

SECOND REGULAR SESSION

# HOUSE BILL NO. 1159

## 92ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE LUETKEMEYER.

Read 1<sup>st</sup> time January 20, 2004, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

4087L.011

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### AN ACT

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

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

**(1) "Action":**

**(a) A legal claim filed against a company in a Missouri court;**

**(b) Where a claimant seeks recovery of damages on behalf of a class of claimants;**

**and**

**(c) Where the interpretation, application, or violation of a statute or rule, as described in section 374.010 is involved for at least one plaintiff or one defendant;**

**(2) "Company", as defined in subsection 2 of section 374.202, any person engaging in, or proposing or attempting to engage in any transaction or kind of insurance or surety business and any person or group of persons who may otherwise be subject to the administrative, regulatory, or taxing authority of the director.**

**2. A court shall abate an action filed against a company when the court determines that:**

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

**(2) The department of insurance may make any findings of fact or conclusions of law or issue any orders that would aid the court in resolving the action.**

**3. A court may abate an action filed against an insurance entity if the court**

19 **determines that the department of insurance may order in a contested case all or part of**  
20 **the relief the claimant seeks. The court shall specify in its order of abatement the portion**  
21 **of the statute on which the court bases its order.**

22 **4. A court that abates an action under this section:**

23 **(1) Shall refer specific issues or claims within the jurisdiction of the department of**  
24 **insurance to the department of insurance for administrative review and determination;**  
25 **and**

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

28 **5. The statute of limitations for an action abated under this section is tolled for the**  
29 **period during which the claimant seeks an administrative remedy.**

30 **6. The court shall provide that the period of abatement is at least six months from**  
31 **the date the court enters the order of abatement or such other reasonable time as the court**  
32 **may determine.**