

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NOS. 1651 & 1608
93RD GENERAL ASSEMBLY

Reported from the Committee on Insurance Policy April 13, 2006 with recommendation that House Committee Substitute for House Bill Nos. 1651 & 1608 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(26)(f).

STEPHEN S. DAVIS, Chief Clerk

4943L.07C

AN ACT

To repeal sections 86.590, 354.150, 354.180, 354.210, 354.350, 354.444, 354.495, 354.722, 374.046, 374.150, 374.160, 374.210, 374.215, 374.230, 374.261, 374.263, 374.265, 374.267, 374.280, 374.512, 374.755, 374.787, 374.789, 375.012, 375.020, 375.152, 375.236, 375.298, 375.306, 375.310, 375.320, 375.330, 375.340, 375.345, 375.390, 375.424, 375.445, 375.480, 375.532, 375.534, 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, 375.1070, 375.1072, 375.1075, 375.1135, 375.1156, 375.1160, 375.1204, 375.1306, 375.1309, 376.170, 376.190, 376.280, 376.300, 376.301, 376.303, 376.305, 376.307, 376.309, 376.320, 376.672, 376.889, 376.1012, 376.1094, 377.100, 377.200, 379.361, 379.510, 379.790, 380.391, 380.571, 381.068, 384.071, 407.1200, 407.1203, 407.1206, 407.1209, 407.1212, 407.1215, 407.1218, 407.1221, 407.1224, 407.1225, 407.1227, and 409.950, RSMo, and to enact in lieu thereof one hundred twenty-three new sections relating to the department of insurance, with penalty provisions.

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

Section A. Sections 86.590, 354.150, 354.180, 354.210, 354.350, 354.444, 354.495,
2 354.722, 374.046, 374.150, 374.160, 374.210, 374.215, 374.230, 374.261, 374.263, 374.265,
3 374.267, 374.280, 374.512, 374.755, 374.787, 374.789, 375.012, 375.020, 375.152, 375.236,
4 375.298, 375.306, 375.310, 375.320, 375.330, 375.340, 375.345, 375.390, 375.424, 375.445,
5 375.480, 375.532, 375.534, 375.720, 375.777, 375.780, 375.786, 375.787, 375.881, 375.940,

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.

6 375.942, 375.946, 375.994, 375.1010, 375.1012, 375.1014, 375.1016, 375.1070, 375.1072,
7 375.1075, 375.1135, 375.1156, 375.1160, 375.1204, 375.1306, 375.1309, 376.170, 376.190,
8 376.280, 376.300, 376.301, 376.303, 376.305, 376.307, 376.309, 376.320, 376.672, 376.889,
9 376.1012, 376.1094, 377.100, 377.200, 379.361, 379.510, 379.790, 380.391, 380.571, 381.068,
10 384.071, 407.1200, 407.1203, 407.1206, 407.1209, 407.1212, 407.1215, 407.1218, 407.1221,
11 407.1224, 407.1225, 407.1227, and 409.950, RSMo, are repealed and one hundred twenty-three
12 new sections enacted in lieu thereof, to be known as sections 86.590, 191.890, 354.150, 354.180,
13 354.210, 354.350, 354.444, 354.495, 354.722, 374.046, 374.047, 374.048, 374.049, 374.051,
14 374.055, 374.150, 374.160, 374.185, 374.210, 374.215, 374.230, 374.280, 374.512, 374.755,
15 374.780, 374.787, 374.789, 375.012, 375.020, 375.143, 375.145, 375.152, 375.236, 375.298,
16 375.306, 375.310, 375.320, 375.330, 375.340, 375.345, 375.390, 375.424, 375.445, 375.480,
17 375.532, 375.534, 375.720, 375.777, 375.780, 375.786, 375.881, 375.940, 375.942, 375.946,
18 375.994, 375.1010, 375.1014, 375.1016, 375.1070, 375.1072, 375.1075, 375.1135, 375.1156,
19 375.1160, 375.1161, 375.1204, 375.1306, 375.1309, 376.170, 376.190, 376.280, 376.291,
20 376.292, 376.293, 376.294, 376.295, 376.296, 376.297, 376.298, 376.300, 376.301, 376.302,
21 376.303, 376.304, 376.305, 376.306, 376.307, 376.309, 376.889, 376.1012, 376.1094, 377.100,
22 377.200, 379.361, 379.510, 379.790, 380.391, 380.571, 381.068, 384.071, 385.200, 385.201,
23 385.203, 385.204, 385.205, 385.207, 385.208, 385.209, 385.210, 385.211, 385.212, 385.300,
24 385.301, 385.302, 385.303, 385.304, 385.305, 385.306, 385.307, 385.310, 385.311, 385.312, and
25 409.950, to read as follows:

86.590. The board of trustees of police and firemen's pension systems, established under
2 the provisions of section 86.583, may invest and reinvest the moneys of the system, and may
3 hold, purchase, sell, assign, transfer or dispose of any of the securities and investments in which
4 such moneys shall have been invested, as well as the proceeds of such investments and such
5 moneys; except that such investment and reinvestments shall be subject to all the terms,
6 conditions, limitations, and restrictions imposed by law upon life insurance or casualty
7 companies in the state of Missouri in making and disposing of their investments[, except that the
8 percentage limitations of subsection 2 of section 376.305, RSMo, shall not apply]. The board
9 of trustees of police and firemen's pension systems, established under the provisions of section
10 86.583, shall comply with the prudent investor standard for investment fiduciaries as provided
11 in section 105.688, RSMo, when investing the assets of the system.

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

2 (1) "Anatomic pathology services", histopathology or surgical pathology,
3 cytopathology, hermatology, subcellular pathology and molecular pathology, and blood
4 banking services performed by pathologists;

5 (2) "Cytopathology", the examination of cells from fluids, aspirates, washings,
6 brushings, or smears, including the Pap test examination performed by a physician or
7 under the supervision of a physician;

8 (3) "Hematology", the microscopic evaluation of bone marrow aspirates and
9 biopsies performed by a physician or under the supervision of a physician, and peripheral
10 blood smears when the attending or treating physician or technologist requests that a blood
11 smear be reviewed by a pathologist;

12 (4) "Histopathology" or "surgical pathology", the gross and microscopic
13 examination and histologic processing of organ tissue performed by a physician or under
14 the supervision of a physician.

15 2. Except as provided in subsection 5 of this section, no licensed practitioner in this
16 state shall, directly or indirectly, charge, bill, or otherwise solicit payment for anatomic
17 pathology services unless such services are rendered personally by the licensed practitioner
18 or under such licensed practitioner's direct supervision in accordance with Section 353 of
19 the Public Health Service Act, 42 U.S.C. Section 263a.

20 3. No patient, insurer, third-party payor, hospital, public health clinic, or nonprofit
21 health clinic shall be required to reimburse any licensed practitioner for claims submitted
22 in violation of this section.

