

FIRST REGULAR SESSION

# SENATE BILL NO. 301

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR MAYER.

Read 1st time February 17, 2011, and ordered printed.

TERRY L. SPIELER, Secretary.

1540S.011

## AN ACT

To amend chapter 379, RSMo, by adding thereto ten new sections relating to the creation of the Missouri homeowners mutual insurance company.

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

Section A. Chapter 379, RSMo, is amended by adding thereto ten new sections, to be known as sections 379.1100, 379.1105, 379.1110, 379.1115, 379.1120, 379.1125, 379.1130, 379.1135, 379.1140, and 379.1145, to read as follows:

**379.1100. 1. Sections 379.1100 to 379.1145 shall be known as the "Missouri Homeowners Mutual Insurance Company Act".**

**2. As used in sections 379.1100 to 379.1145, the following words shall mean:**

**(1) "Administrator", the chief executive officer of the Missouri homeowners mutual insurance company;**

**(2) "Board", the board of directors of the Missouri homeowners mutual insurance company;**

**(3) "Company", the Missouri homeowners mutual insurance company.**

**379.1105. The "Missouri Homeowners Mutual Insurance Company" is created as an independent public corporation for the purpose of providing insurance coverage for the physical and personal property of Missouri home and apartment owners and renters. The company shall be organized and operated as a domestic mutual insurance company and it shall not be a state agency. The company shall have the powers granted a general not-for-profit corporation pursuant to section 355.131. The company shall be a member of the Missouri property and casualty guaranty association, sections 375.771 to 375.799, and as such**

10 will be subject to assessments therefrom, and the members of such  
11 association shall bear responsibility in the event of the insolvency of  
12 the company. The company shall be established pursuant to the  
13 provisions of sections 379.1100 to 379.1145. The company shall be  
14 innovative in creating homeowner insurance products that will provide  
15 insurance coverage, including coverage for earthquakes, for single  
16 family residences and multiple family buildings of up to six units. The  
17 company shall consider unique exposure risk characteristics in crafting  
18 policy forms.

379.1110. 1. There is hereby created a board of directors for the  
2 company. The board shall be appointed by January 1, 2012, and shall  
3 consist of five members appointed or selected as provided in this  
4 section. The governor shall appoint the initial five members of the  
5 board with the advice and consent of the senate. Each director shall  
6 serve a five-year term. Terms shall be staggered so that no more than  
7 one director's term expires each year on the first day of July. The five  
8 directors initially appointed by the governor shall determine their  
9 initial terms by lot. At the expiration of the term of any member of the  
10 board, the company's policy holders shall elect a new director in  
11 accordance with provisions determined by the board.

12 2. Any person may be a director who:

13 (1) Does not have any interest as a stockholder, employee,  
14 attorney, agent, broker, or contractor of an insurance entity who writes  
15 homeowners insurance, or whose affiliates write homeowners  
16 insurance; and

17 (2) Is of good moral character and who has never pleaded guilty  
18 to, or been found guilty of a felony.

19 3. The board shall annually elect a chairman and any other  
20 officers it deems necessary for the performance of its duties. Board  
21 committees and subcommittees may also be formed.

22 4. The company shall pay to the board members their expenses  
23 incurred in the business of the company or the board and a stipend in  
24 a sum set by the board, but not more than one thousand dollars per  
25 meeting or the board or committee or subcommittee thereof attended  
26 by the member.

379.1115. 1. By January 1, 2012, the board shall hire an  
2 administrator who shall serve at the pleasure of the board and the

3 company shall be fully prepared to be in operation by January 1, 2013,  
4 and assume its responsibilities by that date. The administrator shall  
5 receive compensation as established by the board and must have such  
6 qualifications as the board deems necessary.

7 2. The board is vested with full power, authority, and  
8 jurisdiction over the company. The board may perform all acts  
9 necessary or convenient in the administration of the company or in  
10 connection with the insurance business to be carried on by the  
11 company. In this regard, the board is empowered to function in all  
12 aspects as a governing body of a private insurance carrier.

