

SECOND REGULAR SESSION

SENATE BILL NO. 697

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR WASSON.

Read 1st time January 24, 2012, and ordered printed.

TERRY L. SPIELER, Secretary.

5474S.011

AN ACT

To repeal section 375.993, RSMo, and to enact in lieu thereof two new sections relating to fraudulent insurance acts.

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

Section A. Section 375.993, RSMo, is repealed and two new sections
2 enacted in lieu thereof, to be known as sections 375.993 and 375.996, to read as
3 follows:

375.993. 1. The department's papers, documents, reports, or evidence
2 relative to the subject of an investigation under this section shall not be subject
3 to public inspection for so long as the department deems reasonably necessary to
4 complete the investigation and any subsequent legal action. Further, such
5 papers, documents, reports, or evidence relative to the subject of an investigation
6 under sections 375.991 to 375.994 shall not be subject to subpoena until opened
7 for public inspection by the department, unless the department consents, or until,
8 after notice to the department and a hearing, the court determines the
9 department would not be unnecessarily hindered by such subpoena. Department
10 investigators shall not be subject to subpoena in civil actions by any court of this
11 state to testify concerning any matter of which they have knowledge pursuant to
12 a pending insurance fraud investigation by the department.

13 2. No insurer, employees or agents of any insurer, or any other person
14 acting without malice, shall be subject to civil liability **of any kind, including**
15 for libel [or otherwise] **and slander** by virtue of the filing of reports or
16 furnishing other information required by sections 375.991 to 375.994 or required
17 by the department of insurance, financial institutions and professional
18 registration as a result of the authority granted in sections 375.991 to 375.994.

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

19 In addition, except when a person knowingly and intentionally
20 communicates false information, no civil cause of action of any nature
21 may arise against such person for any of the following:

22 (1) Any information relating to suspected or anticipated
23 fraudulent insurance acts furnished to or received from law
24 enforcement officials, their agents, and employees;

25 (2) Any information relating to suspected or anticipated
26 fraudulent insurance acts furnished to or received from other persons
27 subject to the provisions of sections 375.991 to 375.994 and this section;

28 (3) Any information relating to suspected or anticipated
29 fraudulent insurance acts furnished in reports to a federal or state
30 governmental agency or office, the National Association of Insurance
31 Commissioners, the National Insurance Crime Bureau, or any other
32 organization established to detect and prevent fraudulent insurance
33 acts, or to their agents, employees, or designees, or a recognized
34 comprehensive database system recognized by the department. Nothing
35 herein is intended to abrogate or modify in any way any common law
36 or statutory privilege or immunity heretofore enjoyed by any person.

375.996. 1. For the purposes of this section, "person" means a
2 natural person, company, corporation, unincorporated association,
3 partnership, professional corporation, and any other entity.

4 2. Any insurer that has been injured in business or property by
5 reason of a violation of section 375.991 may recover from the person or
6 persons violating section 375.991, in any appropriate circuit court, the
7 following:

8 (1) Return of any profit, benefit, compensation, or payment
9 received by the person or persons violating section 375.991 directly
10 resulting from said violation;

11 (2) Reasonable attorneys' fees, related legal expenses, including
12 internal legal expenses, and court costs;

13 (3) All other economic damages directly resulting from the
14 violation;

15 (4) Reasonable investigative fees based on a reasonable estimate
16 of the time and expense incurred in the investigation of the violation
17 proved at trial.

18 3. In addition to any other damages or recovery provided for by
19 this section, upon a showing by clear and convincing evidence that

20 such violation was committed knowingly with an intent to defraud, the
21 insurer shall be entitled to recover up to three times the amount of
22 damages awarded in subdivision (3) of subsection 2 of this section.

23 4. Any cause of action under this section must be brought within
24 five years of the commission of the acts constituting such violation, or
25 within two years of the time the insurer discovered, or with reasonable
26 diligence could have discovered such acts, whichever is later.

✓
Unofficial

Bill

Copy