23 4. Nothing in this section shall be construed as mandating the assignment of
24 benefits for anatomic pathology services.

25 5. Nothing in this section shall prohibit billing of a referring laboratory for
26 anatomic pathology services when a sample or samples must be sent to another specialist;
27 except that, for purposes of this subsection, "referring laboratory" does not include a
28 laboratory or a physician's office or group practice that does not perform the technical or
29 professional component of the anatomic pathology service involved.

30 6. The respective state licensing boards having jurisdiction over any practitioner
31 who may request or provide anatomical pathology services may revoke, suspend, or deny
32 renewal of the license of any practitioner who violates the provisions of this section.

354.150. Every health services corporation subject to the provisions of sections 354.010
2 to 354.380 shall pay the following fees to the director of insurance for enforcement of the
3 provisions of this chapter:

4 [Issuance of certificate of authority	\$150.00
5 Filing articles of amendment	\$ 20.00
6 Filing each annual statement	\$100.00
7 Filing articles of acceptance and issuing a certificate of acceptance	\$ 20.00
8 Filing any other statement or report	\$ 1.00

- 9 For a certified copy of any document or other paper filed in the office of the director,
- 10 per page \$.35
- 11 For the certificate and for affixing the seal thereto \$ 10.00
- 12 For filing statement and pertinent admission papers required of a foreign health
- 13 services corporation \$200.00
- 14 For copies of papers, records and documents filed in the office of the director, an
- 15 amount not to exceed, at the director's discretion \$ 1.00
- 16 per page
- 17 For each service of process upon the director, on behalf of
- 18 the health services corporation \$ 10.00]
- 19 **(1) For filing the declaration required on organization of each domestic company,**
- 20 **two hundred fifty dollars;**
- 21 **(2) For filing statement and certified copy of charter required of foreign companies,**
- 22 **two hundred fifty dollars;**
- 23 **(3) For filing application to renew certificate of authority and all required annual**
- 24 **reports, including the annual statement, actuarial statement, risk-based capital report,**
- 25 **report of valuation of policies or other obligations of assurance, and audited financial**
- 26 **report of any company doing business in this state, one thousand five hundred dollars;**
- 27 **(4) For filing any paper, document, or report not filed under subdivisions (1) to (3)**
- 28 **of this section which are required to be filed in the office of the director of the department**
- 29 **of insurance, fifty dollars per paper, document, or report;**
- 30 **(5) For affixing the seal of the office of the director of the department of insurance,**
- 31 **ten dollars;**
- 32 **(6) For accepting each service of process upon the company, ten dollars.**

354.180. 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 rule or regulation relating to corporations subject to the provisions of sections 354.010 to
 4 354.380, or whenever the director has reason to believe that any health services corporation is
 5 in such financial condition that the assumption of additional obligations would be hazardous to
 6 its members or the general public. Before any cease and desist order shall be issued, a copy of
 7 the proposed order together with an order to show cause why such cease and desist order should
 8 not be issued shall be served either personally or by certified mail on any person named therein.

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

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

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

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

23 (e) At the hearing the director shall have such powers as are conferred upon him in
24 section 354.190.

25 (f) At the conclusion of the hearing, or within ten days thereafter, the director shall issue
26 the cease and desist order as proposed or as subsequently modified or notify the person or
27 corporation subject to the provisions of sections 354.010 to 354.380 that no order shall be issued,
28 provided that where the director finds that the corporation is in such financial condition that the
29 assumption of additional obligations would be hazardous to its members or the general public,
30 he may order the corporation to cease and desist from making contracts for new members or for
31 the provision of new benefits until the corporation's financial condition is no longer hazardous.

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

36 2. (1) Any person willfully violating any provision of any cease and desist order of the
37 director after it becomes final, while the same is in force, upon conviction thereof shall be guilty
38 of a class A misdemeanor, punishable as provided by law.

39 (2) In addition to any other penalty provided, violation of any cease and desist order shall
40 subject the violator to suspension or revocation of any certificate of authority or license as may
41 be applicable under the laws of this state relating to corporations subject to the provisions of
42 sections 354.010 to 354.380.

43 3. (1) When it appears to the director that there is a violation of the law, rule or
44 regulation relating to corporations subject to the provisions of sections 354.010 to 354.380, and
45 that the continuance of the acts or actions of any person as herein defined would produce injury
46 to the public or to any other person in this state, or when it appears that a person is doing or
47 threatening to do some act in violation of the laws of this state relating to corporations subject
48 to the provisions of sections 354.010 to 354.380, the director may file a petition for injunction

49 in the circuit court of Cole County, Missouri, in which he may ask for a temporary injunction or
50 restraining order as well as a permanent injunction to restrain the act or threatened act. In the
51 event the temporary injunction or restraining order or a permanent injunction is issued by the
52 circuit court of Cole County, Missouri, no person against whom the temporary injunction or
53 restraining order or permanent injunction is granted shall do or continue to do any of the acts or
54 actions complained of in the petition for injunction, unless and until the temporary injunction or
55 restraining order or permanent injunction is vacated, dismissed or otherwise terminated.

56 (2) Any writ of injunction issued under this law may be served and enforced as provided
57 by law in injunctions issued in other cases, but the director of the insurance department shall not
58 be required to give any bond as preliminary to or in the course of any proceedings to which he
59 is a party as director.

60 4. The term "person" as used in this section shall include any individual, partnership,
61 corporation, association or trust, or any other legal entity.] **If the director determines that a
62 person has engaged, is engaging, or is about to engage in a violation of sections 354.010 to
63 354.380 or a rule adopted or order issued pursuant thereto, or a person has materially
64 aided, is materially aiding, or is about to materially aid an act, practice, omission, or course
65 of business constituting a violation of sections 354.010 to 354.380 or a rule adopted or order
66 issued pursuant thereto, the director may issue such administrative orders as authorized
67 under section 374.046, RSMo. A violation of these sections is a level two violation under
68 section 374.049, RSMo, except for any violation of sections 354.320 and 354.350, which is
69 a level three violation.**

70 2. **If the director believes that a person has engaged, is engaging, or is about to
71 engage in a violation of sections 354.010 to 354.380 or a rule adopted or order issued
72 pursuant thereto, or that a person has materially aided, is materially aiding, or is about to
73 materially aid an act, practice, omission, or course of business constituting a violation of
74 sections 354.010 to 354.380 or a rule adopted or order issued pursuant thereto, the director
75 may maintain a civil action for relief authorized under section 374.048, RSMo. A violation
76 of these sections is a level two violation under section 374.049, RSMo, except for any
77 violation of sections 354.320 and 354.350, which is a level three violation.**

354.210. [1. Notwithstanding any other provisions of chapter 354,] **If the director [may,
2 after a hearing, order as a forfeiture to the state of Missouri a sum not to exceed one hundred
3 dollars for each violation by any person or corporation willfully violating any provision of
4 sections 354.010 to 354.380 for which no specific punishment is provided, or order of the
5 director made in accordance with such sections. Such forfeiture may be recovered by a civil
6 action brought by and in the name of the director of insurance. The civil action may be brought**

7 in the county which has venue of an action against the person or corporation under other
8 provisions of law.

