

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
HOUSE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 722

89TH GENERAL ASSEMBLY

1998

L2741.08T

AN ACT

To repeal section 595.105, RSMo 1994, and to enact in lieu thereof eighteen new sections relating to the use of genetic information and testing and domestic violence status for insurance purposes, with penalty provisions.

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

Section A. Section 595.105, RSMo 1994, is repealed and eighteen new sections enacted in lieu thereof, to be known as sections 595.105, 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16 and 17, to read as follows:

595.105. Notwithstanding the provisions of subsection 1 of section 595.055 to the contrary, the director may allocate and distribute money in the fund to provide financial assistance to shelters for victims of domestic violence, **and agencies that provide domestic violence or sexual assault direct services, emergency services, crisis intervention and victim advocacy.**

Section 1. When used in sections 1 to 5 of this act, the following terms mean:

(1) "Consultant", an individual, partnership or corporation who, for a fee, holds himself or itself out to the public as engaged in the business of offering any advice, counsel, opinion or service with respect to the benefits, advantages or disadvantages

promised under any policy of insurance that could be issued in this state;

(2) "Director", the director of the department of insurance of this state;

(3) "Genetic information", the results of a genetic test. Genetic information shall not include family history, the results of routine physical measurements, or the results of chemical, blood, urine analysis, or the results of tests for drugs or the presence of the human immunodeficiency virus, or from results of any other tests commonly accepted in clinical practice at the time;

(4) "Genetic test", a laboratory test of human deoxyribonucleic acid (DNA) or ribonucleic acid (RNA) used to identify the presence or absence of inherited alterations in the DNA or RNA which cause predisposition to disease or illness. The term does not include routine physical measurements and examinations, routine tests performed as a part of a physical examination, chemical, blood or urine analysis, cholesterol tests, tests for the presence of the human immunodeficiency virus, a test for drugs, or tests commonly accepted in clinical practice at the time;

(5) "Insurer", any person, reciprocal exchange, interinsurer, Lloyds insurer, fraternal benefit society, and any other legal entity engaged in the business of insurance, including agents, brokers, adjusters and third-party administrators. "Insurer" also includes health services corporations, health maintenance organizations, prepaid limited health care service plans, dental, optometry and other similar health service plans. For purposes of sections 375.930 to 375.948, RSMo, such entities shall be deemed to be engaged in the business of insurance. "Insurer" shall also include all companies organized, incorporated or doing business pursuant to the provisions of chapters 325, 375, 376, 377, 378, 379, 381 and 383, RSMo;

(6) "Person", any natural or artificial entity, including, but not limited to, individuals, partnerships, associations, trusts or corporations;

(7) "Policy", "certificate" or "contract" includes any contract of insurance, indemnity, medical, health or hospital service, suretyship, or annuity issued, proposed for issuance, or intended for issuance by any insurer.

Section 2. 1. Any insurer, in determining eligibility for coverage, establishing premiums, limiting coverage, renewing coverage or any other underwriting decision, shall not, in connection with the offer, sale or renewal of a health plan:

(1) Require or request a person or blood relative of such person to provide genetic information or take a genetic test;

(2) Except as provided in subdivisions (3) and (4) of this subsection, inquire to determine whether a person or blood relative of such person has taken or refused a genetic test or what the results of any such test were;

(3) Consider without the approval of such person the fact that genetic

information or a genetic test was taken or refused by a person or blood relative of such person; or

(4) Consider without the approval of such person genetic information or the results of any genetic test taken by a person or blood relative of such person.

2. A violation of this section shall be subject to the provisions of sections 375.930 to 375.948, RSMo, relating to unfair trade practices.

3. For purposes of this section, "health plan" does not include any policy, contract or certificate of life insurance, reinsurance, disability income or long-term care coverage. This section applies to applications for coverage made on or after January 1, 1999, and to policies, contracts and certificates issued or renewed on or after such date to provide coverage to residents of this state.

Section 3. 1. As used in this section, the following terms mean:

(1) "Domestic violence", the occurrence of one or more of the following acts between family or household members:

(a) Attempting to cause or intentionally or knowingly causing bodily injury or physical harm;

(b) Knowingly engaging in a course of conduct or repeatedly committing acts toward another person under circumstances that place the person in reasonable fear of bodily injury or physical harm; or

(c) Knowingly committing forcible rape, sexual assault or forcible sodomy, as defined in chapter 566, RSMo;

(2) "Family or household member", a spouse, former spouse, person living with another person, whether or not as spouses, parent or other adult person related by consanguinity or affinity who is residing or has resided with the person committing the domestic violence and dependents of such persons.

