

SECOND REGULAR SESSION

SENATE BILL NO. 938

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR WALLINGFORD.

Read 1st time January 20, 2016, and ordered printed.

ADRIANE D. CROUSE, Secretary.

6030S.01I

AN ACT

To amend chapter 379, RSMo, by adding thereto one new section relating to insurance policies covering property damage caused by earthquake activity.

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

Section A. Chapter 379, RSMo, is amended by adding thereto one new section, to be known as section 379.828, to read as follows:

379.828. 1. As used in this section, the following terms shall mean:

(1) "Actively writing", an insurer having statewide written premiums for insurance for earthquake loss equal to at least three percent of its aggregate written premiums for habitational risks and having written premiums for insurance for earthquake loss in the seismic zone equal to at least five percent of its aggregate statewide written premiums for earthquake insurance;

(2) "Earthquake loss", actual physical damage to a building or property arising out of a vibration-generating rupture event caused by displacement within the earth's crust through release of strain associated with tectonic processes and includes effects such as ground shaking, liquefaction, and damaging amplification of ground motion and is evidenced by structural damage to the covered building, including the foundation which may include:

(a) Building collapse;

(b) Building drift ratio, defined as the lateral frame deflection at the top of the most occupied floor divided by the height of the building to that level, of greater than one sixtieth;

(c) Interstory drift ratio, defined as the lateral deflection of a floor relative to that of the floor immediately below, divided by the

22 distance between floors, of greater than one sixtieth;

23 (d) Foundation scour or foundation shift away from the upper
24 structure; or

25 (e) Structural wall damage;

26 (3) "Seismic zone", those counties projected to experience an
27 earthquake intensity of eight or higher, with severe and violent
28 shaking, as estimated under the Modified Mercalli Intensity Scale,
29 following 6.7 magnitude earthquake.

30 2. For purposes of this section, all other terms shall have the
31 same meanings as defined in sections 379.810 to 379.880.

32 3. Upon application, beginning January 1, 2017, the facility may
33 issue a named perils policy covering earthquake loss on property that
34 is habitational. This policy shall supplement the property owner's
35 primary coverage for loss on such property issued by an insurer.

36 4. Coverage as specified in this section shall be exclusively for
37 earthquake loss and shall exclude coverage for any proximate loss from
38 fire or flood.

39 5. Coverage shall be only for habitational structures and shall
40 not cover driveways or nonhabitational detached structures. Contents
41 coverage shall apply only if there is a covered earthquake loss on the
42 habitational structure in which the contents were located. Coverage
43 for earthquake loss under this section shall not include loss for the
44 value of the land.

45 6. The facility shall use flexibility and experimentation in the
46 development and design of policies, coverages, and deductible options
47 offered to property owners for earthquake loss. Notwithstanding
48 section 375.920, such policies for earthquake loss shall be subject to the
49 approval or disapproval of the director.

50 7. The facility is authorized to purchase and enter into all
51 manner of contracts relating to reinsurance for earthquake loss that
52 are in accordance with procedures adopted by the committee.

53 (1) The committee shall establish procedures for an open,
54 competitive process for the acceptance and cession of reinsurance and
55 for determining the amounts of insurance to be provided.

56 (2) Such procedures shall be included within the plan of
57 operation and are subject to the approval or disapproval by the
58 director.

59 **(3) Insurers shall assume one hundred percent of the cost of**
60 **reinsurance related to earthquake loss.**

61 **(4) For years when there are insurers participating in the**
62 **facility who are not actively writing insurance for earthquake loss on**
63 **habitational risks in this state, the facility shall apportion the cost of**
64 **reinsurance for earthquake loss to insurers and issue annual**
65 **assessments as follows:**

66 **(a) For insurers actively writing insurance for earthquake loss**
67 **on habitational risks in this state, there shall be no liability and no**
68 **assessment shall be made;**

69 **(b) For insurers not actively writing insurance for earthquake**
70 **loss on habitational risks in this state, the same proportion as its**
71 **habitational premiums written bear to the aggregate habitational**
72 **premiums written by other insurers not actively writing earthquake**
73 **insurance on habitational risks in this state.**

74 **(5) For years when all insurers are actively writing insurance for**
75 **earthquake loss on habitational risks in this state, the facility shall**
76 **apportion the cost of reinsurance for earthquake loss to insurers in**
77 **accordance with subsection 2 of section 379.835.**

78 **8. The provisions of section 379.810 to 379.880 shall apply to**
79 **policies issued under this section; however, the facility may establish**
80 **specific procedures designed to expedite approval for policies covering**
81 **earthquake loss and premiums charged therefor shall be based only on**
82 **the risk for earthquake loss applicable to such property.**

83 **9. The facility may establish specific claims investigation**
84 **procedures necessary to determine whether a loss is an earthquake loss**
85 **or if it was the result of some other form of earth subsidence not**
86 **covered under the policy.**

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