9 2. Nothing contained in this section shall be construed to prohibit the director and the
10 corporation or its enrollment representative from agreeing to a voluntary forfeiture of the sum
11 mentioned herein without civil proceedings being instituted. Any sum so agreed upon shall be
12 paid into the school fund as provided by law for other fines and penalties] **has reason to believe**
13 **that any health services corporation is in such financial condition that the assumption of**
14 **additional obligations would be hazardous to its members or the general public, the**
15 **director may issue orders to seek relief to protect the public under the provisions of section**
16 **354.180.**

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

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

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

6 (3) Habitually and as a matter of business practice [compelling] **compel** claimants under
7 policies or liability judgment creditors of its members to either accept less than the amount due
8 under the terms of the policy or resort to litigation against the corporation to secure payment of
9 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 pursuant thereto or that a person has materially aided, is materially aiding,**
23 **or is about to materially aid an act, practice, omission, or course of business constituting**
24 **a violation of this section or a rule adopted or order issued pursuant thereto, the director**
25 **may issue such administrative orders as authorized under section 374.046, RSMo. A**
26 **violation of this section is a level three violation under section 374.049, RSMo.** The director

27 of 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 pursuant thereto or**
32 **that 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 pursuant thereto, 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 pursuant**
9 **thereto or that a person has materially aided, is materially aiding, or is about to materially**
10 **aid an act, practice, omission, or course of business constituting a violation of sections**
11 **354.400 to 354.636 or a rule adopted or order issued pursuant thereto, the director may**
12 **issue such administrative orders as authorized under section 374.046, RSMo. A violation**
13 **of any of 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 pursuant thereto or that a person has materially aided, is**
21 **materially aiding, or is about to materially aid an act, practice, omission, or course of**
22 **business constituting a violation of sections 354.400 to 354.636 or a rule adopted or order**
23 **issued pursuant thereto, the director may maintain a civil action for relief authorized**
24 **under section 374.048, RSMo. A violation of any of these sections is a level one violation**
25 **under section 374.049, RSMo.**

354.495. Every health maintenance organization subject to sections 354.400 to 354.550 shall pay to the director the following fees:

- 2 (1) [Issuance or renewal of certificate of authority \$150.00
- 3 (2) Filing of articles of amendment 1.00
- 4 (3) Filing each annual statement 100.00
- 5 (4) Filing articles of acceptance and issuing a certificate of acceptance 20.00
- 6 (5) Filing any other statement or report 20.00
- 7 (6) For the certification of any document, and affixing the seal thereto 10.00
- 8 (7) For filing statement and pertinent admission papers required of a foreign
- 9 health maintenance organization 200.00
- 10 (8) For each appointment of an agent by the health maintenance organization . . 5.00
- 11 (9) For copies of papers, records and documents filed in the office of the director, an
- 12 amount not to exceed, at the director's discretion 1.00
- 13 per page
- 14 (10) For each service of process upon the director, on behalf of the health
- 15 maintenance organization 10.00]

17 **For filing the declaration required on organization of each domestic company, two**
18 **hundred fifty dollars;**

19 **(2) For filing statement and certified copy of charter required of foreign companies,**
20 **two hundred fifty dollars;**

21 **(3) For filing application to renew certificate of authority and all required annual**
22 **reports, including the annual statement, actuarial statement, risk-based capital report,**
23 **report of valuation of policies or other obligations of assurance, and audited financial**
24 **report of any company doing business in this state, one thousand five hundred dollars;**

25 **(4) For filing any paper, document, or report not filed under subdivisions (1) to (3)**
26 **of this section which are required to be filed in the office of the director of the department**
27 **of insurance, fifty dollars per paper, document, or report;**

28 **(5) For affixing the seal of the office of the director of the department of insurance,**
29 **ten dollars;**

30 **(6) For accepting each service of process upon the company, ten dollars.**

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 **pursuant thereto 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 pursuant thereto, the director**
32 **may issue such administrative orders as authorized under section 374.046, RSMo. A**
33 **violation of this section is a level two violation under section 374.049, RSMo. The director**
34 **of insurance may also suspend or revoke the certificate of authority of a corporation for**
35 **any 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 pursuant thereto or that a person has materially aided, is materially aiding,
35 or is about to materially aid an act, practice, omission, or course of business constituting
36 a 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 pursuant thereto, the
38 director 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 financial loss was sustained by consumers and restitution has been made;

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

51 (4) The act, practice, omission, or course of business had previously been detected,
52 but inadequate policies and procedures were implemented to prevent reoccurrence.

53 3. Unless the director determines that a summary order is appropriate under
54 subsection 4 of this section, the director shall provide notice of the intent to initiate
55 administrative enforcement by serving a statement of the reasons for the action upon any
56 person subject to the proceedings. A statement of reasons, together with an order to show
57 cause why a cease-and-desist order and other relief should not be issued, shall be served
58 either personally or by certified mail on any person named therein. The director shall
59 schedule a time and place at least ten days thereafter, for hearing, and after notice of and
60 opportunity for hearing to each person subject to the order, the director may issue a final
61 order under subsection 6 of this section.

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

67 5. A summary order issued under subsection 4 of this section must include a
68 statement of the reasons for the order, notice within five days after receipt of a request in
69 a record from the person that the matter will be scheduled for a hearing, and a statement

70 whether the department is seeking a civil penalty or costs of the investigation. If a person
71 subject to the order does not request a hearing and none is ordered by the director within
72 thirty days after the date of service of the order, the order becomes final as to that person
73 by operation of law. If a hearing is requested or ordered, the director, after notice of and
74 opportunity for hearing to each person subject to the order, may modify or vacate the
75 order or extend it until final determination.

76 **6. If a hearing is requested or ordered pursuant to subsection 3 or subsection 5 of**
77 **this section, a hearing before the director or a hearing officer designated by the director**
78 **must be provided. A final order may not be issued unless the director makes findings of**
79 **fact and conclusions of law in a record in accordance with the provisions of chapter 536,**
80 **RSMo, and procedural rules promulgated by the director. The final order may make final,**
81 **vacate, or modify the order issued under subsection 5 of this section.**

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

86 **8. In a final order under subsection 6 of this section, the director may charge the**
87 **actual cost of an investigation or proceeding for a violation of the insurance laws of this**
88 **state or a rule adopted or order issued pursuant thereto. These funds shall be paid to the**
89 **director to the credit of the insurance dedicated fund.**

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

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

104 **11. If a petition for judicial review of a final order is not filed in accordance with**
105 **section 374.055, the director may file a certified copy of the final order with the clerk of a**

106 court of competent jurisdiction. The order so filed has the same effect as a judgment of the
107 court and may be recorded, enforced, or satisfied in the same manner as a judgment of the
108 court.

