

FIRST REGULAR SESSION

HOUSE BILL NO. 616

92ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE LUETKEMEYER.

Read 1st time March 6, 2003, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

1977L.011

AN ACT

To amend chapter 374, RSMo, by adding thereto one new section relating to exhaustion of administrative remedies for insurance-related lawsuits.

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

Section A. Chapter 374, RSMo, is amended by adding thereto one new section, to be known as section 374.1000, to read as follows:

374.1000. 1. A court shall abate or dismiss an action filed against an insurance entity unless the court determines that:

(1) The interpretation, application, or violation of an insurance-related statute or rule involves only a question of law; and

(2) The department of insurance may not make any findings of fact or conclusions of law or issue any orders that would aid the court in resolving the action.

2. A court may abate or dismiss an action filed against an insurance entity if the court determines that the department of insurance may order in a contested case all or part of the relief the claimant seeks. The court shall specify in its order of abatement or dismissal the portion of the statute on which the court bases its order.

3. A court that abates an action under this section:

(1) Shall refer specific issues or claims within the jurisdiction of the department of insurance to the department of insurance for action; and

(2) May direct the department of insurance to report to the court periodically concerning the disposition of the matters referred to the agency.

4. The statute of limitations for an action dismissed or abated under this section is tolled for the period during which the claimant seeks an administrative remedy.

5. The court shall provide that the period of abatement is at least six months from

19 the date the court enters the order of abatement or such other reasonable time as the court
20 may determine.

21 6. Relief awarded to a claimant may be adequate even if the relief does not include
22 exemplary damages, multiple damages, attorneys' fees, or court costs.

23 7. This section applies only to a civil action filed against an insurance entity in
24 which:

25 (1) A claimant seeks recovery of damages on behalf of a class of claimants; and

26 (2) The interpretation, application, or violation of an insurance-related statute or
27 rule is involved for at least one defendant.

28 8. For purposes of this section, an "insurance entity" is any entity required to be
29 licensed under the insurance laws of this state.