each succeeding offense.

25 3.] 4. The above penalties are not exclusive remedies. [Penalties may also be assessed  
26 under sections 375.930 to 375.948, RSMo.]

[374.261. As used in sections 374.261 to 374.269, the following words  
2 mean:

- 3 (1) "Director", the director of the department of insurance;
- 4 (2) "Examiners", nonsalaried employees of the department of insurance  
5 conducting an examination pursuant to section 374.190;
- 6 (3) "Sick leave", those days of leave taken during the conduct of an  
7 examination during which an examiner is prevented from conducting an  
8 examination due to illness or injury.]

[374.263. There is hereby created in the state treasury a fund to be known  
2 as the "Insurance Examiner's Sick Leave Fund", hereinafter referred to as the  
3 "fund". The fund shall be used to pay the daily wages of department of insurance  
4 examiners who are temporarily unable to continue an examination of an  
5 insurance company or companies pursuant to section 374.190, because of illness  
6 or injury suffered or sustained by the examiner during the course of the  
7 examination which the examiner is conducting.]

[374.265. 1. There shall be an amount assessed against those domestic  
2 insurers which are subject to premium tax and are engaged in the business of  
3 insurance within this state, which amount shall be no less than one hundred and  
4 fifty nor greater than five hundred dollars.

5 2. The initial assessment shall be made within one month of September  
6 28, 1981, in the total amount of thirty-six thousand dollars. Thereafter,  
7 assessments shall be made annually, or as needed whenever the balance in the  
8 fund becomes less than ten thousand dollars. The amount of such subsequent  
9 assessments shall be that amount necessary to return the balance in the fund to  
10 thirty-six thousand dollars.]

[374.267. 1. The director of the department of insurance, his agents or  
2 appointees shall be empowered to make assessments pursuant to section 374.265,  
3 and to administer the fund.

4 2. The director, his agents or appointees shall compensate an examiner  
5 out of the fund only after the examiner has satisfied the director, his agents or  
6 appointees that:

- 7 (1) The examiner was employed by the department of insurance to  
8 conduct an examination of an insurance company or companies pursuant to  
9 section 374.190 at the time of the illness or injury for which daily wages are  
10 claimed; and

11                   (2) The examiner was prevented from conducting the examination due  
12 to illness or injury.

13                   3. The amount paid by the director, his agents or appointees to an  
14 examiner from the fund shall not exceed the amount of the examiner's daily  
15 wages times the number of days during which the examiner was prevented from  
16 conducting an examination as result of illness or injury, but in no event shall any  
17 examiner be paid for more than one and one-fourth days times the number of  
18 months for which he has been employed by the department of insurance as an  
19 examiner, nor shall an examiner be paid for or receive credit for sick leave after  
20 August 13, 1988, for or on the basis of any month, months or portion thereof  
21 before August 13, 1988.]

✓

Bill

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