2. No insurer shall do any of the following on the sole basis of the status of an insured or prospective insured as a victim of domestic violence:

(1) Deny, cancel or refuse to issue or renew an insurance policy;

(2) Require a greater premium, deductible or any other payment;

(3) Exclude or limit coverage for losses or deny a claim;

(4) Designate domestic violence as a pre-existing condition for which coverage will be denied or reduced;

(5) Terminate group coverage solely because of claims relating to the fact that any individual in the group is or has been as a victim of domestic violence; or

(6) Fix any lower rate or discriminate in the fees or commissions of an agent for writing or renewing a policy insuring an individual solely because an individual is or has been a victim of domestic violence.

3. The fact that an insured or prospective insured has been a victim of domestic

violence shall not be considered a permitted underwriting or rating criterion.

4. Nothing in this section shall prohibit an insurer from taking an action described in subsection 2 of this section if the action is otherwise permissible by law and is taken in the same manner and to the same extent with respect to all insureds and prospective insureds without regard to whether the insured or prospective insured is a victim of domestic violence.

5. A violation of this section shall be subject to the provisions of sections 375.930 to 375.948, RSMo, relating to unfair trade practices.

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

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

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

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

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

2. Any person who violates the provisions of this section shall be fined not more than five hundred dollars for each violation of this section.

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

(1) Statistical data compiled without reference to the identity of an individual;

(2) Health research conducted in accordance with the provisions of the federal common rule protecting the rights and welfare of research participants (45 CFR 46 and 21 CFR 50 and 56), or to health research using medical archives or databases in which the identity of individuals is protected from disclosure by coding or encryption, or by removing all identities;

(3) The release of such information pursuant to legal or regulatory process; or

(4) The release of such information for body identification.

2. Any person who violates the provisions of this section shall be fined not more

than five hundred dollars.

Section 6. Sections 6 to 15 of this act apply to all group and individual life insurance policies and certificates except:

- (1) Variable life insurance;**
- (2) Individual and group annuity contracts;**
- (3) Credit life insurance;**
- (4) Policies written by a company with less than twenty-five million dollars in annual direct written life insurance premiums;**
- (5) Life insurance policies with no illustrated death benefits on any individual exceeding ten thousand dollars;**
- (6) Life insurance policies containing guaranteed elements exclusively; or**
- (7) Single premium policies.**

Section 7. As used in sections 6 to 15 of this act, the following terms shall mean:

(1) "Actuarial standards board", the board established by the American Academy of Actuaries to develop and promulgate standards of actuarial practice;

(2) "Contract premium", the gross premium that is required to be paid under a fixed premium policy, including the premium for a rider for which benefits are shown in the illustration;

(3) "Currently payable scale", a scale of nonguaranteed elements in effect for a policy form as of the preparation date of the illustration or declared to become effective within the next ninety-five days;

(4) "Disciplined current scale", a scale of nonguaranteed elements constituting a limit on illustrations currently being illustrated by an insurer that is reasonably based on actual recent historical experience, as certified annually by an illustration actuary designated by the insurer. Further guidance in determining the disciplined current scale as contained in standards established by the actuarial standards board may be relied upon if the standards:

- (a) Are consistent with sections 6 to 15 of this act;**
- (b) Limit a disciplined current scale to reflect only actions that have already been taken or events that have already occurred;**
- (c) Do not permit a disciplined current scale to include any projected trends of improvements in experience or any assumed improvements in experience beyond the illustration date; and**

(d) Do not permit assumed expenses to be less than minimum assumed expenses;

(5) "Generic name", a short title descriptive of the policy being illustrated such as "whole life", "term life" or "flexible premium adjustable life";

(6) "Guaranteed elements", the premiums, benefits, values, credits or charges

under a policy of life insurance that are guaranteed and determined at issue;

(7) "Illustrated scale", a scale of nonguaranteed elements currently being illustrated that is not more favorable to the policy owner than the lesser of:

(a) The disciplined current scale; or

(b) The currently payable scale;

(8) "Illustration", a presentation or depiction that includes nonguaranteed elements of a policy of life insurance over a period of years and that is one of the three types defined below:

(a) "Basic illustration", a ledger or proposal used in the sale of a life insurance policy that shows both guaranteed and nonguaranteed elements;