379.1120. 1. The administrator of the company shall act as the  
2 company's chief executive officer. The administrator shall be in charge  
3 of the day-to-day operations and management of the company.

4 2. Before entering the duties of office, the administrator shall  
5 give an official bond in an amount and with sureties approved by the  
6 board. The premium for the bond shall be paid by the company.

7 3. The administrator or the administrator's designee shall be the  
8 custodian of the moneys of the company and all premiums, deposits, or  
9 other moneys paid thereto shall be deposited with a financial  
10 institution as designated by the administrator.

11 4. No board member, officer, or employee of the company is  
12 liable in a private capacity for any act performed or obligation entered  
13 into when done in good faith, without intent to defraud, and in an  
14 official capacity in connection with the administration, management,  
15 or conduct of the company or affairs relating to it.

379.1125. The board shall have full power and authority to  
2 establish rates to be charged by the company for homeowners  
3 insurance. The board shall contract for the services of or hire an  
4 independent actuary, a member in good standing with the American  
5 Academy of Actuaries, to develop and recommend actuarially sound  
6 rates. Rates shall be set at amounts sufficient, when invested, to carry  
7 all claims to maturity, meet the reasonable expenses of conducting the  
8 business of the company, and maintain a reasonable surplus. The  
9 company shall conduct a program that shall be neither more nor less  
10 than self-supporting.

379.1130. The board shall formulate and adopt an investment  
2 policy and supervise the investment activities of the company. The

3 administrator may invest and reinvest the surplus or reserves of the  
4 company subject to the limitations imposed on domestic insurance  
5 companies by state law. The company may retain an independent  
6 investment counsel. The board shall periodically review and appraise  
7 the investment strategy being followed and the effectiveness of such  
8 services. Any investment counsel retained or hired shall periodically  
9 report to the board on investment results and related matters.

379.1135. Any insurance producer licensed to sell homeowners  
2 insurance in this state shall be authorized to sell insurance policies for  
3 the company in compliance with the bylaws adopted by the company  
4 and upon the approval of the board. The board shall establish a  
5 schedule of commissions to pay for the services of the producer.

379.1140. 1. The company shall not receive any state  
2 appropriations, directly or indirectly, except as provided in this  
3 section.

4 2. After October 1, 2011, the treasurer of the state of Missouri  
5 shall make one or more loans to the company in an amount not to  
6 exceed an aggregate amount of five million dollars from the fund  
7 maintained by the treasurer for start-up funding and initial  
8 capitalization of the company. The general assembly shall place such  
9 sum of funds in a special fund under the supervision of the Missouri  
10 state treasurer called the "Missouri Homeowners Mutual Insurance  
11 Company Loan Fund" in the appropriations for fiscal year 2012-  
12 2013. The board of the company shall make application to the treasurer  
13 for the loans, stating the amount to be loaned to the company. The  
14 loans shall be for a term of ten years and, at the time the application  
15 for such loans is approved by the director, shall bear interest at the  
16 annual rate based on the rate for linked deposit loans as calculated by  
17 the state treasurer pursuant to section 30.758.

18 3. In order to provide funds for the creation, continued  
19 development, and operation of the company, the board is authorized to  
20 issue revenue bonds from time to time, in a principal amount  
21 outstanding not to exceed fifty million dollars at any given time,  
22 payable solely from premiums received from insurance policies and  
23 other revenues generated by the company.

24 4. The board may issue bonds to refund other bonds issued  
25 pursuant to this section.

26           5. The bonds shall have a maturity of no more than ten years  
27 from the date of issuance. The board shall determine all other terms,  
28 covenants, and conditions of the bonds, except that no bonds may be  
29 redeemed prior to maturity unless the company has established  
30 adequate reserves for the risks it has insured.

31           6. The bonds shall be executed with the manual or facsimile  
32 signature of the administrator or the chairman of the board and  
33 attested by another member of the board. The bonds may bear the seal,  
34 if any, of the company.

