

SECOND REGULAR SESSION

HOUSE BILL NO. 1651

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE YATES.

Read 1st time February 2, 2006 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

4943L.011

AN ACT

To repeal sections 354.210, 354.350, 354.444, 354.722, 374.046, 374.210, 374.215, 374.280, 374.512, 374.755, 374.787, 374.789, 375.012, 375.020, 375.152, 375.236, 375.306, 375.310, 375.445, 375.720, 375.777, 375.780, 375.786, 375.787, 375.881, 375.940, 375.942, 375.946, 375.994, 375.1010, 375.1012, 375.1014, 375.1016, 375.1135, 375.1156, 375.1160, 375.1204, 375.1306, 375.1309, 376.309, 376.889, 376.1094, 379.361, 379.510, 379.790, 380.391, 380.571, and 384.071, RSMo, and to enact in lieu thereof fifty-six new sections relating to various enforcement powers of the department of insurance, with penalty provisions.

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

Section A. Sections 354.210, 354.350, 354.444, 354.722, 374.046, 374.210, 374.215, 2 374.280, 374.512, 374.755, 374.787, 374.789, 375.012, 375.020, 375.152, 375.236, 375.306, 3 375.310, 375.445, 375.720, 375.777, 375.780, 375.786, 375.787, 375.881, 375.940, 375.942, 4 375.946, 375.994, 375.1010, 375.1012, 375.1014, 375.1016, 375.1135, 375.1156, 375.1160, 5 375.1204, 375.1306, 375.1309, 376.309, 376.889, 376.1094, 379.361, 379.510, 379.790, 6 380.391, 380.571, and 384.071, RSMo, are repealed and fifty-six new sections enacted in lieu 7 thereof, to be known as sections 354.210, 354.350, 354.444, 354.722, 374.046, 374.047, 8 374.048, 374.049, 374.051, 374.055, 374.185, 374.210, 374.215, 374.280, 374.512, 374.755, 9 374.780, 374.787, 374.789, 375.012, 375.020, 375.143, 375.145, 375.152, 375.236, 375.306, 10 375.310, 375.445, 375.720, 375.777, 375.780, 375.786, 375.881, 375.940, 375.942, 375.946, 11 375.994, 375.1010, 375.1014, 375.1016, 375.1135, 375.1156, 375.1160, 375.1161, 375.1204,

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

12 375.1306, 375.1309, 376.309, 376.889, 376.1094, 379.361, 379.510, 379.790, 380.391, 380.571,
13 and 384.071, to read as follows:

354.210. 1. [Notwithstanding any other provisions of chapter 354,] **If the director [may, after a hearing, order as a forfeiture to the state of Missouri a sum not to exceed one hundred dollars for each violation by any person or corporation willfully violating any provision of sections 354.010 to 354.380 for which no specific punishment is provided, or order of the director made in accordance with such sections. Such forfeiture may be recovered by a civil action brought by and in the name of the director of insurance. The civil action may be brought in the county which has venue of an action against the person or corporation under other provisions of law] determines that a person has engaged, is engaging, or is about to engage in a violation of sections 354.010 to 354.380, or a rule adopted or order issued thereunder, or that a person has materially aided, is materially aiding, or is about to materially aid an act, practice, omission, or course of business constituting a violation of sections 354.010 to 354.380 or a rule adopted or order issued thereunder, the director may issue such administrative orders as authorized under section 374.046, RSMo. A violation of any of these sections is a level one violation under section 374.049, RSMo.**

2. [Nothing contained in this section shall be construed to prohibit the director and the corporation or its enrollment representative from agreeing to a voluntary forfeiture of the sum mentioned herein without civil proceedings being instituted. Any sum so agreed upon shall be paid into the school fund as provided by law for other fines and penalties] **If the director believes that a person has engaged, is engaging, or is about to engage in a violation of sections 354.010 to 354.380, or a rule adopted or order issued thereunder, or that a person has materially aided, is materially aiding, or is about to materially aid an act, practice, omission, or course of business constituting a violation of sections 354.010 to 354.380 or a rule adopted or order issued thereunder, the director may maintain a civil action for relief authorized under section 374.048, RSMo. A violation of any of these sections is a level one violation under section 374.049, RSMo.**

354.350. 1. [When upon investigation the director finds that any] **It is unlawful for any** corporation subject to the provisions of sections 354.010 to 354.380 transacting business in this state [has conducted] **to:**

(1) **Conduct** its business fraudulently[, is not carrying];

(2) **Fail to carry** out its contracts in good faith[, or is]; **or**

(3) Habitually and as a matter of business practice [compelling] **compel** claimants under policies or liability judgment creditors of its members to either accept less than the amount due under the terms of the policy or resort to litigation against the corporation to secure payment of the amount due[, and that a proceeding in respect thereto would be in the interest of the public,

10 he shall issue and serve upon the corporation a statement of the charges in that respect and a
11 notice of a hearing thereon].

12 2. [If after the hearing the director shall determine that the corporation subject to the
13 provisions of sections 354.010 to 354.380 has fraudulently conducted its business as defined in
14 this section, he shall order the corporation to cease and desist from the fraudulent practice and
15 may suspend the corporation's certificate of authority for a period not to exceed thirty days and
16 may in addition order a forfeiture to the state of Missouri of a sum not to exceed one thousand
17 dollars, which forfeiture may be recovered by a civil action brought by and in the name of the
18 director of insurance. The civil action may be brought in the circuit court of Cole County or, at
19 the option of the director of insurance, in another county which has venue of an action against
20 the corporation under other provisions of law] **If the director determines that a person has**
21 **engaged, is engaging, or is about to engage in a violation of this section or a rule adopted**
22 **or order issued thereunder or that a person has materially aided, is materially aiding, or**
23 **is about to materially aid an act, practice, omission, or course of business constituting a**
24 **violation of this section or a rule adopted or order issued thereunder, the director may**
25 **issue such administrative orders as authorized under section 374.046, RSMo. A violation**
26 **of this section is a level three violation under section 374.049, RSMo.** The director of
27 insurance may also suspend or revoke the license **or certificate of authority** of a corporation
28 subject to the provisions of sections 354.010 to 354.380 or enrollment representative for any
29 such willful violation.

30 3. **If the director believes that a person has engaged, is engaging, or is about to**
31 **engage in a violation of this section or a rule adopted or order issued thereunder or that**
32 **a person has materially aided, is materially aiding, or is about to materially aid an act,**
33 **practice, omission, or course of business constituting a violation of this section or a rule**
34 **adopted or order issued thereunder, the director may maintain a civil action for relief**
35 **authorized under section 374.048, RSMo. A violation of this section is a level three**
36 **violation under section 374.049, RSMo.**

354.444. 1. [Notwithstanding any other provisions of chapter 354,] **If the director [may,**
2 **after a hearing, order a forfeiture to the state of Missouri a sum not to exceed one hundred dollars**
3 **for each violation by any person knowingly violating any provision] determines that a person**
4 **has engaged, is engaging, or is about to engage in a violation** of sections 354.400 to 354.636
5 [for which no specific punishment is provided, or order a specific punishment in accordance with
6 such sections. Such forfeiture may be recovered by a civil action brought by and in the name of
7 the department of insurance. The civil action may be brought in the county which has venue for
8 an action against the person or corporation], **or a rule adopted or order issued thereunder or**
9 **that a person has materially aided, is materially aiding, or is about to materially aid an act,**

10 **practice, omission, or course of business constituting a violation of sections 354.400 to**
11 **354.636 or a rule adopted or order issued thereunder, the director may issue such**
12 **administrative orders as authorized under section 374.046, RSMo. A violation of any of**
13 **these sections is a level one violation under section 374.049, RSMo.**

14 2. [Nothing contained in this section shall be construed to prohibit the director and the
15 corporation or its enrollment representative from agreeing to a voluntary forfeiture of the sum
16 mentioned herein without civil proceedings being instituted. Any payment under this section
17 shall be paid into the school fund as provided by article IX, section 7 of the Missouri
18 Constitution for fines and penalties] **If the director believes that a person has engaged, is**
19 **engaging, or is about to engage in a violation of sections 354.400 to 354.636, or a rule**
20 **adopted or order issued thereunder or that a person has materially aided, is materially**
21 **aiding, or is about to materially aid an act, practice, omission, or course of business**
22 **constituting a violation of sections 354.400 to 354.636 or a rule adopted or order issued**
23 **thereunder, the director may maintain a civil action for relief authorized under section**
24 **374.048, RSMo. A violation of any of these sections is a level one violation under section**
25 **374.049, RSMo.**

354.722. 1. The director may suspend or revoke any certificate of authority issued to a
2 prepaid dental plan corporation pursuant to sections 354.700 to 354.723 if he finds that any of
3 the following conditions exist:

4 (1) The prepaid dental plan corporation is operating substantially in contravention of its
5 basic organizational document or is not fulfilling its contracts;

6 (2) [The prepaid dental plan corporation issues a contract, contract certificate or
7 amendment which has not been filed with the director and approved or deemed approved by the
8 director;

9 (3)] The prepaid dental plan corporation is no longer financially responsible and may
10 reasonably be expected to be unable to meet its contractual obligations to enrollees, or
11 prospective enrollees;

12 [(4)] (3) The prepaid dental plan corporation, or any person on its behalf, has advertised
13 or merchandised its prepaid dental benefits in an untrue, misrepresentative, misleading,
14 deceptive, or unfair manner; **or**

15 [(5)] (4) The continued operation of the prepaid dental plan corporation would be
16 hazardous to its enrollees[; or

17 (6) The prepaid dental plan corporation has failed to substantially comply with the
18 provisions of sections 354.700 to 354.723 or any rules or regulations promulgated thereunder].

19 2. [When the director believes that grounds for the suspension or revocation of the
20 corporation's certificate of authority exists, he shall notify the corporation in writing, stating the

21 grounds and fixing a date and time for a hearing. At least twenty days' notice of such hearing
22 shall be given. The hearing and any appeals therefrom shall be in accordance with chapter 536,
23 RSMo.

24 3. The director may, in lieu of the suspension or revocation of the corporation's
25 certification of authority, file suit in circuit court to seek a civil penalty in an amount not less
26 than one hundred dollars nor more than one thousand dollars.

27 **4.] If the director determines that a person has engaged, is engaging, or is about to**
28 **engage in a violation of sections 354.700 to 354.723 or a rule adopted or order issued**
29 **thereunder or that a person has materially aided, is materially aiding, or is about to**
30 **materially aid an act, practice, omission, or course of business constituting a violation of**
31 **sections 354.700 to 354.723 or a rule adopted or order issued thereunder, the director may**
32 **issue such administrative orders as authorized under section 374.046, RSMo. A violation**
33 **of this section is a level two violation under section 374.049, RSMo. The director of**
34 **insurance may also suspend or revoke the certificate of authority of a corporation for any**
35 **such willful violation.**

36 3. When the certificate of authority of a prepaid dental plan corporation is suspended,
37 the prepaid dental plan corporation shall not, during the period of such suspension, enroll any
38 additional enrollees except newborn children or other newly acquired dependent of existing
39 enrollees and shall not engage in any advertising or solicitation whatsoever.

40 [5.] 4. When the certificate of authority of a prepaid dental plan corporation is revoked,
41 such corporation shall proceed, immediately following the effective date of the order of
42 revocation, to wind up its affairs and shall conduct no further business except as may be essential
43 to the orderly conclusion of the affairs of such corporation. It shall engage in no further
44 advertising or solicitation whatsoever.

374.046. 1. [(1) The director may issue cease and desist orders whenever it appears to
2 him upon competent and substantial evidence that any person is acting in violation of any law
3 of this state or any rule or regulation promulgated by the director relating to the business of
4 insurance. Before any cease and desist order shall be issued, a copy of the proposed order
5 together with an order to show cause why such cease and desist order should not be issued shall
6 be served either personally or by certified mail on any person named therein.

7 (2) (a) Upon issuing any order to show cause the director shall notify the person named
8 therein that the person is entitled to a public hearing before the director if a request for a hearing
9 is made in writing to the director within fifteen days from the day of the service of the order to
10 show cause why the cease and desist order should not be issued.

11 (b) The cease and desist order shall be issued fifteen days after the service of the order
12 to show cause if no request for a public hearing is made as above provided.

13 (c) Upon receipt of a request for a hearing the director shall set a time and place for the
14 hearing which shall not be less than ten days or more than fifteen days from the receipt of the
15 request or as otherwise agreed upon by the parties. Notice of the time and place shall be given
16 by the director not less than five days before the hearing.

17 (d) At the hearing the person may be represented by counsel and shall be entitled to be
18 advised of the nature and source of any adverse evidence procured by the director and shall be
19 given the opportunity to submit any relevant written or oral evidence in his behalf to show cause
20 why the cease and desist order should not be issued.

21 (e) At the hearing the director shall have such powers as are conferred upon him in
22 section 374.190.

23 (f) At the conclusion of the hearing, or within ten days thereafter, the director shall issue
24 the cease and desist order as proposed or as subsequently modified or notify the person that no
25 order shall be issued.

26 (g) The circuit court of Cole County shall have jurisdiction to review any cease and
27 desist order of the director under the provisions of sections 536.100 to 536.150, RSMo; and, if
28 any person against whom an order is issued fails to request judicial review, or if, after judicial
29 review, the director's cease and desist order is upheld, the order shall become final.

30 **2.] If the director determines based upon substantial and competent evidence that**
31 **a person has engaged, is engaging, or is about to engage in an act, practice, omission, or**
32 **course of business constituting a violation of the laws of this state relating to insurance in**
33 **this chapter, chapter 354, RSMo, and chapters 375 to 385, RSMo, or a rule adopted or**
34 **order issued thereunder or that a person has materially aided, is materially aiding, or is**
35 **about to materially aid an act, practice, omission, or course of business constituting a**
36 **violation of the laws of this state relating to insurance in this chapter, chapter 354, RSMo,**
37 **and chapters 375 to 385, RSMo, or a rule adopted or order issued thereunder, the director**
38 **may order the following relief:**

39 (1) **An order directing the person to cease and desist from engaging in the act,**
40 **practice, omission, or course of business;**

41 (2) **A curative order or order directing the person to take other action necessary**
42 **or appropriate to comply with the insurance laws of this state;**

43 (3) **Order a civil penalty or forfeiture as provided in section 374.049; and**

44 (4) **Award reasonable costs of the investigation.**

45 **2. In determining any relief sought, the director shall consider, among other**
46 **factors, whether:**

47 (1) **The violations are likely to continue or reoccur;**

48 (2) **Actual injury or harm was suffered by consumers;**

49 **(3) Restitution has been made to aggrieved consumers;**

50 **(4) The act, practice, omission, or course of business was detected as part of a**
51 **regular self-audit or internal compliance program and immediately reported to the**
52 **director; and**

53 **(5) The act, practice, omission, or course of business had previously been detected,**
54 **but inadequate policies and procedures were implemented to prevent reoccurrence.**

55 **3. Unless the director determines that a summary order is appropriate under**
56 **subsection 4 of this section, the director shall provide notice of the intent to initiate**
57 **administrative enforcement by serving a statement of the reasons for the action upon any**
58 **person subject to the proceedings. A statement of reasons, together with an order to show**
59 **cause why a cease-and-desist order and other relief should not be issued, shall be served**
60 **either personally or by certified mail on any person named therein. The director shall**
61 **schedule a time and place at least ten days thereafter, for hearing, and after notice of and**
62 **opportunity for hearing to each person subject to the order, the director may issue a final**
63 **order under subsection 5 of this section.**

64 **4. If the director determines that section 375.014, 375.144, or 375.310, RSMo, are**
65 **being violated and consumers are being aggrieved by the violations, the order issued under**
66 **subdivision (1) of subsection 1 of this section may be summary and be effective on the date**
67 **of issuance. Upon issuance of the order, the director shall promptly serve each person**
68 **subject to the order with a copy of the order and a notice that the order has been entered.**

69 **5. A summary order issued under subsection 4 of this section shall include a**
70 **statement of the reasons for the order, notice within five days after receipt of a request in**
71 **a record from the person that the matter shall be scheduled for a hearing, and a statement**
72 **whether the department is seeking a civil penalty or costs of the investigation. If a person**
73 **subject to the order does not request a hearing and none is ordered by the director within**
74 **thirty days after the date of service of the order, the order becomes final as to that person**
75 **by operation of law. If a hearing is requested or ordered, the director, after notice of and**
76 **opportunity for hearing to each person subject to the order, may modify or vacate the**
77 **order or extend it until final determination.**

78 **6. If a hearing is requested or ordered under subsection 2 or 5 of this section, a**
79 **hearing before the director or a hearing officer designated by the director shall be**
80 **provided. A final order shall not be issued unless the director makes findings of fact and**
81 **conclusions of law in a record in accordance with the provisions of chapter 536, RSMo, and**
82 **procedural rules promulgated by the director. The final order may make final, vacate, or**
83 **modify the order issued under subsection 5 of this section.**

84 **7. In a final order under subsection 6 of this section, the director may impose a civil**
85 **penalty or forfeiture as provided in section 374.049. No civil penalty or forfeiture may be**
86 **imposed against a person unless the person has engaged in the act, practice, omission, or**
87 **course of business constituting the violation.**

88 **8. In a final order, the director may charge the actual cost of an investigation or**
89 **proceeding for a violation of the insurance laws of this state or a rule adopted or order**
90 **issued thereunder. Such moneys may be paid to the director to the credit of the insurance**
91 **dedicated fund.**

92 **9. The director is authorized to issue subpoenas, compel attendance of witnesses,**
93 **administer oaths, hear testimony of witnesses, receive evidence, and require the production**
94 **of books, papers, records, correspondence, and all other written instruments or documents**
95 **relevant to the proceeding and authorized in contested cases under the provisions of**
96 **chapter 536, RSMo, and procedural rules promulgated by the director.**

97 **10. Statements of charges, notices, orders, and other processes of the director may**
98 **be served by any person authorized by the director either in the manner provided by law**
99 **for service of process in civil actions, or by registering or certifying and mailing a copy**
100 **thereof to the person affected by such statement, notice, order, or other process at such**
101 **person's residence or principal office or place of business. The verified return by the**
102 **person so serving such statement, notice, order, or other process setting forth the manner**
103 **of such service shall be proof of the same, and the return postcard receipt for such**
104 **statement, notice, order, or other process, registered and mailed as aforesaid, shall be proof**
105 **of the service of the same.**

106 **11. If a petition for judicial review of a final order is not filed in accordance with**
107 **section 374.055, the director may file a certified copy of the final order with the clerk of a**
108 **court of competent jurisdiction. The order so filed has the same effect as a judgment of the**
109 **court and may be recorded, enforced, or satisfied in the same manner as a judgment of the**
110 **court.**

111 **12. If a person violates or does not comply with an order under this section, the**
112 **director may under section 374.048 petition a court of competent jurisdiction to enforce the**
113 **order. The court shall not require the director to post a bond in an action or proceeding**
114 **under this section. If the court finds, after service and opportunity for hearing, that the**
115 **person was not in compliance with the order, the court may, in addition to relief authorized**
116 **in section 374.048, adjudge the person in civil contempt of the order. A violation of or**
117 **failure to comply with an order under this section is a level three violation under section**
118 **374.049. The court may impose a further civil penalty against the person for contempt in**
119 **an amount not less than five thousand dollars but not greater than one hundred thousand**