(b) "Supplemental illustration", an illustration furnished in addition to a basic illustration that meets the applicable requirements of sections 6 to 15 of this act, and that may be presented in a format differing from the basic illustration, but may only depict a scale of nonguaranteed elements that is permitted in a basic illustration;

(c) "In force illustration", an illustration furnished at any time after the policy that it depicts has been in force for one year or more;

(9) "Illustration actuary", an actuary meeting the requirements of section 14 of this act who certifies to illustrations based on the standard practice promulgated by the actuarial standards board;

(10) "Lapse-supported illustration", an illustration of a policy form failing the test of self-supporting illustration as defined in subdivision (16) of this section, under a modified persistency rate assumption using persistency rates underlying the disciplined current scale for the first five years and one hundred percent policy persistency thereafter;

(11) "Minimum assumed expenses", the minimum expenses that may be used in the calculation of the disciplined current scale for a policy form. The insurer may choose to designate each year the method of determining assumed expenses for all policy forms from the following:

(a) Fully allocated expenses;

(b) Marginal expenses; and

(c) A generally recognized expense table on fully allocated expenses representing a significant portion of insurance companies and approved by the National Association of Insurance Commissioners.

Marginal expenses may be used only if greater than a generally recognized expense table. If no generally recognized expense table is approved, fully allocated expenses shall be used;

(12) "Nonguaranteed elements", the premiums, benefits, values, credits or charges under a policy of life insurance that are not guaranteed or not determined at

issue;

(13) "Nonterm group life", a group policy or individual policies of life insurance issued to members of an employer group or other permitted group where:

(a) Every plan of coverage was selected by the employer or other group representative;

(b) Some portion of the premium is paid by the group or through payroll deduction; and

(c) Group underwriting or simplified underwriting is used;

(14) "Policy owner", the owner named in the policy or the certificate holder in the case of a group policy;

(15) "Premium outlay", the amount of premium assumed to be paid by the policy owner or other premium payer out-of-pocket;

(16) "Self-supporting illustration", an illustration of a policy form for which it can be demonstrated that, when using experience assumptions underlying the disciplined current scale, for all illustrated points in time on or after the fifteenth policy anniversary or the twentieth policy anniversary for second-or-later-to-die policies, or upon policy expiration if sooner, the accumulated value of all policy cash flows equals or exceeds the total policy owner value available. For this purpose, policy owner value shall include cash surrender values and any other illustrated benefit amounts available at the policy owner's election.

Section 8. 1. Each insurer marketing policies to which sections 6 to 15 of this act are applicable shall notify the director of the department of insurance whether a policy form is to be marketed with or without an illustration. For all policy forms being actively marketed on August 28, 1998, the insurer shall identify in writing those forms and whether or not an illustration will be used with them. For policy forms filed after August 28, 1998, the identification shall be made at the time of filing. Any previous identification may be changed by notice to the director of the department of insurance.

2. If the insurer identifies a policy form as one to be marketed without an illustration, any use of an illustration for any policy using that form prior to the first policy anniversary is prohibited.

3. If a policy form is identified by the insurer as one to be marketed with an illustration, a basic illustration prepared and delivered in accordance with sections 6 to 15 of this act is required, except that a basic illustration need not be provided to individual members of a group or to individuals insured under multiple lives coverage issued to a single applicant unless the coverage is marketed to these individuals. The illustration furnished an applicant for a group life insurance policy or policies issued to a single applicant on multiple lives may be either an individual or composite illustration representative of the coverage on the lives of members of the group or the

multiple lives covered.

4. Potential enrollees of nonterm group life subject to sections 6 to 15 of this act shall be furnished a quotation with the enrollment materials. The quotation shall show potential policy values for sample ages and policy years on a guaranteed and nonguaranteed basis appropriate to the group and the coverage. This quotation shall not be considered an illustration for purposes of sections 6 to 15 of this act, but all information provided shall be consistent with the illustrated scale. A basic illustration shall be provided at delivery of the certificate to enrollees for nonterm group life who enroll for more than the minimum premium necessary to provide pure death benefit protection. In addition, the insurer shall make a basic illustration available to any nonterm group life enrollee who requests it.