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

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

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

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

137 **16. (1) Any person willfully violating any provision of any cease and desist order of the**
138 **director after it becomes final, while the same is in force, upon conviction thereof shall be**
139 **punished by a fine of not more than one hundred thousand dollars [or one year in jail] , by**
140 **imprisonment of up to ten years, or by both such fine and [jail sentence] imprisonment.**

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

144 [3. (1) When it appears to the director that there is a violation of the laws of this state
145 or any rule or regulation promulgated by the director relating to the business of insurance, and
146 that the continuance of the acts or actions of any person as herein defined would produce injury
147 to the insuring public or to any other person in this state, or when it appears that a person is doing
148 or threatening to do some act in violation of the laws of this state relating to insurance, the
149 director may file a petition for injunction in the circuit court of Cole County, Missouri, in which
150 he may ask for a temporary injunction or restraining order as well as a permanent injunction to
151 restrain the act or threatened act. In the event the temporary injunction or restraining order or
152 a permanent injunction is issued by the circuit court of Cole County, Missouri, no person against
153 whom the temporary injunction or restraining order or permanent injunction is granted shall do
154 or continue to do any of the acts or actions complained of in the petition for injunction, unless
155 and until the temporary injunction or restraining order or permanent injunction is vacated,
156 dismissed or otherwise terminated.

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

162 4.] 17. The term "person" as used in this [section] **chapter** shall include any individual,
163 partnership, corporation, association or trust, or any other legal entity.

164 **18. The term "order" as used in this chapter shall include a formal administrative**
165 **direction or command of the director issued under this section or in any contested case**
166 **subject to the provisions of section 536.063, RSMo, or any lawful administrative**
167 **proceeding subject to judicial review, but shall not include department bulletins, no-action**
168 **letters, advisory opinions, or any other statement of general applicability that should be**
169 **adopted by rule.**

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 and chapters 375 to 385, RSMo, or been convicted**
6 **of any felony or misdemeanor under any state or federal law, the director may, after**
7 **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 may not be**
12 **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 and chapters 375**
4 **to 385, RSMo, or a rule adopted or order issued pursuant thereto or that a person has, is,**
5 **or is about to engage in an act, practice, omission, or course of business that materially aids**
6 **a violation of the laws of this state relating to insurance in this chapter, chapter 354 and**
7 **chapters 375 to 385, RSMo, or a rule adopted or order issued pursuant thereto, the director**
8 **may maintain an action in the circuit court of any county of the state or any city not within**
9 **a county to enjoin the act, practice, omission, or course of business and to enforce**
10 **compliance with the laws of this state relating to insurance or a rule adopted or order**
11 **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 may 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 and chapters 375 to
46 385, RSMo.

47 7. A "Consumer Restitution Fund" shall be created for the purpose of preserving
48 and distributing to aggrieved consumers disgorgement or restitution funds 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 funds be paid into the
51 consumer restitution fund for distribution to aggrieved consumers. It shall be the duty of
52 the director to distribute such funds 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 funds 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, then the funds 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 and chapters 375 to 385, RSMo, or a rule adopted or order issued by the
3 director, are classified for the purpose of civil penalties and forfeitures into the following
4 five classifications:

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 and chapters 375 to 385,**
13 **RSMo, or a rule adopted or order issued by the director, shall be an order to pay an**
14 **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, chapter 354 and chapters 375 to 385,**
29 **RSMo, or a rule adopted or order issued by the director, shall be an order to pay an**
30 **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 may 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 and chapters 375 to 385, RSMo, which is not classified or does not authorize**
44 **a specific range for a civil penalty or forfeiture for violations, shall be classified as a level**
45 **one violation. In bringing an action to enforce a rule adopted by the director, unless the**
46 **conduct that violates the rule also violates the enabling statute, the violation shall be**
47 **classified as a level one violation and shall not be subject to any provision in this section**
48 **regarding the enhancement of a civil penalty or forfeiture.**

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

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

58 **8. In any enforcement proceeding, the court, or director in administrative**
59 **enforcement, may, after consideration of the factors specified in subsection 2 of section**
60 **374.046, enhance the civil penalty or forfeiture with a one classification step increase under**
61 **this section, if the violations resulted in actual financial loss to consumers.**

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

68 **10. If more than one error is caused by a single act or omission in the use of data**
69 **processing equipment and such errors are not known by the violator at the time the error**
70 **occurs, any such errors shall be regarded as a single violation under this section.**

71 **11. Any civil penalty or forfeiture recovered by the director shall be paid to the**
72 **treasurer and then distributed to the public schools as required by article IX, section 7 of**
73 **the Missouri Constitution.**

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

374.051. 1. Any applicant refused a license or the renewal of a license by order of
2 **the director under sections 374.755, 374.787, and 375.141 may file a petition with the**

3 **administrative hearing commission alleging that the director has refused the license. The**
4 **administrative hearing commission shall conduct hearings and make findings of fact and**
5 **conclusions of law in determining whether the applicant may be disqualified by statute.**
6 **Notwithstanding section 621.120, RSMo, the director shall retain discretion in refusing a**
7 **license or renewal and such discretion shall not transfer to the administrative hearing**
8 **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 375.141, the director shall refer the matter to the**
11 **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. If cause is found, the administrative hearing commission shall submit its**
15 **findings of fact and conclusions of law to the director, who may determine appropriate**
16 **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
2 **order of the director under the laws of this state relating to insurance in this chapter,**
3 **chapter 354 and chapters 375 to 385, RSMo, or a rule adopted by the director, or by any**
4 **refusal or failure of the director to make an order pursuant to any of said provisions, shall**
5 **be entitled to a hearing before the director in accordance with the provisions of chapter**
6 **536, RSMo. A final order issued by the director is subject to judicial review in accordance**
7 **with the provisions of chapter 536, RSMo. However, any findings of fact or conclusions**
8 **of law in any order regarding the actual costs of the investigation or proceedings under**
9 **section 374.046, or the classification of any violation under section 374.049, shall be subject**
10 **to de novo review.**

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

374.150. 1. All fees due the state under the provisions of the insurance laws of this state
2 **shall be paid to the director of revenue and deposited in the state treasury to the credit of the**
3 **insurance department fund unless otherwise provided for in subsection 2 of this section.**

4 2. There is hereby established in the state treasury a special fund to be known as the
5 "Department of Insurance Dedicated Fund". The fund shall be subject to appropriation of the
6 general assembly and shall be devoted solely to the payment of expenditures incurred by the
7 department of insurance attributable to duties performed by the department **for the regulation**
8 **of the business of insurance and the operation of the division of consumer affairs** as
9 required by law which are not paid for by another source of funds. Other provisions of law to
10 the contrary notwithstanding, beginning on January 1, 1991, all fees charged under any provision
11 of chapter 325, 354, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384 or 385, RSMo, due
12 the state shall be paid into this fund. The state treasurer shall invest moneys in this fund in the
13 same manner as other state funds and any interest or earnings on such moneys shall be credited
14 to the department of insurance dedicated fund. The provisions of section 33.080, RSMo,
15 notwithstanding, moneys in the fund shall not lapse, be transferred to or placed to the credit of
16 the general revenue fund unless and then only to the extent to which the unencumbered balance
17 at the close of the biennium year exceeds two times the total amount appropriated, paid, or
18 transferred to the fund during such fiscal year.