120 **dollars for each violation and may grant any other relief the court determines is just and**
121 **proper in the circumstances.**

122 **13. Until the expiration of the time allowed under section 374.055 for filing a**
123 **petition for judicial review, if no such petition has been duly filed within such time or if a**
124 **petition for review has been filed within such time, then until the transcript of the record**
125 **in the proceeding has been filed in the circuit court of Cole County, the director may at any**
126 **time, upon such notice and in such manner as he shall deem proper, modify or set aside in**
127 **whole or in part any order issued by the director under this section.**

128 **14. The enforcement authority of the director under this section is cumulative to**
129 **any other statutory authority of the director.**

130 **15. The director is authorized to issue administrative consent orders in the public**
131 **interest as complete or partial settlement of any investigation, examination, or other**
132 **proceeding, which curative orders may contain any provision necessary or appropriate to**
133 **assure compliance with the insurance laws of this state, require payment of restitution to**
134 **be distributed directly or by the director to any aggrieved consumers, civil penalties, or**
135 **voluntary forfeiture, reimbursement for costs of investigation or examination, or any other**
136 **relief deemed by the director to be necessary and appropriate. Any remaining matters not**
137 **addressed in settlement may be submitted to the director through a contested proceeding**
138 **under this section.**

139 **16. (1) Any person willfully violating any provision of any cease and desist order of the**
140 **director after it becomes final, while the same is in force, upon conviction thereof shall be**
141 **punished by a fine of not more than one **hundred** thousand dollars [or one year in jail], **by****
142 **imprisonment of up to ten years, or by both such fine and [jail sentence] imprisonment.**

143 **(2) In addition to any other penalty provided, violation of any cease and desist order shall**
144 **subject the violator to suspension or revocation of any certificate of authority or license as may**
145 **be applicable under the laws of this state relating to the business of insurance.**

146 **[3. (1) When it appears to the director that there is a violation of the laws of this state**
147 **or any rule or regulation promulgated by the director relating to the business of insurance, and**
148 **that the continuance of the acts or actions of any person as herein defined would produce injury**
149 **to the insuring public or to any other person in this state, or when it appears that a person is doing**
150 **or threatening to do some act in violation of the laws of this state relating to insurance, the**
151 **director may file a petition for injunction in the circuit court of Cole County, Missouri, in which**
152 **he may ask for a temporary injunction or restraining order as well as a permanent injunction to**
153 **restrain the act or threatened act. In the event the temporary injunction or restraining order or**
154 **a permanent injunction is issued by the circuit court of Cole County, Missouri, no person against**
155 **whom the temporary injunction or restraining order or permanent injunction is granted shall do**

156 or continue to do any of the acts or actions complained of in the petition for injunction, unless
157 and until the temporary injunction or restraining order or permanent injunction is vacated,
158 dismissed or otherwise terminated.

159 (2) Any writ of injunction issued under this law may be served and enforced as provided
160 by law in injunctions issued in other cases, but the director of the insurance department shall not
161 be required to give any bond as preliminary to or in the course of any proceedings to which he
162 is a party as director under this section, either for costs or for any injunction, or in case of appeal
163 to either the supreme court or to any appellate court.

164 4.] 17. The term "person" as used in this [section] **chapter** shall include any individual,
165 partnership, corporation, association or trust, or any other legal entity.

**374.047. 1. If the director determines, based on substantial and competent
2 evidence, that a corporation or insurer with a certificate of authority under the laws
3 relating to insurance willfully has engaged in an act, practice, omission, or course of
4 business constituting a level three, four, or five violation of the laws of this state relating
5 to insurance in this chapter, chapter 354, RSMo, and chapters 375 to 385, RSMo, or been
6 convicted of any felony or misdemeanor under any state or federal law, the director may,
7 after hearing, issue an order suspending or revoking the certificate of authority.**

**8 2. Prior to issuance of the order under this section, the director shall give at least
9 thirty days' notice with a statement of reasons for the action and afford such corporation
10 or insurer the opportunity for a hearing upon written request. If such corporation or
11 insurer requests a hearing in writing, a final order of suspension or revocation shall not
12 be issued unless the director makes findings of fact and conclusions of law in a record in
13 accordance with the contested case provisions of chapter 536, RSMo, and procedural rules
14 promulgated by the director.**

**15 3. The enforcement authority of the director under this section is cumulative to any
16 other statutory authority of the director.**

**374.048. 1. If the director believes that a person has engaged, is engaging, or is
2 about to engage in an act, practice, omission, or course of business constituting a violation
3 of the laws of this state relating to insurance in this chapter, chapter 354, RSMo, and
4 chapters 375 to 385, RSMo, or a rule adopted or order issued thereunder or that a person
5 has, is, or is about to engage in an act, practice, omission, or course of business that
6 materially aids a violation of the laws of this state relating to insurance in this chapter,
7 chapter 354, RSMo, and chapters 375 to 385, RSMo, or a rule adopted or order issued
8 thereunder, the director may maintain an action in the circuit court of any county of the
9 state or any city not within a county to enjoin the act, practice, omission, or course of**

10 **business and to enforce compliance with the laws of this state relating to insurance or a**
11 **rule adopted or order issued by the director.**

12 **2. In an action under this section and on a proper showing, the court may:**

13 **(1) Issue a permanent or temporary injunction, restraining order, or declaratory**
14 **judgment;**

15 **(2) Order other appropriate or ancillary relief, which may include:**

16 **(a) An asset freeze, accounting, writ of attachment, writ of general or specific**
17 **execution, and appointment of a receiver or conservator, which may be the director, for**
18 **the defendant or the defendant's assets;**

19 **(b) Ordering the director to take charge and control of a defendant's property,**
20 **including accounts in a depository institution, rents, and profits; to collect debts; and to**
21 **acquire and dispose of property;**

22 **(c) Imposing a civil penalty or forfeiture as provided in section 374.049;**

23 **(d) Upon showing financial loss, injury, or harm to identifiable consumers,**
24 **imposing an order of restitution or disgorgement directed to a person who has engaged in**
25 **an act, practice, omission, or course of business in violation of the laws or rules relating to**
26 **insurance;**

27 **(e) Ordering the payment of prejudgment and post-judgment interest;**

28 **(f) Ordering reasonable costs of investigation and prosecution; and**

29 **(g) Ordering the payment to the insurance dedicated fund an additional amount**
30 **equal to ten percent of the total restitution or disgorgement ordered, or such other amount**
31 **as awarded by the court, which shall be appropriated to an insurance consumer education**
32 **program administered by the director; or**

33 **(3) Order such other relief as the court considers necessary or appropriate.**

34 **3. The director shall not be required to post a bond in an action or proceeding**
35 **under this section.**

36 **4. The case may be brought in the circuit court of Cole County, any county or city**
37 **not within a county in which a violation has occurred, or any county or city not within a**
38 **county, which has venue of an action against the person, partnership, or corporation under**
39 **other provisions of law.**

40 **5. The enforcement authority of the director under this section is cumulative to any**
41 **other authority of the director to impose orders under other provisions of the insurance**
42 **laws of this state.**

43 **6. If the director determines it to be in the public interest, the director is authorized**
44 **to enter into a consent injunction and judgment in the settlement of any proceeding under**

45 the laws of this state relating to insurance in this chapter, chapter 354, RSMo, and chapters
46 375 to 385, RSMo.

47 7. A "Consumer Restitution Fund" shall be created for the purpose of preserving
48 and distributing to aggrieved consumers disgorgement or restitution moneys obtained
49 through enforcement proceedings brought by the director. In addition to the equitable
50 powers of the court authorized above, the court may order that such moneys be paid into
51 the consumer restitution fund for distribution to aggrieved consumers. It shall be the duty
52 of the director to distribute such moneys to those persons injured by the unlawful acts,
53 practices, omissions, or courses of business by the subject of the proceeding.
54 Notwithstanding the provisions of section 33.080, RSMo, any moneys remaining in the
55 director's consumer restitution fund at the end of any biennium shall not be transferred
56 to the general revenue fund, but if the director is unable with reasonable efforts to
57 ascertain the aggrieved consumers, the moneys may be transferred to the insurance
58 dedicated fund to be used for consumer education.

374.049. 1. Violations of the laws of this state relating to insurance in this chapter,
2 chapter 354, RSMo, and chapters 375 to 385, RSMo, or a rule adopted or order issued by
3 the director, are classified for the purpose of civil penalties and forfeitures into the
4 following five categories:

- 5 (1) Level one violations;
- 6 (2) Level two violations;
- 7 (3) Level three violations;
- 8 (4) Level four violations; and
- 9 (5) Level five violations.

10 2. An order to impose a civil penalty or forfeiture, when imposed by the director
11 in an administrative proceeding under section 374.046 on a person for any violation of the
12 laws of this state relating to insurance in this chapter, chapter 354, RSMo, and chapters
13 375 to 385, RSMo, or a rule adopted or order issued by the director, shall be an order to
14 pay an amount not exceeding the following:

- 15 (1) No civil penalty or forfeiture for a level one violation;
- 16 (2) One thousand dollars per each level two violation, up to an aggregate civil
17 penalty or forfeiture of fifty thousand dollars per annum for multiple violations;
- 18 (3) Five thousand dollars per each level three violation, up to an aggregate civil
19 penalty or forfeiture of one hundred thousand dollars per annum for multiple violations;
- 20 (4) Ten thousand dollars per each level four violation, up to an aggregate civil
21 penalty or forfeiture of two hundred fifty thousand dollars per annum for multiple
22 violations;

23 **(5) Fifty thousand dollars per each level five violation, up to an aggregate civil**
24 **penalty or forfeiture of two hundred fifty thousand dollars per annum for multiple**
25 **violations.**

26 **3. An order to impose a civil penalty or forfeiture, when imposed by the court in**
27 **an enforcement proceeding under section 374.048 on a person for any violation of the laws**
28 **of this state relating to insurance in this chapter, and chapter 354, RSMo, and chapters 375**
29 **to 385, RSMo, or a rule adopted or order issued by the director, shall be an order to pay**
30 **an amount not exceeding the following:**

31 **(1) No civil penalty or forfeiture for a level one violation;**

32 **(2) One thousand dollars per each level two violation, up to an aggregate civil**
33 **penalty or forfeiture of fifty thousand dollars per annum for multiple violations;**

34 **(3) Five thousand dollars per each level three violation, up to an aggregate civil**
35 **penalty or forfeiture of two hundred thousand dollars per annum for multiple violations;**

36 **(4) Twenty thousand dollars per each level four violation, up to an aggregate civil**
37 **penalty or forfeiture of one million dollars per annum for multiple violations;**

38 **(5) One million dollars per each level five violation, with no limit to civil penalties**
39 **or forfeitures for multiple violations;**

40 **4. No civil penalty or forfeiture shall be imposed against a person, unless the person**
41 **has engaged in the act, practice, omission or course of business constituting the violation.**

42 **5. Any violation of the laws of this state relating to insurance in this chapter,**
43 **chapter 354, RSMo, and chapters 375 to 385, RSMo, which is not classified or does not**
44 **authorize a specific range for a civil penalty or forfeiture for violations shall be classified**
45 **as a level one violation. In bringing an action to enforce a rule adopted by the director,**
46 **unless the conduct that violates the rule also violates the enabling statute, the violation shall**
47 **be classified as a level one violation.**

48 **6. The civil penalties or forfeitures set forth in this section establish a maximum**
49 **range. The court, or the director in administrative enforcement, shall consider all of the**
50 **circumstances, including the nature of violations to determine whether, and to any extent,**
51 **a civil penalty or forfeiture is justified.**

52 **7. In any enforcement proceeding, the court, or director in administrative**
53 **enforcement, may enhance the civil penalty or forfeiture with a one classification step**
54 **increase under this section, if the violation was knowing. The court, or director in**
55 **administrative enforcement, may enhance the civil penalty or forfeiture with a two level**
56 **increase if the violation was knowingly committed in conscious disregard of the law.**

57 **8. In any enforcement proceeding, the court, or director in administrative**
58 **enforcement, may enhance the civil penalty or forfeiture with a one classification step**

59 increase under this section if the violations resulted in actual financial loss or injury to
60 consumers.

61 **9. In any enforcement proceeding, the court, or director in administrative**
62 **enforcement, shall reduce the civil penalty or forfeiture on that person with a one**
63 **classification step reduction under this section if prior to receiving notice of the violation**
64 **from the department, the person detects the violation through a regular self-audit or**
65 **internal compliance program reasonably designed to detect and prevent insurance law**
66 **violations and immediately reports the violation to the director.**

67 **10. Any civil penalty or forfeiture recovered by the director shall be paid to the**
68 **treasurer and distributed to the public schools as required by Article IX, section 7 of the**
69 **Missouri Constitution.**

70 **11. The penalties and forfeitures authorized by this section govern all actions and**
71 **proceedings that are instituted on the basis of conduct occurring after August 28, 2006.**

374.051. 1. Any applicant refused a license or renewal of a license by order of the
2 **director under sections 374.755, 374.787, and section 375.141, RSMo, may file a petition**
3 **with the administrative hearing commission alleging that the director has refused the**
4 **license. The administrative hearing commission shall conduct hearings and make findings**
5 **of fact and conclusions of law in determining whether the applicant may be disqualified**
6 **by statute. Notwithstanding section 621.120, RSMo, the director shall have the burden of**
7 **proving a statutory ground for refusal. Discretion shall be retained by the director and**
8 **shall not transfer to the administrative hearing commission.**

9 **2. If a proceeding is instituted to revoke or suspend a license of any person under**
10 **sections 374.755, 374.787, and section 375.141, RSMo, the director shall refer the matter**
11 **to the administrative hearing commission by directing the filing of a complaint. The**
12 **administrative hearing commission shall conduct hearings and make findings of fact and**
13 **conclusions of law in such cases. The director shall have the burden of proving cause for**
14 **discipline. The administrative hearing commission shall submit its findings of fact and**
15 **conclusions of law to the director for final disposition. If cause is found, the director may**
16 **determine appropriate discipline.**

17 **3. Hearing procedures before the director or the administrative hearing**
18 **commission and judicial review of the decisions and orders of the director and of the**
19 **administrative hearing commission and all other procedural matters under this chapter**
20 **shall be governed by the provisions of chapter 536, RSMo. Hearings before the**
21 **administrative hearing commission shall also be governed by the provisions of chapter 621,**
22 **RSMo.**

374.055. 1. Except as otherwise provided, any interested person aggrieved by any order of the director under the laws of this state relating to insurance in this chapter, chapter 354, RSMo, and chapters 375 to 385, RSMo, or a rule adopted by the director, or by any refusal or failure of the director to make an order under any of such provisions, shall be entitled to a hearing before the director in accordance with the provisions of chapter 536, RSMo. A final order issued by the director is subject to judicial review in accordance with the provisions of chapter 536, RSMo.

2. A rule adopted by the director is subject to judicial review in accordance with the provisions of chapter 536, RSMo.

374.185. 1. The director shall, at the discretion of the director, cooperate, coordinate, consult, and share information with other members of the National Association of Insurance Commissioners, the commissioner of securities, state securities regulators, the commissioner of finance, the attorney general, federal banking and securities regulators, the National Association of Securities Dealers (NASD), the United States Department of Justice, the Commodity Futures Trading Commission, and the Federal Trade Commission to effectuate greater uniformity in insurance and financial services regulation among state and federal governments, and self-regulatory organizations.

2. In cooperating, coordinating, consulting, and sharing records and information under this section and in acting by rule, order, or waiver under the laws relating to the business of insurance, the director shall, at the discretion of the director, take into consideration in carrying out the public interest the following general policies:

(1) Maximizing effectiveness of regulation for the protection of insurance consumers;

(2) Maximizing uniformity in regulatory standards; and

(3) Minimizing burdens on the business of insurance, without adversely affecting essentials of consumer protection.

3. The cooperation, coordination, consultation, and sharing of records and information authorized by this section includes:

(1) Establishing or employing one or more designees as a central electronic depository for licensing and rate and form filings with the director and for records required or allowed to be maintained;

(2) Encouraging insurance companies and producers to implement electronic filing through a central electronic depository;

(3) Developing and maintaining uniform forms;

(4) Conducting joint market conduct examinations and other investigations through collaboration and cooperation with other insurance regulators;

- 28 **(5) Holding joint administrative hearings;**
29 **(6) Instituting and prosecuting joint civil or administrative enforcement**
30 **proceedings;**
31 **(7) Sharing and exchanging personnel;**
32 **(8) Coordinating licensing under section 375.014, RSMo;**
33 **(9) Sharing and exchanging records, subject to sections 374.070, 374.071, and**
34 **374.205, and an agency agreement in writing to provide the same level of confidential**
35 **treatment;**
36 **(10) Formulating rules, statements of policy, guidelines, forms, no action**
37 **determinations, and bulletins; and**
38 **(11) Formulating common systems and procedures.**

- 374.210. 1. **It is unlawful for** any person [testifying falsely in reference to any matter
2 material to the investigation, examination or inquiry shall be deemed guilty of perjury.
3 2. Any person who shall refuse to give such director full and truthful information, and
4 answer in writing to any inquiry or question made in writing by the director, in regard to the
5 business of insurance carried on by such person, or to appear and testify under oath before the
6 director in regard to the same, shall be deemed guilty of a misdemeanor, and, upon conviction
7 thereof, shall be punished by a fine not exceeding five hundred dollars, or imprisonment not
8 exceeding three months.
9 3. Any director, officer, manager, agent or employee of any insurance company, or any
10 other person, who shall] **in any investigation, examination, inquiry, or other proceeding**
11 **under the insurance laws of this state to:**
12 **(1) Make or cause to be made a false statement in testimony upon oath or**
13 **affirmation or in any record that is submitted to the director or used in any proceeding**
14 **under the laws of this state relating to insurance; or**
15 **(2) Make any false certificate or entry or memorandum upon any of the books or papers**
16 **of any insurance company, or upon any statement or exhibit offered, filed or offered to be filed**
17 **in the department of insurance [department], or used in the course of any examination, inquiry,**
18 **or investigation[, with intent to deceive the director or any person employed or appointed by him**
19 **to make any examination, inquiry or investigation, shall, upon conviction, be punished by a fine**
20 **not exceeding one thousand dollars, and by imprisonment not less than two months in the county**
21 **or city jail, nor more than five years in the penitentiary].**
22 **2. It is unlawful for any person to not appear or refuse to testify, file a statement,**
23 **produce records, or otherwise not comply with a subpoena issued by the director.**
24 **3. It is unlawful for any person to fail to appear or refuse to testify, file a statement,**
25 **produce records, or otherwise not comply with a written request as required by the**

26 director, or in response any specific inquiry or question made in writing by the director in
27 regard to the business of insurance carried on by such person, to refuse to provide full and
28 truthful information in a written answer.