Section 9. 1. An illustration used in the sale of a life insurance policy shall satisfy the applicable requirements of sections 6 to 15 of this act, be clearly labeled "life insurance illustration" and contain the following basic information:

- (1) Name of insurer;**
- (2) Name and business address of producer or insurer's authorized representative, if any;**
- (3) Name, age and sex of proposed insured, except where a composite illustration is permitted pursuant to sections 6 to 15 of this act;**
- (4) Underwriting or rating classification upon which the illustration is based;**
- (5) Generic name of policy, the company product name, if different, and form number;**
- (6) Initial death benefit; and**
- (7) Dividend option election or application of nonguaranteed elements, if applicable.**

2. When using an illustration in the sale of a life insurance policy, an insurer or its producers or other authorized representatives shall not:

- (1) Represent the policy as anything other than a life insurance policy;**
- (2) Use or describe nonguaranteed elements in a manner that is misleading or has the capacity or tendency to mislead;**
- (3) State or imply that the payment or amount of nonguaranteed elements is guaranteed;**
- (4) Use an illustration that does not comply with the requirements of sections 6 to 15 of this act;**
- (5) Use an illustration that at any policy duration depicts policy performance more favorable to the policy owner than that produced by the illustrated scale of the insurer whose policy is being illustrated;**
- (6) Provide an applicant with an incomplete illustration;**

(7) Represent in any way that premium payments will not be required for each year of the policy in order to maintain the illustrated death benefits, unless that is the fact;

(8) Use the term "vanish" or "vanishing premium", or a similar term that implies the policy becomes paid up, to describe a plan for using nonguaranteed elements to pay a portion of future premiums;

(9) Except for policies that can never develop nonforfeiture values, use an illustration that is "lapse-supported"; or

(10) Use an illustration that is not "self-supporting".

3. If an interest rate used to determine the illustrated nonguaranteed elements is shown, it shall not be greater than the earned interest rate underlying the disciplined current scale.

Section 10. 1. A basic illustration shall conform with the following requirements:

(1) The illustration shall be labeled with the date on which it was prepared;

(2) Each page, including any explanatory notes or pages, shall be numbered and show its relationship to the total number of pages in the illustration;

(3) The assumed dates of payment receipt and benefit pay-out within a policy year shall be clearly identified;

(4) If the age of the proposed insured is shown as a component of the tabular detail, it shall be issue age plus the numbers of years the policy is assumed to have been in force;

(5) The assumed payments on which the illustrated benefits and values are based shall be identified as premium outlay or contract premium, as applicable. For policies that do not require a specific contract premium, the illustrated payments shall be identified as premium outlay;

(6) Guaranteed death benefits and values available upon surrender, if any, for the illustrated premium outlay or contract premium shall be shown and clearly labeled guaranteed;

(7) If the illustration shows any nonguaranteed elements, they cannot be based on a scale more favorable to the policy owner than the insurer's illustrated scale at any duration. These elements shall be clearly labeled nonguaranteed;

(8) The guaranteed elements, if any, shall be shown before corresponding nonguaranteed elements and shall be specifically referred to on any page of an illustration that shows or describes only the nonguaranteed elements;

(9) The account or accumulation value of a policy, if shown, shall be identified by the name this value is given in the policy being illustrated and shown in close proximity to the corresponding value available upon surrender;

(10) The value available upon surrender shall be identified by the name this value is given in the policy being illustrated and shall be the amount available to the policy owner in a lump sum after deduction of surrender charges, policy loans and policy loan interest as applicable;

(11) Illustrations may show policy benefits and values in graphic or chart form in addition to the tabular form;

(12) Any illustration of nonguaranteed elements shall be accompanied by a statement indicating that:

(a) The benefits and values are not guaranteed;

(b) The assumptions on which they are based subject to change by the insurer;
and

(c) Actual results may be more or less favorable;

(13) If the illustration shows that the premium payer may have the option to allow policy charges to be paid using nonguaranteed values, the illustration shall clearly disclose that a charge continues to be required and that, depending on actual results, the premium payer may need to continue or resume premium outlays. Similar disclosure shall be made for premium outlay of lesser amounts or shorter durations than the contract premium. If a contract premium is due, the premium outlay display shall not be left blank or show zero unless accompanied by an asterisk or similar mark to draw attention to the fact that the policy is not paid up;

(14) If the applicant plans to use dividends or policy values, guaranteed or nonguaranteed, to pay all or a portion of the contract premium or policy charges, or for any other purpose, the illustration may reflect those plans and the impact on future policy benefits and values.