35           7. The proceeds of the bonds and the earnings of those proceeds  
36 shall be used by the board for the development and operation of the  
37 Missouri homeowners mutual insurance company, to pay expenses  
38 incurred in the preparation, issuance, and sale of the bonds and to pay  
39 any obligations relating to the bonds and the proceeds of the bonds  
40 under the United States Internal Revenue Code of 1986, as amended.

41           8. The bonds may be sold at a public sale or a private sale. If the  
42 bonds are sold at a public sale, the notice of sale and other procedures  
43 for the sale shall be determined by the administrator or the company.

44           9. This section is full authority for the issuance and sale of the  
45 bonds and the bonds shall not be invalid for any irregularity or defect  
46 in the proceedings for their issuance and sale and shall be  
47 incontestable in the hands of bona fide purchasers or holders of the  
48 bonds for value.

49           10. An amount of money from the sources specified in subsection  
50 3 of this section sufficient to pay the principal of and any interest on  
51 the bonds as they become due each year shall be set aside and is hereby  
52 pledged for the payment of the principal and interest on the bonds.

53           11. The bonds shall be legal investment for any person or board  
54 charged with the investment of public funds and may be accepted as  
55 security for any deposit of public money, and the bonds and interest  
56 thereon are exempt from taxation by the state and any political  
57 subdivision or agency of the state.

58           12. The bonds shall be payable by the company, which shall keep  
59 a complete record relating to the payment of the bonds.

60           13. Not more than fifty percent of the bonds sold shall be sold to  
61 public entities.

379.1145. 1. The board shall cause an annual audit of the books

2 of accounts, funds, and securities of the company to be made by a  
3 competent and independent firm of certified public accountants, the  
4 cost of the audit to be charged against the company. A copy of the  
5 audit report shall be filed with the director of the department of  
6 insurance and the administrator. The audit shall be open to the public  
7 for inspection.

8         2. The board shall submit an annual independently audited  
9 report in accordance with the procedures governing annual reports  
10 adopted by the National Association of Insurance Commissioners by  
11 March first of each year and the report shall be delivered to the  
12 governor and the general assembly and shall indicate the business done  
13 by the company during the previous year and contain a statement of  
14 the resources and liabilities of the company.

15         3. The administrator shall annually submit to the board for its  
16 approval an estimated budget of the entire expense of administering  
17 the company for the succeeding calendar year having due regard to the  
18 business interests and contract obligations of the company.

19         4. The incurred loss experience and expense of the company  
20 shall be ascertained each year to include, but not be limited to,  
21 estimates of outstanding liabilities for claims reported to the company  
22 but not yet paid and liabilities for claims arising from losses which  
23 have occurred but have not yet been reported to the company. If there  
24 is an excess of assets over liabilities, necessary reserves and a  
25 reasonable surplus for the catastrophe hazard, then a cash dividend  
26 may be declared or a credit allowed to an insured policyholder, who  
27 has been insured with the company in accordance with criteria  
28 approved by the board, which may account for insured's record and  
29 claims history.

30         5. The department of insurance, financial institutions and  
31 professional registration shall conduct an examination for the company  
32 in the manner and under the conditions provided by the statutes of the  
33 insurance code for the examination of insurance carriers. The board  
34 shall pay the cost of the examination as an expense of the  
35 company. The company is subject to all provisions of the statutes  
36 which relate to private insurance carriers and to the jurisdiction of the  
37 department of insurance, financial institutions and professional  
38 registration in the same manner as private insurance carriers, except

39 as provided by the director.

40           6. For the purpose of ascertaining such information as the  
41 administrator may require in the proper administration of the  
42 company, the records of each policyholder and insured of the company  
43 shall be always open to inspection by the administrator or the  
44 administrator's duly authorized agent or representative.

45           7. Every person provided homeowners insurance coverage by the  
46 company, upon complying with the underwriting standards adopted by  
47 the company, and upon completing the application form prescribed by  
48 the company, shall be furnished with a policy showing the date on  
49 which the insurance becomes effective.

✓

Bill

Copy