29 **4. If the director determines that a person has engaged, is engaging, or is about to**
30 **engage in a violation of this section, or a rule adopted or order issued thereunder, or that**
31 **a person has materially aided, is materially aiding, or is about to materially aid an act,**
32 **practice, omission, or course of business constituting a violation of this section or a rule**
33 **adopted or order issued thereunder, the director may issue such administrative orders as**
34 **authorized under section 374.046. A violation of subsection 1 of this section is a level four**
35 **violation under section 374.049. A violation of subsection 2 of this section is a level three**
36 **violation under section 374.049. A violation of subsection 3 of this section is a level two**
37 **violation under section 374.049. The director of insurance may also suspend or revoke the**
38 **license or certificate of authority of such person for any willful violation.**

39 **5. If the director believes that a person has engaged, is engaging, or is about to**
40 **engage in a violation of this section or a rule adopted or order issued thereunder, or that**
41 **a person has materially aided, is materially aiding, or is about to materially aid an act,**
42 **practice, omission, or course of business constituting a violation of this section or a rule**
43 **adopted or order issued thereunder, the director may maintain a civil action for relief**
44 **authorized under section 374.048. A violation of subsection 1 of this section is a level four**
45 **violation under section 374.049. A violation of subsection 2 of this section is a level three**
46 **violation under section 374.049. A violation of subsection 3 of this section is a level two**
47 **violation under section 374.049.**

48 **6. Any person who knowingly engages in any act, practice, omission, or course of**
49 **business in violation of subsection 1 of this section is guilty of a class D felony. Any person**
50 **who knowingly engages in any act, practice, omission, or course of business in violation of**
51 **subsection 2 of this section is guilty of a class B misdemeanor. If the offender holds a**
52 **license or certificate of authority under the insurance laws of this state, the court imposing**
53 **sentence shall order the department of insurance to revoke such license or certificate of**
54 **authority.**

55 **7. The director may refer such evidence as is available concerning violations of this**
56 **section to the proper prosecuting attorney, who with or without a criminal reference, or**
57 **the attorney general under section 27.030, RSMo, may institute the appropriate criminal**
58 **proceedings.**

59 **8. Nothing in this section shall limit the power of the state to punish any person for**
60 **any conduct that constitutes a crime under any other state statute.**

374.215. 1. If any insurance company doing business in this state fails to timely make
2 and file any statutorily required report or statement, the department of insurance shall notify such
3 company of such failure by first class mail. Any **insurance** company notified by the department
4 of insurance pursuant to this section shall [have] **file such report or statement within** fifteen
5 days [to make and file such report. If such company fails to make and file such report within the
6 fifteen days, it shall forfeit one hundred dollars for each day after the fifteen-day grace period
7 expires] **of receiving notification. After the expiration of such fifteen days, each day in**
8 **which the insurance company fails to file such report or statement is a separate violation**
9 **of this section.**

10 2. [Any insurance company doing business in this state which knowingly or intentionally
11 files or which has filed on its behalf any materially false report or statement forfeits not more
12 than one thousand dollars] **If the director determines that a person has engaged in a violation**
13 **of this section or a rule adopted or order issued thereunder, or that a person has materially**
14 **aided an act, practice, omission, or course of business constituting a violation of this section**
15 **or a rule adopted or order issued thereunder, the director may issue such administrative**
16 **orders as authorized under section 374.046. A violation of this section is a level two**
17 **violation under section 374.049. The director of insurance may also suspend or revoke the**
18 **certificate of authority of such person for any willful violation.**

19 3. [Any forfeiture required or permitted by this section shall be considered a civil penalty
20 which the director of the department of insurance may order pursuant to the provisions of
21 sections 374.040 and 374.280] **If the director believes that a person has engaged in a**
22 **violation of this section or a rule adopted or order issued thereunder, or that a person has**
23 **materially aided an act, practice, omission, or course of business constituting a violation**
24 **of this section or a rule adopted or order issued thereunder, the director may maintain a**
25 **civil action for relief authorized under section 374.048. A violation of this section is a level**
26 **two violation under section 374.049.**

374.280. 1. [Notwithstanding any other provisions of chapters 374, 375, 376, 377, 378
2 and 379, RSMo,] The director may, after a hearing **under subsection 374.046**, order a **civil**
3 **penalty or** forfeiture to the state of Missouri a sum [not to exceed one hundred dollars for each
4 violation by any person, partnership or corporation knowingly violating any provision of chapters
5 374, 375, 376, 377, 378 and 379, RSMo, or order of the director of insurance made in accordance
6 with those chapters] **authorized by section 374.049**, which **penalty or** forfeiture, **if unpaid**
7 **within ten days**, may be recovered by a civil action brought by and in the name of the director
8 of insurance **under section 374.048**. The civil action may be brought in the county which has
9 venue of an action against the person, partnership or corporation under other provisions of law.

10 The director of insurance may also suspend or revoke the license [of an insurer, agent, broker or
11 agency] **or certificate of authority of such person** for any willful violation.

12 2. Nothing contained in this section shall be construed to prohibit the director and [the
13 insurer, agent, broker or agency] **any person subject to an investigation, examination, or**
14 **other proceeding** from agreeing to a voluntary forfeiture of the sum mentioned herein without
15 civil proceedings being instituted. Any sum so agreed upon shall be paid into the school fund
16 as provided by law for other fines and penalties.

374.512. 1. Whenever the director has reason to believe that a utilization review agent
2 subject to sections 374.500 to 374.515 has been or is engaged in conduct which violates the
3 provisions of sections 374.500 to 374.515, the director shall notify the utilization review agent
4 of the alleged violation. The utilization review agent shall have thirty days from the date the
5 notice is received to respond to the alleged violation.

6 2. If the director [believes] **determines** that the utilization review agent has [violated the
7 provisions of sections 374.500 to 374.515, or is not satisfied that the alleged violation has been
8 corrected, he shall conduct a hearing on the alleged violation, in accordance with chapter 536,
9 RSMo] **engaged, is engaging, or is about to engage in a violation of sections 374.500 to**
10 **374.515 or a rule adopted or order issued thereunder, or that a person has materially**
11 **aided, is materially aiding, or is about to materially aid an act, practice, omission, or course**
12 **of business constituting a violation of sections 374.500 to 374.515 or a rule adopted or order**
13 **issued thereunder, the director may issue such administrative orders as authorized under**
14 **section 374.046. A violation of any of these sections is a level two violation under section**
15 **374.049. The director of insurance may also suspend or revoke the license or certificate of**
16 **authority of such person for any willful violation.**

17 3. [If, after such hearing, the director determines that the utilization review agent has
18 engaged in violations of sections 374.500 to 374.515, he shall reduce his findings to writing and
19 shall issue and cause to be served upon the utilization review agent a copy of such findings and
20 an order requiring the utilization review agent to cease and desist from engaging in such
21 violations. The director may also, at his discretion, order:

22 (1) Payment of a monetary penalty of not more than ten thousand dollars for a violation
23 which occurred if the utilization review agent consciously disregarded sections 374.500 to
24 374.515 or which occurred with such frequency as to indicate a general business practice; or

25 (2) Suspension or revocation of the authority to do business in this state as a utilization
26 review agent if the utilization review agent knew that it was in violation of sections 374.500 to
27 374.515] **If the director believes that a person has engaged in a violation of sections 374.500**
28 **to 374.515 or a rule adopted or order issued thereunder, or that a person has materially**
29 **aided an act, practice, omission, or course of business constituting a violation of sections**

30 **374.500 to 374.515 or a rule adopted or order issued thereunder, the director may maintain**
31 **a civil action for relief authorized under section 374.048. A violation of any of these**
32 **sections is a level two violation under section 374.049.**

374.755. 1. The [department] **director** may [cause a complaint to be filed with the
2 administrative hearing commission as provided by chapter 621, RSMo, against any holder of any
3 license required by sections 374.695 to 374.775] **suspend, revoke, refuse to issue, refuse to**
4 **renew, or limit a license authorized under sections 374.695 to 374.775, or censure or bar** any
5 person who has failed to renew or has surrendered his or her license for any [one or any
6 combination] of the following causes:

7 (1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic
8 beverage to an extent that such use impairs a person's ability to perform the work of the
9 profession licensed under sections 374.695 to 374.775;

10 (2) Final adjudication or a plea of guilty or nolo contendere [within the past fifteen years]
11 in a criminal prosecution under any state or federal law for a felony or a crime involving moral
12 turpitude whether or not a sentence is imposed[, prior to issuance of license date];

13 (3) Use of fraud, deception, misrepresentation or bribery in securing any license or in
14 obtaining permission to take any examination required pursuant to sections 374.695 to 374.775;

15 (4) Obtaining or attempting to obtain any compensation as a member of the profession
16 licensed by sections 374.695 to [374.775] **374.789** by means of fraud, deception or
17 misrepresentation;

18 (5) Misappropriation of the premium, collateral, or other things of value given to a bail
19 bond agent or a general bail bond agent for the taking of bail, incompetency, misconduct, gross
20 negligence, fraud, or misrepresentation in the performance of the functions or duties of the
21 profession licensed or regulated by sections 374.695 to 374.775;

22 (6) Violation of any provision of or any obligation imposed by the laws of this state,
23 department of insurance rules and regulations, or aiding or abetting other persons to violate such
24 laws, orders, rules or regulations, or subpoenas;

25 (7) Transferring a license or permitting another person to use a license of the licensee;

26 (8) Disciplinary action against the holder of a license or other right to practice the
27 profession regulated by sections 374.695 to 374.789 granted by another state, territory, federal
28 agency or country upon grounds for which revocation or suspension is authorized in this state;

29 (9) Being finally adjudged insane or incompetent by a court of competent jurisdiction;

30 (10) Assisting or enabling any person to practice or offer to practice the profession
31 licensed or regulated by sections 374.695 to 374.789 who is not currently licensed and eligible
32 to practice pursuant to sections 374.695 to 374.789;

33 (11) Acting in the capacity of an attorney at a trial or hearing of a person for whom the
34 attorney is acting as surety; **or**

35 (12) Failing to provide a copy of the bail contract, renumbered written receipt for
36 acceptance of money, or other collateral for the taking of bail to the principal, if requested by any
37 person who is a party to the bail contract, or any person providing funds or collateral for bail on
38 the principal's behalf.

39 2. After the filing of [such] a complaint **under section 374.051**, the proceedings shall
40 be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the
41 administrative hearing commission that one or more of the causes stated in subsection 1 of this
42 section have been met, the director may suspend or revoke the license or enter into an agreement
43 for a [monetary or other penalty pursuant to section 374.280] **consent order under section**
44 **374.780**.

45 3. In lieu of filing a complaint at the administrative hearing commission, the director and
46 the bail bond agent or general bail bond agent may enter into an agreement for a [monetary or
47 other penalty pursuant to section 374.280] **consent order under section 374.780**.

48 [4. In addition to any other remedies available, the director may issue a cease and desist
49 order or may seek an injunction in a court of competent jurisdiction pursuant to the provisions
50 of section 374.046 whenever it appears that any person is acting as a bail bond agent or general
51 bail bond agent without a license or violating any other provisions of sections 374.695 to
52 374.789.]

**374.780. 1. If the director determines that a person has engaged, is engaging, or is
2 about to engage in a violation of sections 374.695 to 374.789 or a rule adopted or order
3 issued thereunder, or that a person has materially aided, is materially aiding, or is about
4 to materially aid an act, practice, omission, or course of business constituting a violation
5 of sections 374.695 to 374.789 or a rule adopted or order issued thereunder, the director
6 may issue such administrative orders as authorized under section 374.046. A violation of
7 any of these sections is a level two violation under section 374.049.**

8 **2. If the director believes that a person has engaged, is engaging, or is about to
9 engage in a violation of sections 374.695 to 374.789 or a rule adopted or order issued
10 thereunder, or that a person has materially aided, is materially aiding, or is about to
11 materially aid an act, practice, omission, or course of business constituting a violation of
12 sections 374.695 to 374.789 or a rule adopted or order issued thereunder, the director may
13 maintain a civil action for relief authorized under section 374.048. A violation of any of
14 these sections is a level two violation under section 374.049.**

374.787. 1. The director may [cause a complaint to be filed with the administrative
2 hearing commission as provided by chapter 621, RSMo, against any] **suspend, revoke, refuse**

3 **to issue, refuse to renew, or limit a** surety recovery agent **license authorized under sections**
4 **374.783 to 374.789, or censure or bar** any person who has failed to renew or has surrendered
5 his or her license for any [one or any combination] of the following causes:

6 (1) Violation of any provisions of, or any obligations imposed by, the laws of this state,
7 the department of insurance rules and regulations, or aiding or abetting other persons to violate
8 such laws, orders, rules, or regulations;

9 (2) Final adjudication or a plea of guilty or nolo contendere in a criminal prosecution
10 under state or federal law for a felony or a crime involving moral turpitude, whether or not a
11 sentence is imposed;

12 (3) Using fraud, deception, misrepresentation, or bribery in securing a license or in
13 obtaining permission to take any examination required by sections 374.783 to 374.789;

14 (4) Obtaining or attempting to obtain any compensation as a surety recovery agent by
15 means of fraud, deception, or misrepresentation;

16 (5) Acting as a surety recovery agent or aiding or abetting another in acting as a surety
17 recovery agent without a license;

18 (6) Incompetence, misconduct, gross negligence, fraud, or misrepresentation in the
19 performance of the functions or duties of a surety recovery agent;

20 (7) Having a license revoked or suspended that was issued by another state.

21 2. After the filing of [the] **a complaint under section 374.051**, the proceedings shall be
22 conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the
23 administrative hearing commission that one or more of the causes stated in subsection 1 of this
24 section have been met, the director may suspend or revoke the license or enter into an agreement
25 for a [monetary or other penalty pursuant to section 374.280] **consent order under section**
26 **374.780**.

27 3. In lieu of filing a complaint with the administrative hearing commission, the director
28 and the surety recovery agent may enter into an agreement for a [monetary or other penalty
29 pursuant to section 374.280] **consent order under section 374.780**.

30 [4. In addition to any other remedies available, the director may issue a cease and desist
31 order or may seek an injunction in a court of law pursuant to section 374.046 whenever it appears
32 that any person is acting as a surety recovery agent without a license.]

374.789. 1. [A] **It is unlawful for any person** [is guilty of a class D felony if he or she
2 does not hold a valid] **to engage in any of the following acts unless the person is licensed by**
3 **the director as a surety recovery agent [license or], a bail bond [license and commits any of the**
4 **following acts] agent, or a general bail bond agent:**

5 (1) Holds himself or herself out to be a licensed surety recovery agent within this state;

6 (2) Claims that he or she can render surety recovery agent services; or

7 (3) Engages in fugitive recovery in this state.

8 2. **If the director determines that a person has engaged, is engaging, or is about to**
9 **engage in a violation of this section or a rule adopted or order issued thereunder, or that**
10 **a person has materially aided, is materially aiding, or is about to materially aid an act,**
11 **practice, omission, or course of business constituting a violation of this section or a rule**
12 **adopted or order issued thereunder, the director may issue such administrative orders as**
13 **authorized under section 374.046. A violation of any of these sections is a level three**
14 **violation under section 374.049.**

15 3. **If the director believes that a person has engaged, is engaging, or is about to**
16 **engage in a violation of this section or a rule adopted or order issued thereunder, or that**
17 **a person has materially aided, is materially aiding, or is about to materially aid an act,**
18 **practice, omission, or course of business constituting a violation of this section or a rule**
19 **adopted or order issued thereunder, the director may maintain a civil action for relief**
20 **authorized under section 374.048. A violation of any of these sections is a level three**
21 **violation under section 374.049.**

22 4. **Any person who knowingly engages in any act, practice, omission, or course of**
23 **business in violation of this section is guilty of a class D felony. If the offender holds a**
24 **license or certificate of authority under the insurance laws of this state, the court imposing**
25 **sentence shall order the department of insurance to revoke such license or certificate of**
26 **authority.**

27 5. **The director may refer such evidence as is available concerning violations of this**
28 **chapter to the proper prosecuting attorney, who with or without a criminal reference, or**
29 **the attorney general under section 27.030, RSMo, may institute the appropriate criminal**
30 **proceedings.**

31 6. **Nothing in this section shall limit the power of the state to punish any person for**
32 **any conduct that constitutes a crime under any other state statute.**

33 7. Any person who engages in fugitive recovery in this state and wrongfully causes
34 damage to any person or property, including, but not limited to, unlawful apprehension, unlawful
35 detainment, or assault, shall be liable for such damages and may be liable for punitive damages.

375.012. 1. **Sections 375.012 to 375.146 may be cited as the "Insurance Producers**
2 **Act".**

3 2. As used in sections 375.012 to 375.158, the following words mean:

4 (1) "Business entity", a corporation, association, partnership, limited liability company,
5 limited liability partnership or other legal entity;

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

- 7 (3) "Home state", the District of Columbia and any state or territory of the United States
8 in which the insurance producer maintains his or her principal place of residence or principal
9 place of business and is licensed to act as an insurance producer;
- 10 (4) "Insurance", any line of authority, including life, accident and health or sickness,
11 property, casualty, variable life and variable annuity products, personal, credit and any other line
12 of authority permitted by state law or regulation;
- 13 (5) "Insurance company" or "insurer", any person, reciprocal exchange, interinsurer,
14 Lloyds insurer, fraternal benefit society, and any other legal entity engaged in the business of
15 insurance, including health services corporations, health maintenance organizations, prepaid
16 limited health care service plans, dental, optometric and other similar health service plans, unless
17 their exclusion from this definition can be clearly ascertained from the context of the particular
18 statutory section under consideration. Insurer shall also include all companies organized,
19 incorporated or doing business pursuant to the provisions of chapters 375, 376, 377, 378, 379,
20 381 and 384, RSMo. Trusteed pension plans and profit-sharing plans qualified pursuant to the
21 United States Internal Revenue Code as now or hereafter amended shall not be considered to be
22 insurance companies or insurers within the definition of this section;
- 23 (6) "Insurance producer" or "producer", a person required to be licensed pursuant to the
24 laws of this state to sell, solicit or negotiate insurance;
- 25 (7) "License", a document issued by the director authorizing a person to act as an
26 insurance producer for the lines of authority specified in the document. The license itself shall
27 not create any authority, actual, apparent or inherent, in the holder to represent or commit an
28 insurance company;
- 29 (8) "Limited line credit insurance", credit life, credit disability, credit property, credit
30 unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage
31 disability, guaranteed automobile protection (GAP) insurance, and any other form of insurance
32 offered in connection with an extension of credit that is limited to partially or wholly
33 extinguishing that credit obligation that the director determines should be designated a form of
34 limited line credit insurance;
- 35 (9) "Limited line credit insurance producer", a person who sells, solicits or negotiates
36 one or more forms of limited line credit insurance coverage through a master, corporate, group
37 or individual policy;
- 38 (10) "Limited lines insurance", insurance involved in credit transactions, insurance
39 contracts issued primarily for covering the risk of travel or any other line of insurance that the
40 director deems necessary to recognize for the purposes of complying with subsection 5 of section
41 375.017;

42 (11) "Limited lines producer", a person authorized by the director to sell, solicit or
43 negotiate limited lines insurance;

44 (12) "Negotiate", the act of conferring directly with or offering advice directly to a
45 purchaser or prospective purchaser of a particular contract of insurance concerning any of the
46 substantive benefits, terms or conditions of the contract, provided that the person engaged in that
47 act either sells insurance or obtains insurance from insurers for purchasers;

48 (13) "Person", an individual or any business entity;

49 (14) "Personal lines insurance", property and casualty insurance coverage sold to
50 individuals and families for primarily noncommercial purposes;

51 (15) "Sell", to exchange a contract of insurance by any means, for money or its
52 equivalent, on behalf of an insurance company;

53 (16) "Solicit", attempting to sell insurance or asking or urging a person to apply for a
54 particular kind of insurance from a particular company;

55 (17) "Terminate", the cancellation of the relationship between an insurance producer and
56 the insurer or the termination of the authority of the producer to transact the business of
57 insurance;

58 (18) "Uniform business entity application", the current version of the National
59 Association of Insurance Commissioners uniform business entity application for resident and
60 nonresident business entities seeking an insurance producer license;

61 (19) "Uniform application", the current version of the National Association of Insurance
62 Commissioners uniform application for resident and nonresident producer licensing.