2. A basic illustration shall include the following:

(1) A brief description of the policy being illustrated, including a statement that it is a life insurance policy;

(2) A brief description of the premium outlay or contract premium, as applicable, for the policy. For a policy that does not require payment of a specific contract premium, the illustration shall show the premium outlay that shall be paid to guarantee coverage for the term of the contract, subject to maximum premiums allowable to qualify as a life insurance policy pursuant to the applicable provisions of the Internal Revenue Code;

(3) A brief description of any policy features, riders or options, guaranteed or nonguaranteed, shown in the basic illustration and the impact they may have on the benefits and values of the policy;

(4) Identification and a brief definition of column headings and key terms used in the illustration; and

(5) A statement containing in substance the following: "This illustration assumes that the currently illustrated nonguaranteed elements will continue unchanged for all years shown. This is not likely to occur, and actual results may be more or less favorable than those shown."

3. Following the narrative summary, a basic illustration shall include a numeric summary of the death benefits and values and the premium outlay and contract premium, as applicable. For a policy that provides for a contract premium, the guaranteed death benefits and values shall be based on the contract premium. This summary shall be shown for at least policy years five, ten and twenty and at age seventy, if applicable, on the three bases shown in subdivisions (1) to (3) of this subsection. For multiple life policies the summary shall show policy years five, ten, twenty and thirty.

(1) Policy guarantees;

(2) Insurer's illustrated scale;

(3) Insurer's illustrated scale used but with the nonguaranteed elements reduced as follows:

(a) Dividends at fifty percent of the dividends contained in the illustrated scale used;

(b) Nonguaranteed credited interest at rates that are the average of the guaranteed rates and the rates contained in the illustrated scale used; and

(c) All nonguaranteed charges, including but not limited to, term insurance charges, mortality and expense charges, at rates that are the average of the guaranteed rates and the rates contained in the illustrated scale used.

In addition, if coverage would cease prior to policy maturity or age one hundred, the year in which coverage ceases shall be identified for each of the three bases.

4. Statements substantially similar to the following shall be included on the same page as the numeric summary and signed by the applicant, or the policy owner in the case of an illustration provided at time of delivery, as required in sections 6 to 15 of this act:

(1) A statement to be signed and dated by the applicant or policy owner reading as follows: "I have received a copy of this illustration and understand that any nonguaranteed elements illustrated are subject to change and could be either higher or lower. The agent has told me they are not guaranteed."; and

(2) A statement to be signed and dated by the insurance producer or other authorized representative of the insurer reading as follows: "I certify that this illustration has been presented to the applicant and that I have explained that any nonguaranteed elements illustrated are subject to change. I have made no statements that are inconsistent with the illustration."

5. (1) A basic illustration shall include the following for at least each policy year from one to ten and for every fifth policy thereafter ending at age one hundred, policy maturity or final expiration; and except for term insurance beyond the twentieth year, for any year in which the premium outlay and contract premium, if applicable, is to change:

(a) The premium outlay and mode the applicant plans to pay and the contract premium, as applicable;

(b) The corresponding guaranteed death benefit, as provided in the policy; and

(c) The corresponding guaranteed value available upon surrender, as provided in the policy.

(2) For a policy that provides for a contract premium, the guaranteed death benefit and value available upon surrender shall correspond to the contract premium.

(3) Nonguaranteed elements may be shown if described in the contract. In the case of an illustration for a policy on which the insurer intends to credit terminal dividends, they may be shown if the insurer's current practice is to pay terminal dividends. If any nonguaranteed elements are shown, they shall be shown at the same durations as the corresponding guaranteed elements, if any. If no guaranteed benefit or value is available at any duration for which a nonguaranteed benefit or value is shown, a zero shall be displayed in the guaranteed column.

Section 11. 1. A supplemental illustration may be provided so long as:

(1) It is appended to, accompanied by or preceded by a basic illustration that complies with sections 6 to 15 of this act;

(2) The nonguaranteed elements shown are not more favorable to the policy owner than the corresponding elements based on the scale used in the basic illustration;

(3) It contains the same statement required of a basic illustration that nonguaranteed elements are not guaranteed; and

(4) For a policy that has a contract premium, the contract premium underlying the supplemental illustration is equal to the contract premium shown in the basic illustration. For policies that do not require a contract premium, the premium outlay underlying the supplemental illustration shall be equal to the premium outlay shown in the basic illustration.