19 [3. Notwithstanding the provisions of this section to the contrary, fifty-five percent of
20 the balance in the department of insurance dedicated fund as of the effective date of this act or
21 six million fifteen thousand eight hundred and fifty-five dollars, whichever is greater, shall be
22 subject to an immediate one-time transfer to the state general revenue fund.]

374.160. 1. The expenses of examinations, valuations or proceedings against any
2 company, and for dissolving or settling the affairs of companies are to be paid by the company,
3 or as provided by law. The state shall not be responsible in any manner for the payment of any
4 such expenses, or any charges connected therewith.

5 2. All other expenses of the department of insurance now or hereafter incurred and
6 unpaid, or that may be hereafter incurred, including the salaries of the director and deputy
7 director, shall be paid out of the state treasury in the manner provided by law.

8 3. The director shall assess the expenses of any examination against the company
9 examined and shall order that the examination expenses be paid into the insurance examiners
10 fund created by section 374.162. [The director shall also assess an additional amount equal to
11 fifteen percent of the total expenses of examination, to be paid for the supervision and support
12 of the examiners. The insurance examiner's sick leave fund created by sections 374.261 to
13 374.267 shall be combined with the insurance examiners fund.] **Such assessment shall include**
14 **the costs of compensation, including benefits, for the examiners, analysts, actuaries, and**
15 **attorneys directly contributing to the examination of the company, any reasonable travel,**
16 **lodging, and meal expenses related to an on-site examination, subject to limits established**
17 **for the relevant state agency of the employee incurring such expenses, and other expenses**

18 related to the examination of the company, including an allocation for examiners' office
19 space, supplies, and equipment, but not expenses associated with attending a course,
20 seminar, or conference unless solely related to the examination of the company assessed.
21 Any such assessment, if requested by the company being examined, shall include an
22 itemized report prepared by the director or the director's designee that indicates all
23 expenses listed in this subsection. The director shall pay from the insurance examiners fund
24 the compensation of insurance examiners [pursuant to section 374.115, any expenses to be paid
25 from such sick leave fund under sections 374.261 to 374.267, and expenses incurred for
26 supervision and support of the examiners] , analysts, actuaries, and attorneys, including
27 standard benefits afforded to state employees, for performance of any such examination
28 and other expenses covered in the assessment. The general assembly shall annually provide
29 appropriations sufficient to distribute all receipts into the insurance examiners fund. The
30 provisions of section 33.080, RSMo, relating to the transfer of unexpended balances to the
31 general revenue fund shall not apply to the insurance examiners fund.

32 4. If any company shall refuse to pay the expenses of any examination, valuation or
33 proceeding assessed by the director pursuant to this section, the company shall be liable for
34 double the amount of such expenses and all costs of collection, including attorney's fees. The
35 company shall not be entitled to a credit, pursuant to section 148.400, RSMo, for any fees,
36 expenses or costs ordered pursuant to this subsection other than in the amount of the expenses
37 originally assessed by the director. All amounts collected pursuant to this subsection shall be
38 credited to the insurance examiners fund.

374.185. 1. The director may cooperate, coordinate, consult, and subject to sections
2 **374.070, 374.071, and 374.205, share records and information with other members of the**
3 **National Association of Insurance Commissioners, the commissioner of securities, state**
4 **securities regulators, the division of finance, the attorney general, federal banking and**
5 **securities regulators, the National Association of Securities Dealers (NASD), the United**
6 **States Department of Justice, the Commodity Futures Trading Commission, and the**
7 **Federal Trade Commission to effectuate greater uniformity in insurance and financial**
8 **services regulation among state and federal governments, and self-regulatory**
9 **organizations.**

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

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

- 16 (2) **Maximizing uniformity in regulatory standards; and**
17 (3) **Minimizing burdens on the business of insurance, without adversely affecting**
18 **essentials of consumer protection.**
- 19 **3. The cooperation, coordination, consultation, and sharing of records and**
20 **information authorized by this section includes:**
- 21 (1) **Establishing or employing one or more designees as a central electronic**
22 **depository for licensing and rate and form filings with the director and for records**
23 **required or allowed to be maintained;**
- 24 (2) **Encouraging insurance companies and producers to implement electronic filing**
25 **through a central electronic depository;**
- 26 (3) **Developing and maintaining uniform forms;**
- 27 (4) **Conducting joint market conduct examinations and other investigations**
28 **through collaboration and cooperation with other insurance regulators;**
- 29 (5) **Holding joint administrative hearings;**
- 30 (6) **Instituting and prosecuting joint civil or administrative enforcement**
31 **proceedings;**
- 32 (7) **Sharing and exchanging personnel;**
- 33 (8) **Coordinating licensing under section 375.014;**
- 34 (9) **Formulating rules, statements of policy, guidelines, forms, no action**
35 **determinations, and bulletins; and**
- 36 (10) **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.] **in any**
3 **investigation, examination, inquiry, or other proceeding under the insurance laws of this**
4 **state to:**

5 [2. Any person who shall refuse to give such director full and truthful information, and
6 answer in writing to any inquiry or question made in writing by the director, in regard to the
7 business of insurance carried on by such person, or to appear and testify under oath before the
8 director in regard to the same, shall be deemed guilty of a misdemeanor, and, upon conviction
9 thereof, shall be punished by a fine not exceeding five hundred dollars, or imprisonment not
10 exceeding three months.

11 3. Any director, officer, manager, agent or employee of any insurance company, or any
12 other person, who shall]

13 (1) **Knowingly make or cause to be made a false statement in testimony upon oath**
14 **or affirmation or in any record that is submitted to the director or used in any proceeding**
15 **under the laws of this state relating to insurance; or**

16 (2) Make any false certificate or entry or memorandum upon any of the books or papers
17 of any insurance company, or upon any statement or exhibit offered, filed or offered to be filed
18 in the **department of insurance** [department], or used in the course of any examination, inquiry,
19 or investigation[, with intent to deceive the director or any person employed or appointed by him
20 to make any examination, inquiry or investigation, shall, upon conviction, be punished by a fine
21 not exceeding one thousand dollars, and by imprisonment not less than two months in the county
22 or city jail, nor more than five years in the penitentiary].