63 [2.] **3.** All statutory references to "insurance agent" or "insurance broker" shall mean
64 "insurance producer", as that term is defined pursuant to subsection 1 of this section.

375.020. 1. Beginning January 1, [1990] **2007**, each insurance producer, unless exempt
2 pursuant to section 375.016, licensed to sell insurance in this state shall successfully complete
3 courses of study as required by this section. Any person licensed to act as an insurance producer
4 shall, during each two years, attend courses or programs of instruction or attend seminars
5 equivalent to a minimum of [ten] **twenty-four** hours of instruction for a life or accident and
6 health license or both a life and an accident and health license and a minimum [ten] **twenty-four**
7 hours of instruction for a property or casualty license or both a property and a casualty license.
8 [Sixteen] **Twenty-four** hours of training will suffice for those with a life, health, accident,
9 property and casualty license. Of the [sixteen] **twenty-four** hours' training required above, the
10 hours need not be divided equally. The courses or programs shall include instruction on
11 Missouri law, **a producer's duties to the department, and business ethics, including sales**
12 **suitability**. Course credit shall be given to members of the general assembly as determined by
13 the department.

14 2. Subject to approval by the director, the courses or programs of instruction which shall
15 be deemed to meet the director's standards for continuing educational requirements shall include,
16 but not be limited to, the following:

- 17 (1) American College Courses (CLU, ChFC);
- 18 (2) Life Underwriters Training Council (LUTC);
- 19 (3) Certified Insurance Counselor (CIC);
- 20 (4) Chartered Property and Casualty Underwriter (CPCU);
- 21 (5) Insurance Institute of America (IIA);
- 22 (6) **Any other professional financial designation approved by the director;**
- 23 (7) An insurance-related course taught by an accredited college or university or qualified
24 instructor who has taught a course of insurance law at such institution;

25 [(7)] (8) A course or program of instruction or seminar developed or sponsored by any
26 authorized insurer, recognized producer association or insurance trade association. A local
27 producer group may also be approved if the instructor receives no compensation for services.

28 3. A person teaching any approved course of instruction or lecturing at any approved
29 seminar shall qualify for the same number of classroom hours as would be granted to a person
30 taking and successfully completing such course, seminar or program.

31 4. Excess classroom hours accumulated during any two-year period may be carried
32 forward to the two-year period immediately following the two-year period in which the course,
33 program or seminar was held.

34 5. For good cause shown, the director may grant an extension of time during which the
35 educational requirements imposed by this section may be completed, but such extension of time
36 shall not exceed the period of one calendar year. The director may grant an individual waiver
37 of the mandatory continuing education requirement upon a showing by the licensee that it is not
38 feasible for the licensee to satisfy the requirements prior to the renewal date. Waivers may be
39 granted for reasons including, but not limited to:

- 40 (1) Serious physical injury or illness;
- 41 (2) Active duty in the armed services for an extended period of time;
- 42 (3) Residence outside the United States; or
- 43 (4) The licensee is at least seventy years of age.

44 6. Every person subject to the provisions of this section shall furnish in a form
45 satisfactory to the director, written certification as to the courses, programs or seminars of
46 instruction taken and successfully completed by such person. Every provider of continuing
47 education courses authorized in this state shall, within thirty working days of a licensed producer
48 completing its approved course, provide certification to the director of the completion in a format
49 prescribed by the director.

50 7. The provisions of this section shall not apply to those natural persons holding licenses
51 for any kind or kinds of insurance for which an examination is not required by the law of this
52 state, nor shall they apply to any limited lines insurance producer license or restricted license as
53 the director may exempt.

54 8. The provisions of this section shall not apply to a life insurance producer who is
55 limited by the terms of a written agreement with the insurer to transact only specific life
56 insurance policies having an initial face amount of five thousand dollars or less, or annuities
57 having an initial face amount of ten thousand dollars or less, that are designated by the purchaser
58 for the payment of funeral or burial expenses. The director may require the insurer entering into
59 the written agreements with the insurance producers pursuant to this subsection to certify as to
60 the representations of the insurance producers.

61 9. Rules and regulations necessary to implement and administer this section shall be
62 promulgated by the director, including, but not limited to, rules and regulations regarding the
63 following:

64 (1) Course content and hour credits: The insurance advisory board established by section
65 375.019 shall be utilized by the director to assist him in determining acceptable content of
66 courses, programs and seminars to include classroom equivalency;

67 (2) Filing fees for course approval: Every applicant seeking approval by the director of
68 a continuing education course under this section shall pay to the director a filing fee of fifty
69 dollars per course. Fees shall be waived for state and local insurance producer groups. Such fee
70 shall accompany any application form required by the director. Courses shall be approved for
71 a period of no more than one year. Applicants holding courses intended to be offered for a
72 longer period must reapply for approval. Courses approved by the director prior to August 28,
73 1993, for which continuous certification is sought should be resubmitted for approval sixty days
74 before the anniversary date of the previous approval.

75 10. All funds received pursuant to the provisions of this section shall be transmitted by
76 the director to the department of revenue for deposit in the state treasury to the credit of the
77 department of insurance dedicated fund. All expenditures necessitated by this section shall be
78 paid from funds appropriated from the department of insurance dedicated fund by the legislature.

**375.143. In order to effectuate and aid in the interpretation of section 375.141, the
2 director, under section 374.045, may adopt rules and regulations codifying professional
3 standards of producer competency and trustworthiness in the handling of applications,
4 premium funds, conflicts of interest, record-keeping, supervision of others, and customer
5 suitability.**

**375.145. 1. If the director determines that a person has engaged, is engaging, or is
2 about to engage in a violation of sections 375.012 to 375.144 or a rule adopted or order**

3 issued thereunder, or that a person has materially aided, is materially aiding, or is about
4 to materially aid an act, practice, omission, or course of business constituting a violation
5 of sections 375.012 to 375.144, or a rule adopted or order issued thereunder, the director
6 may issue such administrative orders as authorized under section 374.046, RSMo. A
7 violation of any of sections 375.012 to 375.142 is a level two violation under section 374.049,
8 RSMo. A violation of section 375.144 is a level four violation under 374.049, RSMo.

9 **2. If the director believes that a person has engaged, is engaging, or is about to**
10 **engage in a violation of this section or a rule adopted or order issued thereunder, or that**
11 **a person has materially aided, is materially aiding, or is about to materially aid an act,**
12 **practice, omission, or course of business constituting a violation of this section or a rule**
13 **adopted or order issued thereunder, the director may maintain a civil action for relief**
14 **authorized under section 374.048, RSMo. A violation of any of sections 375.012 to 375.142**
15 **is a level two violation under section 374.049, RSMo. A violation of section 375.144 is a**
16 **level four violation under 374.049, RSMo.**

 375.152. 1. [If the director finds after a hearing conducted in accordance with chapter
2 536, RSMo, that any person has violated the provisions of sections 375.147 to 375.153, the
3 director may order:

4 (1) For each separate violation, imposition of an administrative penalty in an amount of
5 five hundred dollars. All moneys collected as a result of imposition of such penalties shall be
6 transferred to the state treasurer for deposit to general revenue of the state;

7 (2) Revocation or suspension of the producer's license, provided that such action may
8 be taken only after compliance with chapter 621, RSMo;

9 **(3)] If the director determines that a person has engaged, is engaging, or is about**
10 **to engage in a violation of sections 375.147 to 375.153 or a rule adopted or order issued**
11 **thereunder, or that a person has materially aided, is materially aiding, or is about to**
12 **materially aid an act, practice, omission, or course of business constituting a violation of**
13 **sections 375.147 to 375.153 or a rule adopted or order issued thereunder, the director may**
14 **issue such administrative orders as authorized under section 374.046, RSMo. A violation**
15 **of any of these sections is a level two violation under section 374.049, RSMo.**

16 **2. If the director believes that a person has engaged, is engaging, or is about to**
17 **engage in a violation of sections 375.147 to 375.153 or a rule adopted or order issued**
18 **thereunder, or that a person has materially aided, is materially aiding, or is about to**
19 **materially aid an act, practice, omission, or course of business constituting a violation of**
20 **sections 375.147 to 375.153 or a rule adopted or order issued thereunder, the director may**
21 **maintain a civil action for relief authorized under section 374.048, RSMo. A violation**
22 **under any of these sections is a level two violation under section 374.049, RSMo. In**

23 **addition to the relief available in this section, the director may also order** the managing
24 general agent to reimburse the insurer, the rehabilitator or liquidator of the insurer, for any losses
25 incurred by the insurer caused by a violation of sections 375.147 to 375.153 committed by the
26 managing general agent.

27 [2. The decision, determination or order of the director made pursuant to subsection 1
28 of this section shall be subject to judicial review pursuant to sections 536.100 to 536.140,
29 RSMo.]

30 3. Nothing contained in this section shall affect the right of the director to impose any
31 other penalties provided for in the insurance law.

32 4. Nothing contained in sections 375.147 to 375.153 is intended to or shall in any
33 manner limit or restrict the rights of policyholders, claimants and creditors.

375.236. Other provisions of law notwithstanding, the director may suspend or revoke,
2 after a hearing, the certificate of authority or license of any insurance company including a
3 reciprocal or interinsurance exchange for the same reasons and upon the same grounds as set
4 forth in section [375.560] **374.047, RSMo.**

375.306. 1. It [shall not be lawful] **is unlawful** for any person to act within this state as
2 agent, **producer**, or otherwise, in receiving or procuring applications for insurance, or in any
3 manner to aid in transacting the business referred to in [sections 375.010 to 375.920] **this**
4 **chapter** for any company or association doing business in this state, unless the company is
5 possessed of the amount of capital and of actual paid-up capital, or of premium notes, cash
6 premiums or guarantee fund, of the kind, character and amounts required of companies organized
7 under the provisions of [sections 375.010 to 375.920] **this chapter.**

8 2. The guarantee fund of companies other than those of this state shall be deposited with
9 the proper officer of the state or country under the laws of which the company is organized, or
10 with the director of the insurance department of this state, in the manner provided by section
11 379.050, RSMo, in regard to the making of such deposit by companies organized under [sections
12 375.010 to 375.920] **this chapter.**

13 3. Whenever any insurance company doing business in this state advertises its assets,
14 either in any newspaper or periodical, or by any sign, circular, card, policy of insurance or
15 certificate of renewal thereof, it shall, in the same connection, equally conspicuously advertise
16 its liabilities, and the amount of its assets available for fire and life losses separately, the same
17 to be determined in the manner required in making statement to the insurance department, and
18 all advertisements purporting to show the amount of capital of the company shall show only the
19 amount of capital actually paid up in cash.

20 4. [Any insurance company or agent thereof violating the provisions of this section shall
21 be liable to a fine of not less than fifty dollars nor more than five hundred dollars] **If the director**

22 **determines that a person has engaged, is engaging, or is about to engage in a violation of**
23 **this section or a rule adopted or order issued thereunder, or that a person has materially**
24 **aided, is materially aiding, or is about to materially aid an act, practice, omission, or course**
25 **of business constituting a violation of this section or a rule adopted or order issued**
26 **thereunder, the director may issue such administrative orders as authorized under section**
27 **374.046, RSMo. A violation of this section is a level two violation under section 374.049,**
28 **RSMo.**

29 **5. If the director believes that a person has engaged, is engaging, or is about to**
30 **engage in a violation of this section or a rule adopted or order issued thereunder, or that**
31 **a person has materially aided, is materially aiding, or is about to materially aid an act,**
32 **practice, omission, or course of business constituting a violation of this section or a rule**
33 **adopted or order issued thereunder, the director may maintain a civil action for relief**
34 **authorized under section 374.048, RSMo. A violation of this section is a level two violation**
35 **under section 374.049, RSMo.**

375.310. **1. It is unlawful for any person, association of individuals, [and] or any**
2 **corporation [transacting] to transact in this state any insurance business[, without being] unless**
3 **the person, association, or corporation is duly** authorized by the director [of the insurance
4 department of this state so to do, or after the authority so to do has been suspended, revoked, or
5 has expired, shall be subject to suit by the director who may institute proceedings in the circuit
6 court of the county or city in which said company was organized, or in which it has, or last had,
7 its principal or chief office or place of business, or in the county of Cole, to enjoin said company
8 from the further transaction of its business, either temporarily or perpetually, and for such other
9 decrees and relief as the court shall deem advisable; or said association of individuals or
10 corporation shall be liable to a penalty of two hundred and fifty dollars for each offense, which
11 penalty may be recovered by ordinary civil action in the name of the state, and shall, when
12 recovered, become part of the school fund, as by law provided for other fines and penalties; suit
13 for said penalty may be brought by the attorney general, the director of the insurance department,
14 or any county, circuit or prosecuting attorney, in either the city or county in which the policy was
15 delivered, or in which the money was paid to any agent of such association or corporation, or in
16 which the receipt was delivered, or in any county or city in which an attorney for service or any
17 agent of said association or corporation may be found; and if the plaintiff recover, an attorney
18 fee to be allowed by the court for each cause of action upon which recovery is had shall be taxed
19 as and added to the costs; service shall be made of process in any such action, either as in other
20 civil actions or as provided in sections 375.010 to 375.920 for service on insurance companies]
21 **under a certificate of authority or appropriate licensure, or is an insurance company**
22 **exempt from certification under section 375.786.**

23 **2. If the director determines that a person has engaged, is engaging, or is about to**
24 **engage in a violation of this section or a rule adopted or order issued thereunder, or that**
25 **a person has materially aided, is materially aiding, or is about to materially aid an act,**
26 **practice, omission, or course of business constituting a violation of this section or a rule**
27 **adopted or order issued thereunder, the director may issue such administrative orders as**
28 **authorized under section 374.046, RSMo. A violation of this section is a level four violation**
29 **under section 374.049, RSMo.**

30 **3. If the director believes that a person has engaged, is engaging, or is about to**
31 **engage in a violation of this section or a rule adopted or order issued thereunder, or that**
32 **a person has materially aided, is materially aiding, or is about to materially aid an act,**
33 **practice, omission, or course of business constituting a violation of this section or a rule**
34 **adopted or order issued thereunder, the director may maintain a civil action for relief**
35 **authorized under section 374.048, RSMo. A violation of this section is a level four violation**
36 **under section 374.049, RSMo.**

37 **4. Any person who knowingly engages in any act, practice, omission, or course of**
38 **business in violation of this section is guilty of a class D felony.**

39 **5. The director may refer such evidence as is available concerning violations of this**
40 **chapter to the proper prosecuting attorney, who with or without a criminal reference, or**
41 **the attorney general under section 27.030, RSMo, may institute the appropriate criminal**
42 **proceedings.**

43 **6. Nothing in this section shall limit the power of the state to punish any person for**
44 **any conduct that constitutes a crime under any other state statute.**

375.445. 1. [When upon investigation the director finds that] **It is unlawful for** any
2 **insurance** company transacting business [in] **under the laws of** this state [has conducted] **to:**
3 **(1) Conduct** its business fraudulently[, is not carrying];
4 **(2) Fail to carry** out its contracts in good faith[.]; or [is]
5 **(3) Habitually and as a matter of business practice [compelling] compel** claimants under
6 policies or liability judgment creditors of the insured to either accept less than the amount due
7 under the terms of the policy or resort to litigation against the company to secure payment of the
8 amount due[, and that a proceeding in respect thereto would be in the interest of the public, he
9 shall issue and serve upon the company a statement of the charges in that respect and a notice
10 of a hearing thereon].

11 2. [If after the hearing the director shall determine that the company has fraudulently
12 conducted its business as defined in this section, he shall order the company to cease and desist
13 from the fraudulent practice and may suspend the company's certificate of authority for a period
14 not to exceed thirty days and may in addition order a forfeiture to the state of Missouri of a sum

15 not to exceed one thousand dollars, which forfeiture may be recovered by a civil action brought
16 by and in the name of the director of insurance. The civil action may be brought in the circuit
17 court of Cole County or, at the option of the director of insurance, in another county which has
18 venue of an action against the person, partnership or corporation under other provisions of law.]

19 **If the director determines that a person has engaged, is engaging, or is about to engage in**
20 **a violation of this section or a rule adopted or order issued thereunder, or that a person has**
21 **materially aided, is materially aiding, or is about to materially aid an act, practice,**
22 **omission, or course of business constituting a violation of this section or a rule adopted or**
23 **order issued thereunder, the director may issue such administrative orders as authorized**
24 **under section 374.046, RSMo. A violation of this section is a level three violation under**
25 **section 374.049, RSMo. The director of insurance may also suspend or revoke the license [of**
26 **an insurer or agent] or certificate of authority of such person for any [such] willful violation.**

27 **3. If the director believes that a person has engaged, is engaging, or is about to**
28 **engage in a violation of this section or a rule adopted or order issued thereunder, or that**
29 **a person has materially aided, is materially aiding, or is about to materially aid an act,**
30 **practice, omission, or course of business constituting a violation of this section or a rule**
31 **adopted or order issued thereunder, the director may maintain a civil action for relief**
32 **authorized under section 374.048, RSMo. A violation of this section is a level three**
33 **violation under section 374.049, RSMo.**

375.720. 1. Whenever, by chapter 375, or by any other law of this state, the director is
2 authorized or required to take possession of any of the general assets of any insurer, **it is**
3 **unlawful for** any person or company [who shall] to knowingly neglect or refuse to deliver to the
4 director, on [his] order or demand **of the director**, any books, papers, evidences of title or debt,
5 or any property belonging to any such insurer in its, his or their possession, or under his, its or
6 their control[, shall be guilty of a class C felony].