2. The supplemental illustration shall include a notice referring to the basic illustration for guaranteed elements and other important information.

Section 12. 1. (1) If a basic illustration is used by an insurance producer or other authorized representative of the insurer in the sale of a life insurance policy and the policy is applied for as illustrated, a copy of that illustration, signed in accordance with sections 6 to 15 of this act, shall be submitted to the insurer at the time of policy

application. A copy also shall be provided to the applicant.

(2) If the policy is issued other than as applied for, a revised basic illustration conforming to the policy as issued shall be sent with the policy. The revised illustration shall conform to the requirements of sections 6 to 15 of this act, shall be labeled "Revised Illustration" and shall be signed and dated by the applicant or policy owner and producer or other authorized representative of the insurer no later than the time the policy is delivered. A copy shall be provided to the insurer and the policy owner.

2. (1) If no illustration is used by an insurance producer or other authorized representative in the sale of a life insurance policy or if the policy is applied for other than as illustrated, the producer or representative shall certify to that effect in writing on a form provided by the insurer. On the same form the applicant shall acknowledge that no illustration conforming to the policy applied for was provided and shall further acknowledge an understanding that an illustration conforming to the policy as issued will be provided no later than at the time of policy delivery. This form shall be submitted to the insurer at the time of policy application.

(2) If the policy is issued, a basic illustration conforming to the policy as issued shall be sent with the policy and signed no later than the time the policy is delivered. A copy shall be provided to the insurer and the policy owner.

3. If the basic illustration or revised illustration is sent to the applicant or policy owner by mail from the insurer, it shall include instructions for the applicant or policy owner to sign the duplicate copy of the numeric summary page of the illustration for the policy issued and return the signed copy to the insurer. The insurer's obligation pursuant to this subsection shall be satisfied if it can demonstrate that it has made a diligent effort to secure a signed copy of the numeric summary page. The requirement to make a diligent effort shall be deemed satisfied if the insurer includes in the mailing a self-addressed postage prepaid envelope with instructions for the return of the signed numeric summary page.

4. A copy of the basic illustration and a revised basic illustration, if any, signed as applicable, along with any certification that either no illustration was used or that the policy was applied for other than as illustrated, shall be retained by the insurer until three years after the policy is no longer in force. A copy need not be retained if no policy is issued.

Section 13. 1. In the case of a policy designated as one for which illustrations will be used, the insurer shall provide each policy owner with an annual report on the status of the policy that shall contain at least the following information:

(1) For universal life policies, the report shall include the following:

(a) The beginning and end date of the current report period;

(b) The policy value at the end of the previous report period and at the end of

the current report period;

(c) The total amounts that have been credited or debited to the policy value during the current report period, identifying each by type (e.g., interest, mortality, expense and riders);

(d) The current death benefit at the end of the current report period on each life covered by the policy;

(e) The net cash surrender value of the policy as of the end of the current report period;

(f) The amount of outstanding loans, if any, as of the end of the current report period; and

(g) For fixed premium policies if, assuming guaranteed interest, mortality and expense loads and continued scheduled premium payments, the policy's net cash surrender value is such that it would not maintain insurance in force until the end of the next reporting period, a notice to this effect shall be included in the report; or

(h) For flexible premium policies if, assuming guaranteed interest, mortality and expense loads, the policy's net cash surrender value will not maintain insurance in force until the end of the next reporting period unless further premium payments are made, a notice to this effect shall be included in the report.

(2) For all other policies, where applicable:

(a) Current death benefit;

(b) Annual contract premium;

(c) Current cash surrender value;

(d) Current dividend;

(e) Application of current dividend; and

(f) Amount of outstanding loan.

(3) Insurers writing life insurance policies that do not build nonforfeiture values shall only be required to provide an annual report with respect to these policies for those years when a change has been made to nonguaranteed policy elements by the insurer.

2. If the annual report does not include an in-force illustration, it shall contain the following notice displayed prominently: "IMPORTANT POLICY OWNER NOTICE: You should consider requesting more detailed information about your policy to understand how it may perform in the future. You should not consider replacement of your policy or make changes in your coverage without requesting a current illustration. You may annually request, without charge, such an illustration by calling (insurer's phone number), writing to (insurer's name) at (insurer's address) or contacting your agent. If you do not receive a current illustration of your policy within thirty days from your request, you should

contact your state insurance department." The insurer may vary the sequential order of the methods for obtaining an in-force illustration.