23 **2. It is unlawful for any person to not appear or refuse to testify, file a statement,**
24 **produce records, or otherwise not comply with a subpoena issued by the director.**

25 **3. It is unlawful for any person to fail to appear or refuse to testify, file a statement,**
26 **produce records, or otherwise not comply with a written request as required by the**
27 **director, or in response to any specific inquiry or question made in writing by the director**
28 **in regard to the business of insurance carried on by such person, to refuse to provide the**
29 **requested information in a written answer.**

30 **4. If the director determines 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 pursuant thereto, or**
32 **that 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 pursuant thereto, the director may issue such administrative**
35 **orders as authorized under section 374.046. A violation of subsection 1 of this section is**
36 **a level four violation under section 374.049. A violation of subsection 2 of this section is**
37 **a level three violation under section 374.049. A violation of subsection 3 of this section is**
38 **a level two violation under section 374.049. The director of insurance may also suspend**
39 **or revoke the license or certificate of authority of such person for any willful violation.**

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

49 **6. Any person who knowingly engages in any act, practice, omission, or course of**
50 **business in violation of subsection 1 of this section is guilty of a class D felony. Any person**
51 **who knowingly engages in any act, practice, omission, or course of business in violation of**

52 subsection 2 of this section is guilty of a class B misdemeanor. If the offender holds a
53 license or certificate of authority under the insurance laws of this state, the court imposing
54 sentence shall order the department of insurance to revoke such license or certificate of
55 authority.

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

60 8. Nothing in this section shall limit the power of the state to punish any person for
61 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 pursuant thereto, or that a person has**
14 **materially aided an act, practice, omission, or course of business constituting a violation**
15 **of this section or a rule adopted or order issued pursuant thereto, the director may issue**
16 **such administrative orders as authorized under section 374.046. A violation of this section**
17 **is a level two violation under section 374.049. The director of insurance may also suspend**
18 **or revoke the 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 pursuant thereto, or that a person**
23 **has materially aided an act, practice, omission, or course of business constituting a**
24 **violation of this section or a rule adopted or order issued pursuant thereto, the director**
25 **may maintain a civil action for relief authorized under section 374.048. A violation of this**
26 **section is a level two violation under section 374.049.**

374.230. Every insurance company doing business in this state shall pay to the director
2 of revenue the following fees:

3 (1) [For making valuations of policies or other obligations of assurance, one thousand
4 dollars for all ordinary forms of policies, and the cost of computing special evaluation tables for
5 policy forms requiring such shall be added;

6 (2)] For filing the declaration required on organization of each company, **two hundred**
7 fifty dollars;

8 [(3)] (2) For filing statement and certified copy of charter required of foreign companies,
9 **two hundred** fifty dollars;

10 [(4) For filing annual statement of any company doing business in this state, two hundred
11 fifty dollars;

12 (5) (3) **For filing application to renew certificate of authority and all required**
13 **annual reports, including the annual statement, actuarial statement, risk-based capital**
14 **report, report of valuation of policies or other obligations of assurance, and audited**
15 **financial report of any company doing business in this state, one thousand five hundred**
16 **dollars;**

17 (4) For filing supplementary annual statement of any company doing business in this
18 state, [ten] **fifty** dollars;

19 [(6)] (5) For filing any [other] paper, **document, or report not filed under subdivisions**
20 **(1) to (3) of this section, but** required to be filed in the office of the director of the department
21 of insurance, fifty dollars each;

22 [(7)] (6) For [each agent's copy of his] **a copy of a** company's certificate of authority or
23 **producer or agent** license, [two] **ten** dollars;

24 [(8) For copies of papers, records, and documents filed in the office of the director of the
25 department of insurance, twenty cents per folio;

26 (9) (7) For affixing the seal of office of the director of the department of insurance, ten
27 dollars;

28 [(10)] (8) For accepting each service of process upon the company, ten dollars.

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 pursuant thereto, 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 pursuant thereto, the director may issue such administrative orders as authorized**
14 **under section 374.046. A violation of any of these sections is a level two violation under**
15 **section 374.049. The director of insurance may also suspend or revoke the license or**
16 **certificate of 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 pursuant thereto, or that a person has**

29 **materially aided an act, practice, omission, or course of business constituting a violation**
30 **of sections 374.500 to 374.515 or a rule adopted or order issued pursuant thereto, the**
31 **director may maintain a civil action for relief authorized under section 374.048. A**
32 **violation of any of these 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 pursuant thereto, or that a person has materially aided, is materially aiding, or is
4 about to materially aid an act, practice, omission, or course of business constituting a
5 violation of sections 374.695 to 374.789 or a rule adopted or order issued pursuant thereto,
6 the director may issue such administrative orders as authorized under section 374.046. A
7 violation of any of these sections is a level one 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 pursuant thereto, 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 pursuant thereto, the director
13 may maintain a civil action for relief authorized under section 374.048. A violation of any
14 of these sections is a level one 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 pursuant thereto, or**
10 **that 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 pursuant thereto, the director may issue such administrative**
13 **orders as authorized under section 374.046. A violation of any of these sections is a level**
14 **three 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 pursuant thereto, or**
17 **that 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 pursuant thereto, 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] **a cumulative initial face amount for**
57 **any individual of ten** thousand dollars or less, or annuities having an initial face amount of ten
58 thousand dollars or less, that are designated by the purchaser for the payment of funeral or burial
59 expenses. The director may require the insurer entering into the written agreements with the
60 insurance producers pursuant to this subsection to certify as to the representations of the
61 insurance producers.