7 **2. If the director determines that a person has engaged, is engaging, or is about to**
8 **engage in a violation of this section or a rule adopted or order issued thereunder, or a that**
9 **person has materially aided, is materially aiding, or is about to materially aid an act,**
10 **practice, omission, or course of business constituting a violation of this section or a rule**
11 **adopted or order issued thereunder, the director may issue such administrative orders as**
12 **authorized under section 374.046, RSMo. A violation of this section is a level three**
13 **violation under section 374.049, RSMo. The director of insurance may also suspend or**
14 **revoke the license or certificate of authority of such person for any willful violation.**

15 **3. If the director believes that a person has engaged, is engaging, or is about to**
16 **engage in a violation of this section or a rule adopted or order issued thereunder, or that**
17 **a person has materially aided, is materially aiding, or is about to materially aid an act,**

18 **practice, omission, or course of business constituting a violation of this section or a rule**
19 **adopted or order issued thereunder, the director may maintain a civil action for relief**
20 **authorized under section 374.048, RSMo. A violation of this section is a level three**
21 **violation under section 374.049, RSMo.**

22 **4. Any person who knowingly engages in any act, practice, omission, or course of**
23 **business in violation of this section is guilty of a class C felony. If the offender holds a**
24 **license or certificate of authority under the insurance laws of this state, the court imposing**
25 **sentence shall order the department of insurance to revoke such license.**

26 **5. The director may refer such evidence as is available concerning violations of this**
27 **section to the proper prosecuting attorney, who with or without a criminal reference, or**
28 **the attorney general under section 27.030, RSMo, may institute the appropriate criminal**
29 **proceedings.**

30 **6. Nothing in this section shall limit the power of the state to punish any person for**
31 **any conduct that constitutes a crime under any other state statute.**

375.777. 1. The director shall:

2 (1) Notify the association of the existence of an insolvent insurer not later than three days
3 after he receives notice of the determination of the insolvency;

4 (2) Upon request of the board of directors, provide the association with a statement of
5 the net direct written premiums of each member insurer; and

6 (3) Notify the agents of the insolvent insurer of the determination of insolvency and of
7 the insureds' rights under sections 375.771 to 375.779. Such notification shall be by first class
8 mail at their last known address, where available, but if sufficient information for notification
9 by mail is not available, notice by publication in a newspaper of general circulation shall be
10 sufficient.

11 2. The director may[:

12 (1)] require each agent of the insolvent insurer to give prompt written notice, by first
13 class mail, at the insured's last known address, to each insured of the insolvent insurer for whom
14 he was agent of record, provided the agent has received the notification of subsection 1 of this
15 section]; and

16 (2) Suspend or revoke, after notice and hearing, the certificate of authority to transact
17 insurance in this state of].

18 **3. It is unlawful for any member insurer [which fails] to fail to pay an assessment when**
19 **due or [fails] fail to comply with the plan of operation. [As an alternative, the director may levy**
20 **an administrative penalty on any member insurer which fails to pay an assessment when due.**
21 **Such administrative penalty shall not exceed five percent of the unpaid assessment per month,**
22 **except that no administrative penalty shall be less than one hundred dollars per month.**

23 3. Any final action or order of the director under this section shall be subject to judicial
24 review in the circuit court of Cole County] **Every day in which the member insurer fails to**
25 **pay is a separate violation.**

26 **4. If the director determines that a person has engaged, is engaging, or is about to**
27 **engage in a violation of this section or a rule adopted or order issued thereunder, or that**
28 **a person has materially aided, is materially aiding, or is about to materially aid an act,**
29 **practice, omission, or course of business constituting a violation of this section or a rule**
30 **adopted or order issued thereunder, the director may issue such administrative orders as**
31 **authorized under section 374.046, RSMo. A violation of this section is a level two violation**
32 **under section 374.049, RSMo. The director of insurance may also suspend or revoke the**
33 **license or certificate of authority of such person for any willful violation.**

34 **5. If the director believes that a person has engaged, is engaging, or is about to**
35 **engage in a violation of this section or a rule adopted or order issued thereunder, or that**
36 **a person has materially aided, is materially aiding, or is about to materially aid an act,**
37 **practice, omission, or course of business constituting a violation of this section or a rule**
38 **adopted or order issued thereunder, the director may maintain a civil action for relief**
39 **authorized under section 374.048, RSMo. A violation of this section is a level two violation**
40 **under section 374.049, RSMo.**

 375.780. [Every violation of] **1. A person commits a crime if he willfully violates** any
2 of the provisions of [sections 375.010 to 375.920] **this chapter. If** not otherwise specifically
3 provided for [shall be deemed a misdemeanor, and shall subject the individual, association of
4 individuals or corporation violating the same to a penalty of not less than fifty nor more than five
5 hundred dollars for each offense; such penalty may be recovered and sued for against
6 corporations or associations in the manner provided and by any of the officers designated in
7 section 375.310, and against individuals by civil action, by information or by indictment, and an
8 attorney's fee of twenty-five dollars shall be taxed as costs against the defendant, as in said
9 section; all fines and penalties recovered under sections 375.010 to 375.920 shall be turned into
10 the school fund, as provided by law for other fines and penalties], **the crime is a class B**
11 **misdemeanor.**

12 **2. The director may refer such evidence as is available concerning violations of this**
13 **section to the proper prosecuting attorney, who with or without a criminal reference, or**
14 **the attorney general under section 27.030, RSMo, may institute the appropriate criminal**
15 **proceedings.**

16 **3. Nothing in this section shall limit the power of the state to punish any person for**
17 **any conduct that constitutes a crime under any other state statute.**

- 375.786. 1. It [shall be] **is** unlawful for any insurance company to transact insurance
2 business in this state, as set forth in subsection 2, without a certificate of authority from the
3 director; provided, however, that this section shall not apply to:
- 4 (1) The lawful transaction of insurance as provided in chapter 384, RSMo;
 - 5 (2) The lawful transaction of reinsurance by insurance companies;
 - 6 (3) Transactions in this state involving a policy lawfully solicited, written and delivered
7 outside of this state covering only subjects of insurance not resident, located or expressly to be
8 performed in this state at the time of issuance, and which transactions are subsequent to the
9 issuance of such policy;
 - 10 (4) Attorneys acting in the ordinary relation of attorney and client in the adjustment of
11 claims or losses;
 - 12 (5) Transactions in this state involving group life and group sickness and accident or
13 blanket sickness and accident insurance or group annuities where the master policy of such
14 groups was lawfully issued and delivered in and pursuant to the laws of a state in which the
15 insurance company was authorized to do an insurance business, to a group organized for
16 purposes other than the procurement of insurance, and where the policyholder is domiciled or
17 otherwise has a bona fide situs;
 - 18 (6) Transactions in this state involving any policy of insurance or annuity contract issued
19 prior to August 13, 1972;
 - 20 (7) Transactions in this state relative to a policy issued or to be issued outside this state
21 involving insurance on vessels, craft or hulls, cargoes, marine builder's risk, marine protection
22 and indemnity or other risk, including strikes and war risks commonly insured under ocean or
23 wet marine forms of policy;
 - 24 (8) Except as provided in chapter 384, RSMo, transactions in this state involving
25 contracts of insurance issued to one or more industrial insureds; provided that nothing herein
26 shall relieve an industrial insured from taxation imposed upon independently procured insurance.
27 An "industrial insured" is hereby defined as an insured:
 - 28 (a) Which procures the insurance of any risk or risks other than life, health and annuity
29 contracts by use of the services of a full-time employee acting as an insurance manager or buyer
30 or the services of [a regularly and continuously retained qualified insurance consultant] **an**
31 **insurance producer whose services are wholly compensated by such insured and not by the**
32 **insurer;**
 - 33 (b) Whose aggregate annual premiums for insurance excluding workers' compensation
34 insurance premiums total at least [twenty-five] **one hundred** thousand dollars; and
 - 35 (c) Which has at least twenty-five full-time employees;

36 (9) Transactions in this state involving life insurance, health insurance or annuities
37 provided to educational or religious or charitable institutions organized and operated without
38 profit to any private shareholder or individual for the benefit of such institutions and individuals
39 engaged in the service of such institutions, provided that any company issuing such contracts
40 under this paragraph shall:

41 (a) File a copy of any policy or contract issued to Missouri residents with the director;

42 (b) File a copy of its annual statement prepared pursuant to the laws of its state of
43 domicile, as well as such other financial material as may be requested, with the director; and

44 (c) Provide, in such form as may be acceptable to the director, for the appointment of the
45 director as its true and lawful attorney upon whom may be served all lawful process in any action
46 or proceeding against such company arising out of any policy or contract it has issued to, or
47 which is currently held by, a Missouri citizen, and process so served against such company shall
48 have the same form and validity as if served upon the company;

49 (10) Transactions in this state involving accident, health, personal effects, liability or any
50 other travel or auto-related products or coverages provided or sold by a rental company after
51 January 1, 1994, to a renter in connection with and incidental to the rental of motor vehicles.

52 2. Any of the following acts in this state effected by mail or otherwise by or on behalf
53 of an unauthorized insurance company is deemed to constitute the transaction of an insurance
54 business in this state: (The venue of an act committed by mail is at the point where the matter
55 transmitted by mail is delivered and takes effect. Unless otherwise indicated, the term "insurance
56 company" as used in sections 375.786 to 375.790 includes all corporations, associations,
57 partnerships and individuals engaged as principals in the business of insurance and also includes
58 interinsurance exchanges and mutual benefit societies.)

59 (1) The making of or proposing to make an insurance contract;

60 (2) The making of or proposing to make, as guarantor or surety, any contract of guaranty
61 or suretyship as a vocation and not merely incidental to any other legitimate business or activity
62 of the guarantor or surety;

63 (3) The taking or receiving of any application for insurance;

64 (4) The receiving or collection of any premium, commission, membership fees,
65 assessments, dues or other consideration for any insurance or any part thereof;

66 (5) The issuance or delivery of contracts of insurance to residents of this state or to
67 persons authorized to do business in this state;

68 (6) Directly or indirectly acting as an agent for or otherwise representing or aiding on
69 behalf of another any person or insurance company in the solicitation, negotiation, procurement
70 or effectuation of insurance or renewals thereof or in the dissemination of information as to
71 coverage or rates, or forwarding of applications, or delivery of policies or contracts, or inspection

72 of risks, a fixing of rates or investigation or adjustment of claims or losses or in the transaction
73 of matters subsequent to effectuation of the contract and arising out of it, or in any other manner
74 representing or assisting a person or insurance company in the transaction of insurance with
75 respect to subjects of insurance resident, located or to be performed in this state. The provisions
76 of this subsection shall not operate to prohibit full-time salaried employees of a corporate insured
77 from acting in the capacity of an insurance manager or buyer in placing insurance in behalf of
78 such employer;

79 (7) The transaction of any kind of insurance business specifically recognized as
80 transacting an insurance business within the meaning of the statutes relating to insurance;

81 (8) The transacting or proposing to transact any insurance business in substance
82 equivalent to any of the foregoing in a manner designed to evade the provisions of the statutes.

83 3. (1) The failure of an insurance company transacting insurance business in this state
84 to obtain a certificate of authority shall not impair the validity of any act or contract of such
85 insurance company and shall not prevent such insurance company from defending any action at
86 law or suit in equity in any court of this state, but no insurance company transacting insurance
87 business in this state without a certificate of authority shall be permitted to maintain an action
88 in any court of this state to enforce any right, claim or demand arising out of the transaction of
89 such business until such insurance company shall have obtained a certificate of authority.

90 (2) In the event of failure of any such unauthorized insurance company to pay any claim
91 or loss within the provisions of such insurance contract, any person who assisted or in any
92 manner aided directly or indirectly in the procurement of such insurance contract shall be liable
93 to the insured for the full amount of the claim or loss in the manner provided by the provisions
94 of such insurance contract.

95 4. **If the director determines that a person has engaged, is engaging, or is about to**
96 **engage in a violation of this section or a rule adopted or order issued thereunder, or that**
97 **a person has materially aided, is materially aiding, or is about to materially aid an act,**
98 **practice, omission, or course of business constituting a violation of this section or a rule**
99 **adopted or order issued thereunder, the director may issue such administrative orders as**
100 **authorized under section 374.046, RSMo. A violation of this section is a level four violation**
101 **under section 374.049, RSMo.**

102 5. **If the director believes that a person has engaged, is engaging, or is about to**
103 **engage in a violation of this section or a rule adopted or order issued thereunder, or that**
104 **a person has materially aided, is materially aiding, or is about to materially aid an act,**
105 **practice, omission, or course of business constituting a violation of this section or a rule**
106 **adopted or order issued thereunder, the director may maintain a civil action for relief**

107 **authorized under section 374.048, RSMo. A violation of this section is a level four violation**
108 **under section 374.049, RSMo.**

109 **6.** Any person who transacts insurance business without a certificate of authority, as
110 provided in this section, is guilty of a class C felony.

111 **7.** **The director may refer such evidence as is available concerning violations of this**
112 **chapter to the proper prosecuting attorney, who with or without a criminal reference, or**
113 **the attorney general under section 27.030, RSMo, may institute the appropriate criminal**
114 **proceedings.**

115 **8.** **Nothing in this section shall limit the power of the state to punish any person for**
116 **any conduct that constitutes a crime in any other state statute.**

 375.881. [1.] The director may revoke or suspend the certificate of authority of a foreign
2 insurance company [or may by order require the insurance company to pay to the people of the
3 state of Missouri a penalty in a sum not exceeding five hundred dollars and upon failure of the
4 insurance company to pay the penalty within twenty days after the mailing of the order, postage
5 prepaid, certified, and addressed to the last known place of business of the insurance company,
6 unless the order is stayed by an order of a court of competent jurisdiction, the director of
7 insurance may revoke or suspend the license of the insurance company for any period of time]
8 **under section 374.047, RSMo, or issue such administrative orders as appropriate under**
9 **section 374.046, RSMo, whenever [he] the director finds that the company**

10 (1) Is insolvent;

11 (2) Fails to comply with the requirements for admission in respect to capital, the
12 investment of its assets or the maintenance of deposits in this or other state or fails to maintain
13 the surplus which similar domestic companies transacting the same kinds of business are
14 required to maintain;

15 (3) Is in such a financial condition that its further transaction of business in this state
16 would be hazardous to policyholders and creditors in this state and to the public;

17 (4) Has refused or neglected to pay a valid final judgment against the company within
18 thirty days after the rendition of the judgment;

19 (5) Has refused to submit to the jurisdiction of a court of this state upon the grounds of
20 diversity of citizenship in a cause of action arising out of business transacted, acts done, or
21 contracts made in this state by the foreign insurance company;

22 (6) Has violated any law of this state or has in this state violated its charter or exceeded
23 its corporate powers;

24 (7) Has refused to submit its books, papers, accounts, records, or affairs to the reasonable
25 inspection or examination of the director, his actuaries, deputies or examiners;

26 (8) Has an officer who has refused upon reasonable demand to be examined under oath
27 touching its affairs;

28 (9) Fails to file its annual statement within thirty days after the date when it is required
29 by law to file the statement;

30 (10) Fails to file with the director a copy of an amendment to its charter or articles of
31 association within thirty days after the effective date of the amendment;

32 (11) Fails to file with the director copies of the agreement and certificate of merger and
33 the financial statements of the merged companies, if required, within thirty days after the
34 effective date of the merger;

35 (12) Fails to pay any fees, taxes or charges prescribed by the laws of this state within
36 thirty days after they are due and payable; provided, however, that in case of objection or legal
37 contest the company shall not be required to pay the tax until thirty days after final disposition
38 of the objection or legal contest;

39 (13) Fails to file any report for the purpose of enabling the director to compute the taxes
40 to be paid by the company within thirty days after the date when it is required by law to file the
41 report;

42 (14) Has had its corporate existence dissolved or its certificate of authority revoked in
43 the state or country in which it was organized;

44 (15) Has had all its risks reinsured in their entirety in another company; or

45 (16) Has ceased to transact the business of insurance in this state for a period of one year.

46 [2. The director shall not revoke or suspend the certificate of authority of a foreign
47 insurance company until he has given the company at least twenty days' notice of the revocation
48 or suspension and of the grounds therefor and has afforded the company an opportunity for a
49 hearing.]

375.940. [1.] Whenever the director shall have reason to believe that any person or
2 insurer has been engaged or is engaging in this state in any unfair method of competition or any
3 unfair or deceptive act or practice **in violation of sections 375.930 to 375.948**, and that a
4 proceeding by [him] **the director** in respect thereto would be to the interest of the public, [he]
5 **the director** shall issue and serve upon such person or insurer a statement of the charges [in that
6 respect and a notice of hearing thereon to be held at a time and place fixed in the notice which
7 shall not be less than twenty days after the date of service thereof.

8 2. At the time and place fixed for such hearing, such person or insurer shall have an
9 opportunity to be heard to show cause why an order should not be made by the director requiring
10 such person or insurer to cease and desist from the acts, methods or practices so complained of.
11 Upon good cause shown, the director shall permit any person to intervene, appear and be heard
12 at such hearing by counsel or in person. Nothing herein shall preclude the informal disposition

13 of any case by stipulation, consent order, or default, or by agreed settlement where such
14 settlement is in conformity with law.

15 3. Nothing contained in sections 375.930 to 375.948 shall require the observance at any
16 such hearing of formal rules of pleading or evidence.

17 4. Upon such hearing, the director shall have power to examine and cross-examine
18 witnesses, receive oral and documentary evidence, administer oaths, subpoena witnesses and
19 compel their attendance, and require the production of books, papers, records, correspondence
20 and all other written instruments or documents which he deems relevant to the inquiry. The
21 director, upon any such hearing, shall cause to be made a record of all the evidence and all the
22 proceedings had at such hearing. In case of a refusal of any person to comply with any subpoena
23 issued hereunder or to testify with respect to any matter concerning which he may be lawfully
24 interrogated, the circuit court of Cole County or the county where such party resides, or may be
25 found, on application of the director, may issue an order requiring such person to comply with
26 such subpoena and to testify; and any failure to obey any such order of the court may be punished
27 by the court as a contempt thereof.

28 5. Statements of charges, notices, orders, and other processes of the director under
29 sections 375.930 to 375.948 may be served by anyone duly authorized by the director either in
30 the manner provided by law for service of process in civil actions, or by registering or certifying
31 and mailing a copy thereof to the person affected by such statement, notice, order, or other
32 process at his or its residence or principal office or place of business. The verified return by the
33 person so serving such statement, notice, order or other process, setting forth the manner of such
34 service, shall be proof of the same, and the return postcard receipt for such statement, notice,
35 order or other process, registered and mailed as aforesaid, shall be proof of the service of the
36 same] **under the procedures set forth in section 374.046, RSMo.**

375.942. 1. [If, after such hearing, the director determines that the person charged has
2 engaged in an unfair method of competition or in an unfair or deceptive act or practice prohibited
3 by section 375.934 or 375.937, he shall reduce his findings to writing and shall issue and cause
4 to be served upon the person charged with the violation a copy of such findings and an order
5 requiring such person to cease and desist from engaging in such method of competition, act or
6 practice, and thereafter the director may, at his discretion, order one or more of the following:

7 (1) Payment of a monetary penalty of not more than one thousand dollars for each
8 violation but not to exceed an aggregate penalty of one hundred thousand dollars in any
9 twelve-month period unless the violation was committed flagrantly and in conscious disregard
10 of section 375.934 or 375.937, in which case the penalty shall be not more than twenty-five
11 thousand dollars for each violation but not to exceed an aggregate penalty of two hundred fifty
12 thousand dollars in any twelve-month period;

13 (2) Suspension or revocation of the insurer's license if such insurer knew or reasonably
14 should have known it was in violation of section 375.934 or 375.937.