3. Upon the request of the policy owner, the insurer shall furnish an in-force illustration of current and future benefits and values based on the insurer's present illustrated scale. This illustration shall comply with the requirements of subsections 1 and 2 of section 9 of this act and subsections 1 and 5 of section 10 of this act. No signature or other acknowledgement of receipt of this illustration shall be required.

4. If an adverse change in nonguaranteed elements that could affect the policy has been made by the insurer since the last annual report, the annual report shall contain a notice of that fact and the nature of the change prominently displayed.

Section 14. 1. The board of directors of each insurer shall appoint one or more illustration actuaries.

2. The illustration actuary shall certify that the disciplined current scale used in illustrations is in conformity with the actuarial standard of practice for compliance with the NAIC model regulation of life insurance illustrations promulgated by the actuarial standards board, and that the illustrated scales used in insurer-authorized illustrations meet the requirements of sections 6 to 15 of this act.

3. The illustration actuary shall:

(1) Be a member in good standing of the American Academy of Actuaries;

(2) Be familiar with the standard of practice regarding life insurance policy illustrations;

(3) Not have been found by the director of the department of insurance, following appropriate notice and hearing to have:

(a) Violated any provision of, or any obligation imposed by, the insurance law or other law in the course of his or her dealings as an illustration actuary;

(b) Been found guilty of fraudulent or dishonest practices;

(c) Demonstrated his or her incompetence, lack of cooperation, or untrustworthiness to act as an illustration actuary; or

(d) Resigned or been removed as an illustration actuary within the past five years as a result of acts or omissions indicated in any adverse report on examination or as a result of a failure to adhere to generally acceptable actuarial standards;

(4) Not fail to notify the director of the department of insurance of any action taken by a commissioner or director of insurance of another state similar to that pursuant to subdivision (3) of this subsection;

(5) Disclose in the annual certification whether, since the last certification, a currently payable scale applicable for business issued within the previous five years and within the scope of the certification has been reduced for reasons other than changes in the experience factors underlying the disciplined current scale. If

nonguaranteed elements illustrated for new policies are not consistent with those illustrated for similar in-force policies, this shall be disclosed in the annual certification. If nonguaranteed elements illustrated for both new and in-force policies are not consistent with the nonguaranteed elements actually being paid, charged or credited to the same or similar forms, this shall be disclosed in the annual certification; and

(6) Disclose in the annual certification the method used to allocate overhead expenses for all illustrations:

- (a) Fully allocated expenses;**
- (b) Marginal expenses; or**
- (c) A generally recognized expense table based on fully allocated expenses representing a significant portion of insurance companies and approved by the director of the department of insurance.**

4. (1) The illustration actuary shall file a certification with the board and with the director of the department of insurance:

- (a) Annually for all policy forms for which illustrations are used; and**
- (b) Before a new policy form is illustrated.**

(2) If an error in a previous certification is discovered, the illustration actuary shall notify the board of directors of the insurer and the director of the department of insurance promptly.

5. If an illustration actuary is unable to certify the scale for any policy form illustration the insurer intends to use, the actuary shall notify the board of directors of the insurer and the director of the department of insurance promptly of his or her inability to certify.

6. A responsible officer of the insurer, other than the illustration actuary, shall certify annually:

(1) That the illustration formats meet the requirements of sections 6 to 15 of this act and that the scales used in insurer-authorized illustrations are those scales certified by the illustration actuary; and

(2) That the company has provided its agents with information about the expense allocation method used by the company in its illustrations and disclosed as required in subdivision (6) of subsection 3 of this section.

7. The annual certifications shall be provided to the director of the department of insurance each year by a date determined by the insurer.

8. If an insurer changes the illustration actuary responsible for all or a portion of the company's policy forms, the insurer shall notify the director of the department of insurance of that fact promptly and disclose the reason for the change.

Section 15. In addition to any other penalties provided by the laws of this state,

an insurer or producer that violates a requirement of sections 6 to 15 of this act shall be guilty of an unfair trade practice pursuant to sections 375.930 to 375.948, RSMo.

Section 16. Sections 6 to 15 of this act shall only apply to policies governed by sections 6 to 15 of this act which are marketed after January 1, 1999.

Section 17. No state funds shall be used for research with respect to the cloning of a human person. For purposes of this section, the term "cloning" means the replication of a human person by taking a cell with genetic material and cultivating such cell through the egg, embryo, fetal and newborn stages of development into a new human person.

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