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

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

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

76 10. All funds received pursuant to the provisions of this section shall be transmitted by
77 the director to the department of revenue for deposit in the state treasury to the credit of the
78 department of insurance dedicated fund. All expenditures necessitated by this section shall be
79 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.**

2 **375.145. 1. If the director determines that a person has engaged, is engaging, or is**
3 **about to engage in a violation of sections 375.012 to 375.144 or a rule adopted or order**
4 **issued pursuant thereto, or that a person has materially aided, is materially aiding, or is**
5 **about to materially aid an act, practice, omission, or course of business constituting a**
6 **violation of sections 375.012 to 375.144, or a rule adopted or order issued pursuant thereto,**
7 **the director may issue such administrative orders as authorized under section 374.046,**
8 **RSMo. A violation of any of sections 375.012 to 375.142 is a level two violation under**
9 **section 374.049, RSMo. A violation of section 375.144 is a level four violation under**
10 **374.049, RSMo.**

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

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

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

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

10 **(3)] If the director determines that a person has engaged, is engaging, or is about**
11 **to engage in a violation of sections 375.147 to 375.153 or a rule adopted or order issued**
12 **pursuant thereto, 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 375.147 to 375.153 or a rule adopted or order issued pursuant thereto, the director**
15 **may issue such administrative orders as authorized under section 374.046, RSMo. A**
16 **violation of any of these sections is a level two violation under section 374.049, RSMo.**

17 **2. If the director believes that a person has engaged, is engaging, or is about to**
18 **engage in a violation of sections 375.147 to 375.153 or a rule adopted or order issued**
19 **pursuant thereto, 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

20 sections 375.147 to 375.153 or a rule adopted or order issued pursuant thereto, the director
21 may 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.**

375.298. 1. If a policyholder has taken a loan against an insurance policy, the insurer
2 of such policy shall annually notify the policyholder of any interest due on the loan.

3 **2. This section shall not apply to an insurer organized under chapter 376, 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 pursuant thereto, or that a person has
24 materially aided, is materially aiding, or is about to materially aid an act, practice,
25 omission, or course of business constituting a violation of this section or a rule adopted or
26 order issued pursuant thereto, the director may issue such administrative orders as
27 authorized under section 374.046, RSMo. A violation of this section is a level two violation
28 under section 374.049, 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 pursuant thereto, or
31 that 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 pursuant thereto, 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 pursuant thereto, or**
25 **that 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 pursuant thereto, the director may issue such administrative**
28 **orders as authorized under section 374.046, RSMo. A violation of this section is a level**
29 **four violation 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 pursuant thereto, or**
32 **that 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 pursuant thereto, 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.**

375.320. **1.** No insurance company formed under the laws of this state shall, directly or
2 indirectly, deal or trade in any goods, wares, merchandise or other commodities whatsoever,
3 except such as may be incident to and necessary in connection with the ownership and operation
4 of property held under the provisions of sections 375.330 and 375.340.

5 **2. This section shall not apply to an insurer organized under chapter 376, RSMo.**

375.330. **1.** No insurance company formed under the laws of this state shall be permitted
2 to purchase, hold or convey real estate, excepting for the purpose and in the manner herein set
3 forth, to wit:

- 4 (1) Such as shall be necessary for its accommodation in the transaction of its business;
5 provided that before the purchase of real estate for any such purpose, the approval of the director
6 of the department of insurance must be first had and obtained, and except with the approval of
7 the director, the value of such real estate, together with all appurtenances thereto, purchased for
8 such purpose shall not exceed twenty percent of the insurance company's capital and surplus as
9 shown by its last annual statement; or
- 10 (2) Such as shall have been mortgaged in good faith by way of security for loans
11 previously contracted, or for moneys due; or
- 12 (3) Such as shall have been conveyed to it in satisfaction of debts contracted in the
13 course of its dealings; or
- 14 (4) Such as shall have been purchased at sales upon the judgments, decrees or mortgages
15 obtained or made for such debts; or
- 16 (5) Such as shall be necessary and proper for carrying on its legitimate business under
17 the provisions of the Urban Redevelopment Corporations Act; or
- 18 (6) Such as shall have been acquired under the provisions of the Urban Redevelopment
19 Corporations Act permitting such company to purchase, own, hold or convey real estate; or
- 20 (7) Such real estate, or any interest therein, as may be acquired or held by it by purchase,
21 lease or otherwise, as an investment for the production of income, which real estate or interest
22 therein may thereafter be held, improved, developed, maintained, managed, leased, sold or
23 conveyed by it as real estate necessary and proper for carrying on its legitimate business; or
- 24 (8) A reciprocal or interinsurance exchange may, in its own name, purchase, sell,
25 mortgage, hold, encumber, lease, convey, or otherwise affect the title to real property for the
26 purposes and objects of the reciprocal or interinsurance exchange. Such deeds, notes, mortgages
27 or other documents relating to real property may be executed by the attorney in fact of the
28 reciprocal or interinsurance exchange. This provision shall be retroactive and shall apply to real
29 estate owned or sold by a reciprocal insurer prior to August 28, 1990.
- 30 2. The investments acquired under subdivision (7) of subsection 1 of this section may
31 be in either existing or new business or industrial properties, or for new residential properties or
32 new housing purposes.
- 33 3. Provided, no such insurance company shall invest more than ten percent of its
34 admitted assets, as shown by its last annual statement preceding the date of acquisition, as filed
35 with the director of the department of insurance of the state of Missouri, in the total amount of
36 real estate acquired under subdivision (7) of subsection 1, nor more under subdivision (7) of
37 subsection 1 than one percent of its admitted assets or ten percent of its capital and surplus,
38 whichever is greater, in any one property, nor more under subdivision (7) of subsection 1 than

39 one percent of its admitted assets or ten percent of its capital and surplus, whichever is greater,
40 in total properties leased or rented to any one individual, partnership or corporation.

41 4. It shall not be lawful for any company incorporated as aforesaid to purchase, hold or
42 convey real estate in any other case or for any other purpose; and all such real estate acquired in
43 payment of a debt, by foreclosure or otherwise, and real estate exchanged therefor, shall be sold
44 and disposed of within ten years after such company shall have acquired absolute title to the
45 same, unless the company owning such real estate or interest therein shall elect to hold it
46 pursuant to subdivision (7) of subsection 1.

47 5. The director of the department of insurance may, for good cause shown, extend the
48 time for holding such real estate acquired in paying of a debt, by foreclosure or otherwise, and
49 real estate exchanged therefor, and not held by the company under subdivision (7) of subsection
50 1, for such period as he may find to be to the best interests of the policyholders of said company.

51 6. If a life insurance company depositing under section 376.170, RSMo, becomes the
52 owner of real estate pursuant to this section, the company may execute its own deed for the real
53 estate to the director of the department of insurance, as trustee. The deed may be deposited with
54 the director as proper security, under and according to the provisions of sections 376.010 to
55 376.670, RSMo, the value to be subject to the approval of the director.

56 **7. This section shall not apply to an insurer organized under chapter 376, RSMo.**

375.340. 1. In all cases in which life insurance companies, benefit societies or other
2 associations doing business in this state shall have legally acquired by foreclosure or in payment
3 of a debt previously contracted any real estate or personal property situated in this state or
4 elsewhere, said company, society or association may upon the sale of said property take in
5 payment or part payment thereof the stocks or bonds of any company or corporation purchasing
6 said property and may exchange any real estate acquired in foreclosure or in payment of debts,
7 in whole or in part, for other real estate.