15 2. Until the expiration of the time allowed under section 375.944 for filing a petition for
16 judicial review, if no such petition has been duly filed within such time or, if a petition for
17 review has been filed within such time, then until the transcript of the record in the proceeding
18 has been filed in the circuit court of Cole County, the director may at any time, upon such notice
19 and in such manner as he shall deem proper, modify or set aside in whole or in part any order
20 issued by him under this section.

21 3. After the expiration of the time allowed for filing such a petition for review, if no such
22 petition has been duly filed within such time, the director may at any time, after notice and
23 opportunity for hearing, reopen and alter, modify or set aside, in whole or in part, any order
24 issued by him under this section, whenever in his opinion conditions of fact or of law have so
25 changed as to require such action or if the public interest shall so require.

26 4. Nothing contained in sections 375.930 to 375.948 shall be construed to prohibit the
27 director and the person from agreeing to a voluntary forfeiture with or without proceedings being
28 instituted. Any sum so agreed upon shall be paid into the school fund as provided by law for
29 other fines and penalties] **If the director determines that an insurer has engaged, is engaging,
30 or is about to engage in a violation of sections 375.930 to 375.948 or a rule adopted or order
31 issued thereunder, or that a person has materially aided, is materially aiding, or is about
32 to materially aid a practice constituting a violation of sections 375.930 to 375.948 or a rule
33 adopted or order issued thereunder, the director may issue such administrative orders as
34 authorized under section 374.046, RSMo. Each practice in violation of section 375.934 is
35 a level two violation under section 374.049, RSMo. Each act as part of a trade practice
36 does not constitute a separate violation under section 374.049, RSMo. The director of
37 insurance may also suspend or revoke the license or certificate of authority of an insurer
38 for any willful violation.**

39 **2. If the director believes that an insurer has engaged, is engaging, or is about to**
40 **engage in a violation of sections 375.930 to 375.948 or a rule adopted or order issued**
41 **thereunder, or that a person has materially aided, is materially aiding, or is about to**
42 **materially aid a practice constituting a violation of sections 375.930 to 375.948 or a rule**
43 **adopted or order issued thereunder, the director may maintain a civil action for relief**
44 **authorized under section 374.048, RSMo. Each practice in violation of section 375.934 is**
45 **a level two violation under section 374.049, RSMo. Each act as part of a trade practice**
46 **does not constitute a separate violation under section 374.049, RSMo.**

375.946. [Any person who violates] **It is unlawful for any person to violate any**
2 **provision of a cease and desist order of the director under section 375.942[, while such order is**

3 in effect, may, after notice and hearing, and upon order of the director, be subject to either or
4 both of the following:

5 (1) A monetary penalty of not more than twenty-five thousand dollars for each and every
6 act or violation not to exceed an aggregate amount of two hundred fifty thousand dollars
7 pursuant to any such hearing; or

8 (2) Suspension or revocation of such person's license or certificate of authority]. **The**
9 **director may institute an action under sections 374.046 and 374.047, RSMo, as necessary**
10 **to enforce any such order.**

375.994. 1. Department investigators shall have the power to serve subpoenas issued
2 for the examination, investigation, and trial of all offenses determined by their investigations.

3 2. It is unlawful for any person to interfere, either by abetting or assisting such resistance
4 or otherwise interfering, with department investigators in the duties imposed upon them by law
5 or department rule.

6 3. Any moneys, or other property which is awarded to the department as costs of
7 investigation, or as a fine, shall be credited to the department of insurance dedicated fund created
8 by section 374.150, RSMo.

9 4. **If the director determines that a person has engaged, is engaging, or is about to**
10 **engage in a violation of section 375.991 or a rule adopted or order issued thereunder, or**
11 **that a person has materially aided, is materially aiding, or is about to materially aid an act,**
12 **practice, omission, or course of business constituting a violation of section 375.991 or a rule**
13 **adopted or order issued thereunder, the director may issue such administrative orders as**
14 **authorized under section 374.046, RSMo. A violation of any of these sections is a level two**
15 **violation under section 374.049, RSMo. The director of insurance may also suspend or**
16 **revoke the license or certificate of authority of such person for any willful violation.**

17 5. **If the director believes that a person has engaged, is engaging, or is about to**
18 **engage in a violation of section 375.991 or a rule adopted or order issued thereunder, or**
19 **that a person has materially aided, is materially aiding, or is about to materially aid an act,**
20 **practice, omission, or course of business constituting a violation of section 375.991 or a rule**
21 **adopted or order issued thereunder, the director may maintain a civil action for relief**
22 **authorized under section 374.048, RSMo. A violation of any of these sections is a level two**
23 **violation under section 374.049, RSMo.**

24 6. Nothing in this section shall be construed as prohibiting the department of insurance
25 from regulating unfair or fraudulent trade practices as provided for in sections 375.930 to
26 375.948.

27 [5. In the event] 7. **If the director determines that a person regulated under this chapter**
28 **has conducted its business fraudulently with respect to sections 375.991 to 375.994, or has as a**

29 matter of business practice abused its rights under said sections, such conduct shall [be
30 considered] **constitute** either an unfair trade practice under the provisions of sections 375.930
31 to 375.948 or an unfair claims settlement practice under the provisions of sections 375.1000 to
32 375.1018. [The director shall have the power and authority, pursuant to the unfair trade practices
33 act and the unfair claims settlement practices act to subject such persons to the monetary penalty
34 or suspend or revoke such person's license or certificate of authority, under such acts.]

375.1010. 1. [Whenever the director shall have reason to believe that any insurer has
2 been engaged or is engaging in this state in any improper claims practice, and that a proceeding
3 by him in respect thereto would be to the interest of the public, he shall issue and serve upon
4 such person or insurer a statement of the charges in that respect and a notice of hearing thereon
5 to be held at a time and place fixed in the notice which shall not be less than twenty days after
6 the date of service thereof.

7 2. At the time and place fixed for such hearing, such insurer shall have an opportunity
8 to be heard to show cause why an order should not be made by the director requiring such insurer
9 to cease and desist from the acts, methods or practices so complained of. Upon good cause
10 shown, the director shall permit any person to intervene, appear and be heard at such hearing by
11 counsel or in person. Nothing in sections 375.1000 to 375.1018 shall preclude the informal
12 disposition of any case by stipulation, consent order, or default, or by agreed settlement where
13 such settlement is in conformity with law.

14 3. Nothing contained in sections 375.1000 to 375.1018 shall require the observance at
15 any such hearing of formal rules of pleading or evidence.

16 4. Upon such hearing, the director may examine and cross-examine witnesses, receive
17 oral and documentary evidence, administer oaths, subpoena witnesses and compel their
18 attendance, and require the production of books, papers, records, correspondence and all other
19 written instruments or documents which he deems relevant to the inquiry. The director, upon
20 any such hearing, shall cause to be made a record of all the evidence and all the proceedings had
21 at such hearing. In case of a refusal of any person to comply with any subpoena issued hereunder
22 or to testify with respect to any matter concerning which he may be lawfully interrogated, the
23 circuit court of Cole County or the county where such party resides, or may be found, on
24 application of the director, may issue an order requiring such person to comply with such
25 subpoena and to testify; and any failure to obey any such order of the court may be punished by
26 the court as a contempt thereof.

27 5. Statements of charges, notices, orders, and other processes of the director under
28 sections 375.1000 to 375.1018 may be served by anyone duly authorized by the director either
29 in the manner provided by law for service of process in civil actions, or by registering or
30 certifying and mailing a copy thereof to the person affected by such statement, notice, order, or

31 other process at his or its residence or principal office or place of business. The verified return
32 by the person so serving such statement, notice, order or other process, setting forth the manner
33 of such service, shall be proof of the same, and the return postcard receipt for such statement,
34 notice, order or other process, registered and mailed as aforesaid, shall be proof of the service
35 of the same.] **If the director determines that an insurer has engaged, is engaging, or is about**
36 **to engage in a violation of sections 375.1000 to 375.1018 or a rule adopted or order issued**
37 **thereunder, or that a person has materially aided, is materially aiding, or is about to**
38 **materially aid an act, practice, omission, or course of business constituting a violation of**
39 **sections 375.1000 to 375.1018 or a rule adopted or order issued thereunder, the director**
40 **may issue such administrative orders as authorized under section 374.046, RSMo. Each**
41 **practice in violation of section 375.1005 is a level two violation under section 374.049,**
42 **RSMo. Each act as part of a claims settlement practice does not constitute a separate**
43 **violation under section 374.049, RSMo. The director of insurance may also suspend or**
44 **revoke the license or certificate of authority of an insurer for any willful violation.**

45 **2. If the director believes that an insurer has engaged, is engaging, or is about to**
46 **engage in a violation of sections 375.1000 to 375.1018 or a rule adopted or order issued**
47 **thereunder, or that a person has materially aided, is materially aiding, or is about to**
48 **materially aid an act, practice, omission, or course of business constituting a violation of**
49 **sections 375.1000 to 375.1018 or a rule adopted or order issued thereunder, the director**
50 **may maintain a civil action for relief authorized under section 374.048, RSMo. Each**
51 **practice in violation of section 375.1005 is a level two violation under section 374.049,**
52 **RSMo. Each act as part of a claims settlement practice does not constitute a separate**
53 **violation under section 374.049, RSMo.**

375.1014. 1. [Any person, including any person who has been permitted to intervene,
2 who is aggrieved by a final order or decision of the director shall be entitled to judicial review
3 thereof.

4 2. The court shall make and enter upon the pleadings evidence and proceedings set forth
5 in the transcript a degree modifying, affirming or reversing the order of the director, in whole or
6 in part. To the extent that the order of the director is affirmed, the court shall thereupon issue
7 its own order commanding obedience to the terms of such order of the director. If either party
8 shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction
9 of the court that such additional evidence is material and that there were reasonable grounds for
10 the failure to adduce such evidence in the proceeding before the director, the court may order
11 such additional evidence to be taken before the director and to be adduced upon the hearing in
12 such manner and upon such terms and conditions as the court may deem proper. The director
13 may modify his findings of fact, or make new findings by reason of the additional evidence so

14 taken, and he shall file such modified or new findings which are supported by evidence on the
15 record and his recommendation, if any, for the modification or setting aside of his original order,
16 with the return of such additional evidence.

17 3. An order issued by the director under section 375.1012 shall become final:

18 (1) Upon the expiration of the time allowed for filing a petition for review if no such
19 petition has been duly filed within such time; except that the director may thereafter modify or
20 set aside his order to the extent provided in subsection 2 of section 375.1012; or

21 (2) Upon the final decision of the court if the court directs that the order of the director
22 be affirmed or the petition for review dismissed.

23 4.] **A final order issued by the director under sections 375.1000 to 375.1018 is**
24 **subject to judicial review in accordance with the provisions of chapter 536, RSMo, in the**
25 **circuit court of Cole County.**

26 2. No order of the director under section 375.942 or order of a court to enforce the same
27 shall in any way relieve or absolve any person affected by such order from any liability under any
28 other laws of this state.

375.1016. [Any person who violates] **It is unlawful for any person to violate any**
2 **provision of** a cease and desist order of the director under section 375.1012, [while such order
3 is in effect, may, after notice and hearing, and upon order of the director, be subject to either or
4 both of the following:

5 (1) A monetary penalty of not more than twenty-five thousand dollars for each and every
6 act or violation not to exceed an aggregate amount of two hundred fifty thousand dollars
7 pursuant to any such hearing; or

8 (2) Suspension or revocation of such person's license or certificate of authority] **and the**
9 **director may institute an action under sections 374.046 and 374.047, RSMo, as necessary**
10 **to enforce any such order.**

375.1135. 1. [A reinsurance intermediary, insurer or reinsurer found by the director,
2 after a hearing conducted in accordance with chapter 536, RSMo, to be in violation of any
3 provisions of sections 375.1110 to 375.1140, shall:

4 (1) For each separate violation, pay a penalty in an amount not exceeding five thousand
5 dollars;

6 (2) Be subject to revocation or suspension of its license; and

7 (3)] **If the director determines that a reinsurance intermediary, insurer, or**
8 **reinsurer has engaged, is engaging, or is about to engage in a violation of sections 375.1110**
9 **to 375.1140 or a rule adopted or order issued thereunder, or that a person has materially**
10 **aided, is materially aiding, or is about to materially aid an act, practice, omission, or course**
11 **of business constituting a violation of sections 375.1110 to 375.1140 or a rule adopted or**

12 **order issued thereunder, the director may issue such administrative orders as authorized**
13 **under section 374.046, RSMo. A violation of any of these sections is a level two violation**
14 **under section 374.049, RSMo. The director of insurance may also suspend or revoke the**
15 **license or certificate of authority of a reinsurance intermediary, insurer, or reinsurer for**
16 **any willful violation.**

17 **2. If the director believes that a reinsurance intermediary, insurer, or reinsurer has**
18 **engaged, is engaging, or is about to engage in a violation of sections 375.1110 to 375.1140**
19 **or a rule adopted or order issued thereunder, or that a person has materially aided, is**
20 **materially aiding, or is about to materially aid an act, practice, omission, or course of**
21 **business constituting a violation of sections 375.1110 to 375.1140 or a rule adopted or order**
22 **issued thereunder, the director may maintain a civil action for relief authorized under**
23 **section 374.048, RSMo. A violation of any of these sections is a level two violation under**
24 **section 374.049, RSMo.**

25 **3. In addition to any other relief authorized by sections 374.046 and 374.047,**
26 **RSMo, if a violation was committed by the reinsurance intermediary, such reinsurance**
27 **intermediary shall make restitution to the insurer, reinsurer, rehabilitator or liquidator of the**
28 **insurer or reinsurer for the net losses incurred by the insurer or reinsurer attributable to such**
29 **violation.**

30 [2. The decision, determination or order of the director pursuant to subsection 1 of this
31 section shall be subject to judicial review pursuant to sections 536.100 to 536.140, RSMo.

32 3. Nothing contained in this section shall affect the right of the director to impose any
33 other penalties provided by law.]

34 4. Nothing contained in sections 375.1110 to 375.1140 is intended to or shall in any
35 manner limit or restrict the rights of policyholders, claimants, creditors or other third parties or
36 confer any rights to such persons.

375.1156. 1. Any officer, manager, director, trustee, owner, employee or agent of any
2 insurer, or any other persons with authority over or in charge of any segment of the insurer's
3 affairs, shall cooperate with the director or any receiver in any proceeding under sections
4 375.1150 to 375.1246 or any investigation preliminary to the proceeding. The term "person" as
5 used in this section, shall include any person who exercises control directly or indirectly over
6 activities of the insurer through any holding company or other affiliate of the insurer. "To
7 cooperate" shall include, but shall not be limited to, the following:

8 (a) To reply promptly in writing to any inquiry from the director requesting such a reply;
9 and

10 (b) To make available to the director any books, accounts, documents, or other records
11 or information or property of or pertaining to the insurer and in its possession, custody or control.

12 2. [No] **It is unlawful for any person [shall] included in subsection 1 of this section**
13 **to** obstruct or interfere with the director in the conduct of any delinquency proceeding or any
14 investigation preliminary or incidental thereto.

15 3. This section shall not be construed to abridge otherwise existing legal rights, including
16 the right to resist a petition for liquidation or other delinquency proceedings, or other orders.

17 [4. Any person included within subsection 1 of this section who fails to cooperate with
18 the director, or any person who knowingly obstructs or interferes with the director in the conduct
19 of any delinquency proceeding or any investigation preliminary or incidental thereto, or who
20 knowingly violates any order the director issued validly under sections 375.1150 to 375.1246
21 shall be guilty of a class A misdemeanor, and, in addition thereto, after a hearing, shall be subject
22 to the imposition by the director of an administrative penalty not to exceed ten thousand dollars
23 for each occurrence or violation and shall be subject further to the revocation or suspension of
24 any insurance licenses issued by the director. Moneys collected pursuant to the imposition of
25 such administrative penalties shall be transferred to the state treasurer and deposited to the
26 general revenue fund.

27 5.] **4.** In any proceeding under sections 375.1150 to 375.1246, the director and his
28 deputies shall be responsible on their official bonds for the faithful performance of their duties.
29 If the court deems it desirable for the protection of the assets, it may at any time require an
30 additional bond from the director or his deputies, and such bonds shall be paid for out of the
31 assets of the insurer as a cost of administration.

375.1160. 1. As used in this section:

2 (1) "Exceeded its powers" means one or more of the following conditions:

3 (a) The insurer has refused to permit examination of its books, papers, accounts, records
4 or affairs by the director, his deputy, employees or duly commissioned examiners;

5 (b) A domestic insurer has unlawfully removed from this state or is unable to produce
6 books, papers, accounts or records necessary for an examination of the insurer;

7 (c) The insurer has failed to promptly comply with the applicable financial reporting
8 statutes or rules and requests relating thereto;

9 (d) The insurer has neglected or refused to observe an order of the director to make good,
10 within the time prescribed by law, any prohibited deficiency in its capital, capital stock or
11 surplus;

12 (e) The insurer is continuing to transact insurance or write business after its license has
13 been revoked or suspended by the director;

14 (f) The insurer, by contract or otherwise, has unlawfully or has in violation of an order
15 of the director or has without first having obtained written approval of the director if approval
16 is required by law:

- 17 a. Totally reinsured its entire outstanding business, or
18 b. Merged or consolidated substantially its entire property or business with another
19 insurer;
- 20 (g) The insurer engaged in any transaction in which it is not authorized to engage under
21 the laws of this state;
- 22 (h) A domestic insurer has committed or engaged in, or is about to commit or engage in,
23 any act, practice or transaction that would subject it to delinquency proceedings under sections
24 375.1150 to 375.1246; or
- 25 (i) The insurer refused to comply with a lawful order of the director;
- 26 (2) "Consent" means agreement to administrative supervision by the insurer.
- 27 2. (1) An insurer may be subject to administrative supervision by the director if upon
28 examination or at any other time it appears in the director's discretion that:
- 29 (a) The insurer's condition renders the continuance of its business hazardous to the public
30 or to its insureds;
- 31 (b) The insurer exceeded its powers granted under its certificate of authority and
32 applicable law;
- 33 (c) The insurer has failed to comply with the laws of this state relating to insurance;
- 34 (d) The business of the insurer is being conducted fraudulently; or
- 35 (e) The insurer gives its consent.
- 36 (2) If the director determines that the conditions set forth in subdivision (1) of this
37 subsection exist, the director shall:
- 38 (a) Notify in writing the insurer of his determination;
- 39 (b) Furnish to the insurer a written list of his requirements to rescind his determination;
40 and
- 41 (c) Notify the insurer that it is under the supervision of the director and that the director
42 is applying and effectuating the provisions of this section.
- 43 (3) The notice of supervision under this subsection and any order issued pursuant to this
44 section shall be served upon the insurer in writing by registered mail. The notice of supervision
45 shall state the conduct, condition or ground upon which the director bases his order.
- 46 (4) If placed under administrative supervision, the insurer shall have sixty days, or
47 another period of time as designated by the director, to comply with the requirements of the
48 director subject to the provisions of this section. In the event of such insurer's failure to comply
49 with such time periods, the director may institute proceedings under section 375.1165 or
50 375.1175 to have a rehabilitator or liquidator appointed, or to extend the period of supervision.
- 51 (5) If it is determined that none of the conditions giving rise to the supervision exist, the
52 director shall release the insurer from supervision.

53 3. (1) Except as set forth in this subsection, all proceedings, hearings, notices, orders,
54 correspondence, reports, records and other information in the possession of the director or the
55 department of insurance relating to the supervision of any insurer are confidential except as
56 provided by this section.

57 (2) Personnel of the department of insurance shall have access to these proceedings,
58 hearings, notices, orders, correspondence, reports, records or information as permitted by the
59 director.

60 (3) The director may open the proceedings or hearings or disclose the notices, orders,
61 correspondence, reports, records or information to a department, agency or instrumentality of this
62 or another state or the United States if the director determines that the disclosure is necessary or
63 proper for the enforcement of the laws of this or another state of the United States.

64 (4) The director may open the proceedings or hearings or make public the notices, orders,
65 correspondence, reports, records or other information if the director deems that it is in the best
66 interest of the public or in the best interest of the insurer, its insureds, creditors or the general
67 public.

68 (5) This subsection does not apply to hearings, notices, correspondence, reports, records
69 or other information obtained upon the appointment of a receiver for the insurer by a court of
70 competent jurisdiction.

71 4. During the period of supervision, the director or his designated appointee shall serve
72 as the administrative supervisor. The director may provide that the insurer shall not do any of
73 the following things during the period of supervision, without the prior approval of the director
74 or the appointed supervisor:

75 (1) Dispose of, convey or encumber any of its assets or its business in force;

76 (2) Withdraw any of its bank accounts;

77 (3) Lend any of its funds;

78 (4) Invest any of its funds;

79 (5) Transfer any of its property;

80 (6) Incur any debt, obligation or liability;

81 (7) Merge or consolidate with another company;

82 (8) Approve new premiums or renew any policies;

83 (9) Enter into any new reinsurance contract or treaty;

84 (10) Terminate, surrender, forfeit, convert or lapse any insurance policy, certificate or
85 contract, except for nonpayment of premiums due;

86 (11) Write any new or renewal business;

87 (12) Release, pay or refund premium deposits, accrued cash or loan values, unearned
88 premiums, or other reserves on any insurance policy, certificate or contract;

89 (13) Make any material change in management; or

90 (14) Increase salaries and benefits of officers or directors or the preferential payment of
91 bonuses, dividends or other payments deemed preferential.

92 5. Any insurer subject to a supervision order under this section may seek review pursuant
93 to section 536.150, RSMo, of that order within thirty days of the entry of the order of
94 supervision. Such a request for a hearing shall not stay the effect of the order.

95 6. During the period of supervision the insurer may contest an action taken or proposed
96 to be taken by the administrative supervisor specifying the manner in which the action being
97 complained of would not result in improving the condition of the insurer. An insurer may
98 request review pursuant to section 536.150, RSMo, of written denial of the insurer's request to
99 reconsider pursuant to this subsection.

100 7. If any person has violated any supervision order issued under this section which as to
101 him was still in effect, the director may [impose an administrative penalty in an amount not to
102 exceed ten thousand dollars for each violation. Moneys collected pursuant to the imposition of
103 such penalties shall be transferred to the state treasurer and deposited to the general revenue
104 fund.

105 8. The director or administrative supervisor may apply for, and any court of general
106 jurisdiction may grant, such restraining orders, preliminary and permanent injunctions, and other
107 orders as may be deemed necessary and proper to enforce a supervision order.

108 9.] **initiate an action under section 375.1161.**

109 **8.** In the event that any person, subject to the provisions of sections 375.1150 to
110 375.1246, including those persons described in subsection 1 of section 375.1156, shall
111 knowingly violate any valid order of the director issued under the provisions of this section and,
112 as a result of such violation, the net worth of the insurer shall be reduced or the insurer shall
113 suffer loss it would not otherwise have suffered, said person shall become personally liable to
114 the insurer for the amount of any such reduction or loss. The director or administrative
115 supervisor is authorized **under subsection 1 of section 375.1161** to bring an action on behalf
116 of the insurer in any court of competent jurisdiction to recover the amount of reduction or loss
117 together with any costs.

118 [10.] **9.** Nothing contained in sections 375.1150 to 375.1246 shall preclude the director
119 from initiating judicial proceedings to place an insurer in conservation, rehabilitation or
120 liquidation proceedings or other delinquency proceedings, however designated under the laws
121 of this state, regardless of whether the director has previously initiated administrative supervision
122 proceedings under this section against the insurer.

123 [11.] **10.** The director may adopt reasonable rules necessary for the implementation of
124 this section.

125 [12.] **11.** Notwithstanding any other provision of law, the director may meet with an
126 administrative supervisor appointed under this section and with the attorney or other
127 representative of the administrative supervisor, without the presence of any other person, at the
128 time of any proceeding or during the pendency of any proceeding held under authority of this
129 section to carry out his duties under this section or for the administrative supervisor to carry out
130 his duties under this section.

131 [13.] **12.** There shall be no liability on the part of, and no cause of action of any nature
132 shall arise against, the director or the department of insurance or its employees or agents for any
133 action taken by them in the performance of their powers and duties under this section.

**375.1161. 1. If the director determines that a person has engaged, is engaging, or
2 is about to engage in a violation of sections 375.1150 to 375.1246 or a rule adopted or order
3 issued thereunder, or that a person has materially aided, is materially aiding, or is about
4 to materially aid an act, practice, omission, or course of business constituting a violation
5 of sections 375.1150 to 375.1246 or a rule adopted or order issued thereunder, the director
6 may issue such administrative orders as authorized under section 374.046, RSMo. A
7 violation of any of these sections is a level four violation under section 374.049, RSMo. The
8 director of insurance may also suspend or revoke the license or certificate of authority of
9 such person for any willful violation.**

**2. If the director believes that a person has engaged, is engaging, or is about to
11 engage in a violation of sections 375.1150 to 375.1246 or a rule adopted or order issued
12 thereunder, or that a person has materially aided, is materially aiding, or is about to
13 materially aid an act, practice, omission, or course of business constituting a violation of
14 sections 375.1150 to 375.1246 or a rule adopted or order issued thereunder, the director
15 may maintain a civil action for relief authorized under section 374.048, RSMo. A violation
16 of any of these sections is a level four violation under section 374.049, RSMo.**

**375.1204. 1. [An agent, broker] A producer, premium finance company, or any other
2 person, other than the insured, responsible for the payment of a premium, shall be obligated to
3 pay any unpaid earned premium due the insurer at the time of the declaration of insolvency as
4 shown on the records of the insurer. The liquidator shall also have the right to recover from such
5 person any part of an unearned premium that represents commission of such person. Credits or
6 setoffs or both shall not be allowed to [an agent, broker,] a producer or premium finance
7 company for any amounts advanced to the insurer by the [agent, broker,] producer or premium
8 finance company on behalf of, but in the absence of a payment by the insured. An insured shall
9 be obligated to pay any unpaid earned premium due the insurer at the time of the declaration of
10 insolvency, as shown on the records of the insurer.**

11 2. [Upon satisfactory evidence of a violation of this section, the director may pursue
12 either one or both of the following courses of action:

13 (1) Suspend or revoke or refuse to renew any licenses issued by the department of
14 insurance to such offending party or parties;

15 (2) Impose an administrative penalty of not more than one thousand dollars for each and
16 every act in violation of this section by said party or parties. All amounts collected as a result of
17 imposition of such administrative penalties shall be paid to the state treasurer for deposit to the
18 general revenue fund.

19 3. Before the director shall take any action as set forth in subsection 2 of this section, he
20 shall give written notice to the person, company, association or exchange accused of violating
21 the law, stating specifically the nature of the alleged violation and fixing a time and place, at
22 least ten days thereafter, when a hearing on the matter shall be held. After such hearing, or upon
23 failure of the accused to appear at such hearing, the director, if he shall find such violation, shall
24 impose such of the penalties under subsection 2 of this section as he deems advisable.

25 4. When the director shall take any action provided by subsection 2 of this section, the
26 party aggrieved may appeal said action to the court within thirty days of the director's decision]
27 **If the director determines that a person has engaged, is engaging, or is about to engage in**
28 **a violation of this section or a rule adopted or order issued thereunder, or that a person has**
29 **materially aided, is materially aiding, or is about to materially aid an act, practice,**
30 **omission, or course of business constituting a violation of this section or a rule adopted or**
31 **order issued thereunder, the director may issue such administrative orders as authorized**
32 **under section 374.046, RSMo. A violation of this section is a level one violation under**
33 **section 374.049, RSMo. The director of insurance may also suspend, revoke, or refuse to**
34 **renew any license issued by the director to any offending person for any willful violation.**

35 **3. If the director believes that a person has engaged, is engaging, or is about to**
36 **engage in a violation of this section or a rule adopted or order issued thereunder, or that**
37 **a person has materially aided, is materially aiding, or is about to materially aid an act,**
38 **practice, omission, or course of business constituting a violation of this section or a rule**
39 **adopted or order issued thereunder, the director may maintain a civil action for relief**
40 **authorized under section 374.048, RSMo. A violation of this section is a level one violation**
41 **under section 374.049, RSMo.**

375.1306. 1. An employer shall not use any genetic information or genetic test results,
2 as those terms are defined in subdivisions (3) and (4) of section 375.1300, of an employee or
3 prospective employee to distinguish between, discriminate against, or restrict any right or benefit
4 otherwise due or available to such employee or prospective employee. The requirements of this
5 section shall not prohibit:

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

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

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

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

13 2. [Any person who violates the provisions of this section shall be fined not more than
14 five hundred dollars for each violation of this section] **If the director determines that a person
15 has engaged, is engaging, or is about to engage in a violation of this section or a rule
16 adopted or order issued thereunder, or that a person has materially aided, is materially
17 aiding, or is about to materially aid an act, practice, omission, or course of business
18 constituting a violation of this section or a rule adopted or order issued thereunder, the
19 director may issue such administrative orders as authorized under section 374.046, RSMo.
20 A violation of any of these sections is a level two violation under section 374.049, RSMo.**

21 **3. If the director believes that a person has engaged, is engaging, or is about to
22 engage in a violation of this section or a rule adopted or order issued thereunder, or that
23 a person has materially aided, is materially aiding, or is about to materially aid an act,
24 practice, omission, or course of business constituting a violation of this section or a rule
25 adopted or order issued thereunder, the director may maintain a civil action for relief
26 authorized under section 374.048, RSMo. A violation of any of these sections is a level two
27 violation under section 374.049, RSMo.**

375.1309. 1. Any person who, in the ordinary course of business, practice of a
2 profession or rendering of a service, creates, stores, receives or furnishes genetic information,
3 as such term is defined in subdivision (3) of section 375.1300, shall hold such information as
4 confidential medical records and shall not disclose such genetic information except pursuant to
5 written authorization of the person to whom such information pertains or to that person's
6 authorized representative. The requirements of this section shall not apply to:

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

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

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

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

14 2. [Any person who violates the provisions of this section shall be fined not more than
15 five hundred dollars.] **If the director determines that a person has engaged, is engaging, or**
16 **is about to engage in violation of this section or a rule adopted or order issued thereunder,**
17 **or that a person has materially aided, is materially aiding, or is about to materially aid an**
18 **act, practice, omission, or course of business constituting a violation of this section or a rule**
19 **adopted or order issued thereunder, the director may issue such administrative orders as**
20 **authorized under section 374.046, RSMo. A violation of any of these sections is a level two**
21 **violation under section 374.049, RSMo.**

22 3. **If the director believes that a person has engaged, is engaging, or is about to**
23 **engage in a violation of this section or a rule adopted or order issued thereunder, or that**
24 **a person has materially aided, is materially aiding, or is about to materially aid an act,**
25 **practice, omission, or course of business constituting a violation of this section or a rule**
26 **adopted or order issued thereunder, the director may maintain a civil action for relief**
27 **authorized under section 374.048, RSMo. A violation of any of these sections is a level two**
28 **violation under section 374.049, RSMo.**

376.309. 1. As used in this section, "separate account" means an account established by
2 an insurance company, into which any amounts paid to or held by such company under
3 applicable contracts are credited and the assets of which, subject to the provisions of this section,
4 may be invested in such investments as shall be authorized by a resolution adopted by such
5 company's board of directors. The income, if any, and gains and losses, realized or unrealized,
6 on such account shall be credited to or charged against the amounts allocated to such account
7 without regard to other income, gains or losses of the company. If and to the extent so provided
8 under the applicable contracts, that portion of the assets of any such separate account equal to
9 the reserves and other contract liabilities with respect to such account shall not be chargeable
10 with liabilities arising out of any other business the company may conduct.

11 2. Any domestic life insurance company may, after adoption of a resolution by its board
12 of directors, establish one or more separate accounts, and may allocate to such account or
13 accounts any amounts paid to or held by it which are to be applied under the terms of an
14 individual or group contract to provide benefits payable in fixed or in variable dollar amounts
15 or in both.

16 3. To the extent it deems necessary to comply with any applicable federal or state act,
17 the company may, with respect to any separate account or any portion thereof, provide for the
18 benefit of persons having beneficial interests therein special voting and other rights and special
19 procedures for the conduct of the business and affairs of such separate account or portion thereof,
20 including, without limitation, special rights and procedures relating to investment policy,
21 investment advisory services, selection of public accountants, and selection of a committee, the

22 members of which need not be otherwise affiliated with the company, to manage the business
23 and affairs of such separate account or portion thereof; and the corporate charter of such
24 company shall be deemed amended to authorize the company to do so. The provisions of this
25 section shall not affect existing laws pertaining to the voting rights of such company's
26 policyholders.

27 4. The amounts allocated to any separate account and the accumulations thereon may be
28 invested and reinvested without regard to any requirements or limitations prescribed by the laws
29 of this state governing the investments of life insurance companies, and the investments in such
30 separate account or accounts shall not be taken into account in applying the investment
31 limitations, including but not limited to quantitative restrictions, otherwise applicable to the
32 investments of the company, except that to the extent that the company's reserve liability with
33 regard to benefits guaranteed as to principal amount and duration, and funds guaranteed as to
34 principal amount or stated rate of interest, is maintained in any separate account, a portion of the
35 assets of such separate account at least equal to such reserve liability shall be, except as the
36 director of insurance might otherwise approve, invested in accordance with the laws of this state
37 governing the general investment account of any company. As used herein, the expression
38 "general investment account" shall mean all of the funds, assets and investments of the company
39 which are not allocated in a separate account. The provisions of section 376.170 relating to
40 deposits for registered policies shall not be applicable to funds and investments allocated to
41 separate accounts. No investment in the separate account or in the general investment account
42 of a life insurance company shall be transferred by sale, exchange, substitution or otherwise from
43 one account to another unless, in case of a transfer into a separate account, the transfer is made
44 solely to establish the account or to support the operation of the contracts with respect to the
45 separate account to which the transfer is made or unless the transfer, whether into or from a
46 separate account, is made by a transfer of cash, or by a transfer of other assets having a readily
47 determinable market value, provided that such transfer of other assets is approved by the director
48 of insurance and is for assets of equivalent value. Such transfer shall be deemed approved to the
49 extent the assets of a separate account so transferred have been paid to or are being held by the
50 company in connection with a pension, retirement or profit-sharing plan subject to the provisions
51 of the Internal Revenue Code, as amended, and the Employee Retirement Income Security Act
52 of 1974, as amended. The director of insurance may withdraw such deemed approval by
53 providing written notice to the company that its financial condition or past practices require such
54 withdrawal. The director of insurance may approve other transfers among such accounts if the
55 director concludes that such transfers would be equitable.

56 5. Unless otherwise approved by the director of insurance, assets allocated to a separate
57 account shall be valued at their market value on the date of valuation, or if there is no readily

58 available market, then as provided under the terms of the contract or the rules or other written
59 agreement applicable to such separate account; provided, that the portion of the assets of such
60 separate account at least equal to the company's reserve liability with regard to the guaranteed
61 benefits and funds referred to in subsection 4 of this section, if any, shall be valued in accordance
62 with the rules otherwise applicable to the company's assets.

63 6. The director of insurance shall have the sole and exclusive **state** authority to regulate
64 the issuance [and sale] of contracts under which amounts are to be allocated to one or more
65 separate accounts as provided herein, and to issue such reasonable rules, regulations and
66 licensing requirements as [he] **the director** shall deem necessary to carry out the purposes and
67 provisions of this section; and [such contracts,] the companies which issue [them and the agents
68 or other persons who sell them] **such contracts** shall not be subject to [sections 409.101 to
69 409.419, RSMo, or amendments thereto, nor to the jurisdiction of the] **registration with the**
70 **commissioner of securities. The director may, subject to the provisions of section 374.185,**
71 **RSMo, consult and cooperate with the commissioner of securities in investigations arising**
72 **from the offer and sale of contracts regulated under this section and may request assistance**
73 **from the commissioner of securities in any proceeding arising from the offer and sale of**
74 **any such contracts.**

75 7. No domestic life insurance company, and no other life insurance company admitted
76 to transact business in this state, shall be authorized to deliver within this state any contract under
77 which amounts are to be allocated to one or more separate accounts as provided herein until said
78 company has satisfied the director of insurance that its condition or methods of operation in
79 connection with the issuance of such contracts will not render its operation hazardous to the
80 public or its policyholders in this state. In determining the qualifications of a company
81 requesting authority to deliver such contracts within this state, the director of insurance shall
82 consider, among other things:

83 (1) The history and financial condition of the company;

84 (2) The character, responsibility and general fitness of the officers and directors of the
85 company; and

86 (3) In the case of a company other than a domestic company, whether the statutes and
87 regulations of the jurisdiction of its incorporation provide a degree of protection to policyholders
88 and the public which is substantially equal to that provided by this section and the rules and
89 regulations issued thereunder.

90 8. An authorized life insurance company, whether domestic, foreign or alien, which
91 issues contracts under which amounts are to be allocated to one or more separate accounts as
92 provided herein, and which is a subsidiary of or affiliated through common management or
93 ownership with another life insurance company authorized to do business in this state, may be

94 deemed to have met the provisions of subsection 7 of this section if either it or the parent or
95 affiliated company meets the requirements thereof.

96 9. If the contract provides for payment of benefits in variable amounts, it shall contain
97 a statement of the essential features of the procedure to be followed by the company in
98 determining the dollar amount of such variable benefits. Any such contract, including a group
99 contract, and any certificate issued thereunder, shall state that such dollar amount may decrease
100 or increase and shall contain on its first page a statement that the benefits thereunder are on a
101 variable basis.

102 10. Except as otherwise provided in this section, all pertinent provisions of the insurance
103 laws of this state shall apply to separate accounts and contracts relating thereto.

376.889. [In addition to any other applicable penalties, the director may require issuers
2 violating any provision of sections 376.850 to 376.890 or regulations promulgated pursuant to
3 sections 376.850 to 376.890 to cease marketing any Medicare supplement policy or certificate
4 in this state which is related directly or indirectly to a violation, or may require such issuer to
5 take such actions as are necessary to comply with the provisions of sections 376.850 to 376.890,
6 or both] **1. If the director determines that a person has engaged, is engaging, or is about
7 to engage in a violation of sections 376.850 to 376.890 or a rule adopted or order issued
8 thereunder, or that a person has materially aided, is materially aiding, or is about to
9 materially aid an act, practice, omission, or course of business constituting a violation of
10 sections 376.850 to 376.890 or a rule adopted or order issued thereunder, the director may
11 issue such administrative orders as authorized under section 374.046, RSMo. A violation
12 of any of these sections is a level two violation under section 374.049, RSMo.**

**13 2. If the director believes that a person has engaged, is engaging, or is about to
14 engage in a violation of sections 376.850 to 376.890 or a rule adopted or order issued
15 thereunder, or that a person has materially aided, is materially aiding, or is about to
16 materially aid an act, practice, omission, or course of business constituting a violation of
17 sections 376.850 to 376.890 or a rule adopted or order issued thereunder, the director may
18 maintain a civil action for relief authorized under section 374.048, RSMo. A violation of
19 any of these sections is a level two violation under section 374.049, RSMo.**

376.1094. 1. **The director shall suspend or revoke** the certificate of authority of an
2 administrator [shall be suspended or revoked] if the director finds that the administrator:

3 (1) Is in an unsound financial condition;

4 (2) Is using such methods or practices in the conduct of its business so as to render its
5 further transaction of business in this state hazardous or injurious to insured persons or the
6 public; or

7 (3) Has failed to satisfy any judgment rendered against it in this state within sixty days
8 after the judgment has become final.

9 2. The director may, in his discretion, suspend or revoke the certificate of authority of
10 an administrator if the director finds that the administrator or any of its officers, directors or any
11 individual responsible for the conduct of its affairs as described in subdivision (3) of subsection
12 2 of section 376.1092:

13 (1) Has violated any lawful rule or order of the director or any provision of the insurance
14 laws of this state;

15 (2) Has refused to be examined or to produce its accounts, records and files for
16 examination, or if any of its officers has refused to give information with respect to its affairs or
17 has refused to perform any other legal obligation as to such examination, when required by the
18 director;

19 (3) Has, without just cause, refused to pay proper claims or perform services arising
20 under its contracts or has, without just cause, caused covered individuals to accept less than the
21 amount due them or caused covered individuals to employ attorneys or bring suit against the
22 administrator to secure full payment or settlement of such claims;

23 (4) Is affiliated with or under the same general management or interlocking directorate
24 or ownership as another administrator or insurer which unlawfully transacts business in this state
25 without having a certificate of authority;

26 (5) At any time fails to meet any qualification for which issuance of the certificate could
27 have been refused had such failure then existed and been known to the department;

28 (6) Has been convicted of, or has entered a plea of guilty or nolo contendere to, a felony
29 without regard to whether adjudication was withheld;

30 (7) Is not competent, trustworthy, financially responsible or of good personal and
31 business reputation, has had an insurance or administrator license denied for cause by any state
32 or been subject to any form of administrative, civil or criminal action by any federal or state
33 agency or court resulting in some form of discipline or sanction; or

34 (8) Is under suspension or revocation in another state.

35 3. The director may, in his discretion and without advance notice or hearing thereon,
36 immediately suspend the certificate of any administrator if the director finds that one or more of
37 the following circumstances exist:

38 (1) The administrator is insolvent or impaired;

39 (2) A proceeding for receivership, conservatorship, rehabilitation, or other delinquency
40 proceeding regarding the administrator has been commenced in any state;

41 (3) The financial condition or business practices of the administrator otherwise poses an
42 imminent threat to the public health, safety or welfare of the residents of this state.

43 4. [If the director finds that one or more grounds exist for the suspension or revocation
44 of a certificate of authority issued under sections 376.1075 to 376.1095, the director may, in lieu
45 of such suspension or revocation, bring a civil action against the administrator in a court of
46 competent jurisdiction. The court may impose a fine upon the administrator of not more than
47 fifty thousand dollars, such fine to be payable to the Missouri state school fund] **If the director**
48 **determines that a person has engaged, is engaging, or is about to engage in a violation of**
49 **sections 376.1075 to 376.1095 or a rule adopted or order issued thereunder, or that a**
50 **person has materially aided, is materially aiding, or is about to materially aid an act,**
51 **practice, omission, or course of business constituting a violation of sections 376.1075 to**
52 **376.1095 or a rule adopted or order issued thereunder, the director may issue such**
53 **administrative orders as authorized under section 374.046, RSMo. A violation of any of**
54 **these sections is a level three violation under section 374.049, RSMo.**

55 5. **If the director believes that a person has engaged, is engaging, or is about to**
56 **engage in a violation of sections 376.1075 to 376.1095 or a rule adopted or order issued**
57 **thereunder, or that a person has materially aided, is materially aiding, or is about to**
58 **materially aid an act, practice, omission, or course of business constituting a violation of**
59 **sections 376.1075 to 376.1095 or a rule adopted or order issued thereunder, the director**
60 **may maintain a civil action for relief authorized under section 374.048, RSMo. A violation**
61 **of any of these sections is a level three violation under section 374.049, RSMo.**

379.361. 1. [The director may, if he finds that any insurer or filing organization has
2 violated any provision of section 379.017 and sections 379.316 to 379.361, impose a penalty of
3 not more than five hundred dollars for each violation, but if he finds the violation to be willful,
4 he may impose a penalty of not more than five thousand dollars for each violation. These
5 penalties may be in addition to any other penalty provided by law.

6 2. The director may suspend the license of any rating organization or insurer which fails
7 to comply with an order of the director within the time limited by such order, or any extension
8 thereof which the director may grant. The director shall not suspend the license of any rating
9 organization or insurer for failure to comply with an order until the time prescribed for an appeal
10 therefrom has expired or if an appeal has been taken, until the order has been affirmed. The
11 director may determine when a suspension of license shall become effective and it shall remain
12 in effect for the period fixed by him, unless he modifies or rescinds such suspension or until the
13 order upon which such suspension is based is modified, rescinded or reversed.

14 3. No penalty shall be imposed or no license shall be suspended or revoked except upon
15 a written order of the director, stating his findings, made after a hearing held upon not less than
16 ten days' written notice to such person or organization specifying the alleged violation] **If the**
17 **director determines that any insurer or filing organization has engaged, is engaging, or is**

18 **about to engage in a violation of section 379.017 and sections 379.316 to 379.361 or a rule**
19 **adopted or order issued thereunder, or that a person has materially aided, is materially**
20 **aiding, or is about to materially aid an act, practice, omission, or course of business**
21 **constituting a violation of section 379.017 and sections 379.316 to 379.361 or a rule adopted**
22 **or order issued thereunder, the director may issue such administrative orders as**
23 **authorized under section 374.046, RSMo. A violation of any of these sections is a level two**
24 **violation under section 374.049, RSMo. The director of insurance may also suspend or**
25 **revoke the license or certificate of authority of an insurer or filing company for any willful**
26 **violation.**

27 **2. If the director believes that a person has engaged, is engaging, or is about to**
28 **engage in a violation of section 379.017 and sections 379.316 to 379.361 or a rule adopted**
29 **or order issued thereunder, or that a person has materially aided, is materially aiding, or**
30 **is about to materially aid an act, practice, omission, or course of business constituting a**
31 **violation of section 379.017 and sections 379.316 to 379.361 or a rule adopted or order**
32 **issued thereunder, the director may maintain a civil action for relief authorized under**
33 **section 374.048, RSMo. A violation of any of these sections is a level two violation under**
34 **section 374.049, RSMo.**

379.510. [Any person or organization who willfully violates a final order of the director
2 under sections 379.420 to 379.510 shall be deemed guilty of a misdemeanor and shall upon
3 conviction thereof be punished by a fine not to exceed five hundred dollars for such violation]

4 **1. If the director determines that any person has violated a final order of the director**
5 **under sections 379.420 to 379.510, the director may issue such administrative orders as**
6 **authorized under section 374.046, RSMo. A violation of any of these sections is a level two**
7 **violation under section 374.049, RSMo.**

8 **2. If the director believes that a person has violated a final order of the director**
9 **under sections 379.420 to 379.510, the director may maintain a civil action for relief**
10 **authorized under section 374.048, RSMo. A violation of any of these sections is a level two**
11 **violation under section 374.049, RSMo.**

379.790. **1. It is unlawful for** any attorney [who shall] **to** exchange any contracts of
2 indemnity of the kind and character specified in sections 379.650 to 379.790, or directly or
3 indirectly solicit or negotiate any applications for same without first complying with the
4 foregoing provisions[, shall be deemed guilty of a misdemeanor, and upon conviction thereof
5 shall be subject to a fine of not less than one hundred dollars nor more than one thousand dollars;
6 provided]. However, [that] the director of insurance may, in his discretion and on such terms as
7 he may prescribe, issue a permit for organization purposes, the permit to continue in force or be
8 canceled at the pleasure of the director of insurance.

9 **2. If the director determines that a person has engaged, is engaging, or is about to**
10 **engage in a violation of this section or a rule adopted or order issued thereunder, or that**
11 **a person has materially aided, is materially aiding, or is about to materially aid an act,**
12 **practice, omission, or course of business constituting a violation of this section or a rule**
13 **adopted or order issued thereunder, the director may issue such administrative orders as**
14 **authorized under section 374.046, RSMo. A violation of this section is a level one violation**
15 **under section 374.049, RSMo.**

16 **3. If the director believes that a person has engaged, is engaging, or is about to**
17 **engage in a violation of this section or a rule adopted or order issued thereunder, or that**
18 **a person has materially aided, is materially aiding, or is about to materially aid an act,**
19 **practice, omission, or course of business constituting a violation of this section or a rule**
20 **adopted or order issued thereunder, the director may maintain a civil action for relief**
21 **authorized under section 374.048, RSMo. A violation of this section is a level one violation**
22 **under section 374.049, RSMo.**

 380.391. [No] **1. It is unlawful for any** officer, director, member, agent or employee
2 of any company operating under the provisions of sections 380.201 to [380.591 shall,] **380.611**
3 **to** directly or indirectly, use or employ, or permit others to use or employ, any of the money,
4 funds or securities of the company for private profit or gain[, and any such use shall be deemed
5 a felony, punishable, upon conviction, by imprisonment by the department of corrections and
6 human resources for not less than two years nor more than five years for each offense].

7 **2. Any person who willfully engages in any act, practice, omission, or course of**
8 **business in violation of this section is guilty of a class D felony.**

9 **3. The director may refer such evidence as is available concerning violations of this**
10 **section to the proper prosecuting attorney, who with or without a criminal reference, or**
11 **the attorney general under section 27.030, RSMo, may institute the appropriate criminal**
12 **proceedings.**

13 **4. Nothing in this section shall limit the power of the state to punish any person for**
14 **any conduct that constitutes a crime in any other state statute.**

 380.571. 1. [The director may issue cease and desist orders whenever it appears to him
2 upon competent and substantial evidence that any company operating under the provisions of
3 sections 380.201 to 380.591 is acting in violation of those laws or any other applicable laws or
4 any rule or regulation promulgated by the director thereunder. Before any cease and desist order
5 shall be issued, a copy of the proposed order together with an order to show cause why such
6 cease and desist order should not be issued shall be served either personally or by certified mail
7 on the company named therein.

8 2. Upon issuing any order to show cause, the director shall notify the company named
9 therein that it is entitled to a public hearing before the director if a request for a hearing is made
10 in writing to the director within fifteen days from the day of the service of the order to show
11 cause why the cease and desist order should not be issued. The cease and desist order shall be
12 issued fifteen days after the service of the order to show cause if no request for a public hearing
13 is made as above provided.

14 3. Upon receipt of a request for a hearing, the director shall set a time and place for the
15 hearing which shall not be less than ten days or more than fifteen days from the receipt of the
16 request or as otherwise agreed upon by the parties. Notice of the time and place shall be given
17 by the director not less than five days before the hearing.

18 4. At the hearing the company may be represented by counsel and shall be entitled to be
19 advised of the nature and source of any adverse evidence procured by the director, and shall be
20 given the opportunity to submit any relevant written or oral evidence in its behalf to show cause
21 why the cease and desist order should not be issued.

22 5. At the hearing the director shall have such powers as are conferred upon him by the
23 provisions of section 374.190, RSMo.

24 6. At the conclusion of the hearing, or within ten days thereafter, the director shall issue
25 the cease and desist order as proposed or as subsequently modified, or notify the company that
26 no order will be issued.

27 7. The circuit court of Cole County shall have jurisdiction to review any cease and desist
28 order of the director under the provisions of sections 536.100 to 536.150, RSMo; and, if any
29 company against whom an order is issued fails to request judicial review, or if, after judicial
30 review, the director's cease and desist order is upheld, the order shall become final.

31 8. If any company willfully violates any provision of any cease and desist order of the
32 director after it becomes final, it may be penalized by the director by a fine of not more than one
33 thousand dollars.

34 9. The director of insurance may in addition to a monetary fine, suspend or revoke the
35 certificate of authority of any company violating a cease and desist order] **If the director**
36 **determines that any person has engaged, is engaging, or is about to engage in a violation**
37 **of sections 380.201 to 380.611 or a rule adopted or order issued thereunder, or that a**
38 **person has materially aided, is materially aiding, or is about to materially aid an act,**
39 **practice, omission, or course of business constituting a violation of sections 380.201 to**
40 **380.611 or a rule adopted or order issued thereunder, the director may issue such**
41 **administrative orders as authorized under section 374.046, RSMo. A violation of any of**
42 **these sections is a level two violation under section 374.049, RSMo, except a violation of**
43 **section 380.391 is a level four violation under section 374.049, RSMo. The director of**

44 insurance may also suspend or revoke the certificate of authority of such person for any
45 willful violation.

46 **2. If the director believes that a person has engaged, is engaging, or is about to**
47 **engage in a violation of sections 380.201 to 380.611 or a rule adopted or order issued**
48 **thereunder, or that a person has materially aided, is materially aiding, or is about to**
49 **materially aid an act, practice, omission, or course of business constituting a violation of**
50 **sections 380.201 to 380.611 or a rule adopted or order issued thereunder, the director may**
51 **maintain a civil action for relief authorized under section 374.048, RSMo. A violation of**
52 **any of these sections is a level two violation under section 374.049, RSMo, except a violation**
53 **of section 380.391 is a level four violation under section 374.049, RSMo.**

384.071. 1. **If the director determines that a person has engaged, is engaging, or is**
2 **about to engage in a violation of sections 384.011 to 384.071 or a rule adopted or order**
3 **issued thereunder, or that a person has materially aided, is materially aiding, or is about**
4 **to materially aid an act, practice, omission, or course of business constituting a violation**
5 **of 384.011 to 384.071 or a rule adopted or order issued thereunder, the director may issue**
6 **such administrative orders as authorized under section 374.046, RSMo. A violation of any**
7 **of these sections is a level three violation under section 374.049, RSMo.**

8 **2. If the director believes that a person has engaged, is engaging, or is about to**
9 **engage in a violation of sections 384.011 to 384.071 or a rule adopted or order issued**
10 **thereunder, or that a person has materially aided, is materially aiding, or is about to**
11 **materially aid an act, practice, omission, or course of business constituting a violation of**
12 **sections 384.011 to 384.071 or a rule adopted or order issued thereunder, the director may**
13 **maintain a civil action for relief authorized under section 374.048, RSMo. A violation of**
14 **any of these sections is a level three violation under section 374.049, RSMo.**

15 **3. Any surplus lines licensee who in this state represents or aids a nonadmitted insurer**
16 **in violation of the provisions of sections 384.011 to 384.071 may be found guilty of a class B**
17 **misdemeanor and subject to a fine not in excess of one thousand dollars.**

18 [2. In addition to any other penalty provided for herein or otherwise provided by law,
19 including any suspension, revocation or refusal to renew a license, any person, firm, association
20 or corporation violating any provision of sections 384.011 to 384.071 shall be liable to a penalty
21 not exceeding one thousand dollars for the first offense, and not exceeding two thousand dollars
22 for each succeeding offense.

23 3.] **4. The above penalties are not exclusive remedies. [Penalties may also be assessed**
24 **under sections 375.930 to 375.948, RSMo.]**

2 [375.787. Whenever the director believes, from evidence satisfactory to
3 him, that any insurance company is violating or about to violate the provisions
of section 375.786, the director may cause a complaint to be filed in the circuit

4 court of Cole County, Missouri, to enjoin and restrain such insurance company
5 from continuing such violation or engaging therein or doing any act in
6 furtherance thereof. The court shall have jurisdiction of the proceeding and shall
7 have the power to make and enter an order or judgment awarding such
8 preliminary or final injunctive relief as in its judgment is proper.]
9

2 [375.1012. 1. If, after such hearing, the director determines that the
3 insurer charged had engaged in an improper claims practice prohibited by
4 sections 375.1000 to 375.1018, he shall reduce his findings to writing and shall
5 issue and cause to be served upon the person charged with the violation a copy
6 of such findings and an order requiring such person to cease and desist from
7 engaging in such improper claims practice, and thereafter the director may, at his
8 discretion order one or more of the following:

9 (1) Payment of a monetary penalty of not more than one thousand dollars
10 for each violation but not to exceed an aggregate penalty of one hundred
11 thousand dollars in any twelve-month period unless the violation was committed
12 flagrantly and in conscious disregard of sections 375.1000 to 375.1018, in which
13 case the penalty shall be not more than twenty-five thousand dollars for each
14 violation but not to exceed an aggregate penalty of two hundred fifty thousand
15 dollars in any twelve-month period;

16 (2) Suspension or revocation of the insurer's license if such insurer knew
17 or reasonably should have known it was in violation of sections 375.1000 to
18 375.1018.

19 2. Until the expiration of the time allowed under section 375.1016 for
20 filing a petition for judicial review, if no such petition has been duly filed within
21 such time, or if a petition
22 for review has been filed within such time, then until the transcript of the record
23 in the proceeding has been filed in the circuit court of Cole County, the director
24 may at any time, upon such notice and in such manner as he shall deem proper,
25 modify or set aside in whole or in part any order issued by him under this section.

26 3. After the expiration of the time allowed for filing such a petition for
27 review, if no such petition has been duly filed within such time, the director may
28 at any time, after notice and opportunity for hearing, reopen and alter, modify or
29 set aside, in whole or in part, any order issued by him under this section,
30 whenever in his opinion conditions of fact or of law have so changed as to require
31 such action or if the public interest shall so require.

32 4. Nothing contained in sections 375.1000 to 375.1018 shall be construed
33 to prohibit the director and the person from agreeing to a voluntary forfeiture
with or without proceedings being instituted.]

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