8 **2. This section shall not apply to an insurer organized under chapter 376, RSMo.**

375.345. 1. As used in this section, the following words and terms mean:

2 (1) "Admitted assets", assets permitted to be reported as admitted assets on the statutory
3 financial statement of the insurance company most recently required to be filed with the director,
4 but excluding assets of separate accounts, the investments of which are not subject to the
5 provisions of law governing the general investment account of the insurance company;

6 (2) "Cap", an agreement obligating the seller to make payments to the buyer, with each
7 payment based on the amount by which a reference price, level, performance, or value of one or
8 more underlying interests exceeds a predetermined number, sometimes called the strike rate or
9 strike price;

10 (3) "Collar", an agreement to receive payments as the buyer of an option, cap, or floor
11 and to make payments as the seller of a different option, cap, or floor;

12 (4) "Counterparty exposure amount":

13 (a) The amount of credit risk attributable to an over-the-counter derivative instrument.

14 The amount of credit risk equals:

15 a. The market value of the over-the-counter derivative instrument if the liquidation of
16 the derivative instrument would result in a final cash payment to the insurance company; or

17 b. Zero if the liquidation of the derivative instrument would not result in a final cash
18 payment to the insurance company;

19 (b) If over-the-counter derivative instruments are entered into under a written master
20 agreement which provides for netting of payments owed by the respective parties, and the
21 domicile of the counterparty is either within the United States or within a foreign jurisdiction
22 listed in the Purposes and Procedures of the Securities Valuation Office as eligible for netting,
23 the net amount of credit risk shall be the greater of zero or the net sum of:

24 a. The market value of the over-the-counter derivative instruments entered into under
25 the agreement, the liquidation of which would result in a final cash payment to the insurance
26 company; and

27 b. The market value of the over-the-counter derivative instruments entered into under
28 the agreement, the liquidation of which would result in a final cash payment by the insurance
29 company to the business entity;

30 (c) For open transactions, market value shall be determined at the end of the most recent
31 quarter of the insurance company's fiscal year and shall be reduced by the market value of
32 acceptable collateral held by the insurance company or placed in escrow by one or both parties;

33 (5) "Derivative instrument", an agreement, option, instrument, or a series or combination
34 thereof that makes, takes delivery of, assumes, relinquishes, or makes a cash settlement in lieu
35 of a specified amount of one or more underlying interests, or that has a price, performance, value,
36 or cash flow based primarily upon the actual or expected price, level, performance, value or cash
37 flow of one or more underlying interests. Derivative instruments also include options, warrants
38 used in a hedging transaction and not attached to another financial instrument, caps, floors,
39 collars, swaps, forwards, futures and any other agreements, options or instruments substantially
40 similar thereto, and any other agreements, options, or instruments permitted under rules or orders
41 promulgated by the director;

42 (6) "Derivative transaction", a transaction involving the use of one or more derivative
43 instruments;

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

45 (8) "Floor", an agreement obligating the seller to make payments to the buyer in which
46 each payment is based on the amount by which a predetermined number, sometimes called the
47 floor rate or price, exceeds a reference price, level, performance, or value of one or more
48 underlying interests;

49 (9) "Forward", an agreement other than a future to make or take delivery of, or effect a
50 cash settlement based on the actual or expected price, level, performance or value of, one or
51 more underlying interests, but not including spot transactions effected within customary
52 settlement periods, when issued purchases or other similar cash market transactions;

53 (10) "Future", an agreement traded on an exchange to make or take delivery of, or effect
54 a cash settlement based on the actual or expected price, level, performance or value of one or
55 more underlying interests and which includes an insurance future;

56 (11) "Hedging transaction", a derivative transaction that is entered into and maintained
57 to reduce:

58 (a) The risk of economic loss due to a change in the value, yield, price, cash flow or
59 quantity of assets or liabilities that the insurance company has acquired or incurred or anticipates
60 acquiring or incurring;

61 (b) The currency exchange rate risk or the degree of exposure as to assets or liabilities
62 that the insurance company has acquired or incurred or anticipates acquiring or incurring; or

63 (c) Risk through such other derivative transactions as may be specified to constitute
64 hedging transactions by rules or orders adopted by the director;

65 (12) "Income generation transaction":

66 (a) A derivative transaction involving the writing of covered call options, covered put
67 options, covered caps or covered floors that is intended to generate income or enhance return;
68 or

69 (b) Such other derivative transactions as may be specified to constitute income
70 generation transactions in rules or orders adopted by the director;

71 (13) "Initial margin", the amount of cash, securities or other consideration initially
72 required to be deposited to establish a futures position;

73 (14) "NAIC", the National Association of Insurance Commissioners;

74 (15) "Option", an agreement giving the buyer the right to buy or receive, sell or deliver,
75 enter into, extend, terminate or effect a cash settlement based on the actual or expected price,
76 level, performance or value of one or more underlying interests;

77 (16) "Over-the-counter derivative instrument", a derivative instrument entered into with
78 a business entity other than through an exchange or clearinghouse;

79 (17) "Potential exposure", the amount determined in accordance with the NAIC Annual
80 Statement Instructions;

81 (18) "Replication transaction", a derivative transaction effected either separately or in
82 conjunction with cash market investments included in the insurer's investment portfolio and
83 intended to replicate the investment characteristic of another authorized transaction, investment
84 or instrument or to operate as a substitute for cash market transactions. A derivative transaction
85 that is entered into as a hedging transaction or an income generation transaction shall not be
86 considered a replication transaction;

87 (19) "SVO", the Securities Valuation Office of the NAIC or any successor office
88 established by the NAIC;

89 (20) "Swap", an agreement to exchange or to net payments at one or more times based
90 on the actual or expected price, level, performance or value of one or more underlying interests;

91 (21) "Underlying interest", the assets, liabilities, other interests, or a combination thereof
92 underlying a derivative instrument, such as any one or more securities, currencies, rates, indices,
93 commodities or derivative instruments;

94 (22) "Warrant", an instrument that gives the holder the right to purchase an underlying
95 financial instrument at a given price and time or at a series of prices and times outlined in the
96 warrant agreement.

97 2. An insurance company, **including those organized under chapter 376, RSMo**, may,
98 directly or indirectly through an investment subsidiary, engage in derivative transactions pursuant
99 to this section under the following conditions:

100 (1) In general:

101 (a) An insurance company may use derivative instruments pursuant to this chapter to
102 engage in hedging transactions and certain income generation transactions;

103 (b) Upon request, an insurance company shall demonstrate to the director the intended
104 hedging characteristics and the ongoing effectiveness of the derivative transaction or
105 combination of the transactions through cash flow testing or other appropriate analyses;

106 (2) An insurance company shall only maintain its position in any outstanding derivative
107 instrument used as part of a hedging transaction for as long as the hedging transaction continues
108 to be effective;

109 (3) An insurance company may enter into hedging transactions if as a result of and after
110 giving effect to the transaction:

111 (a) The aggregate statement value of options, caps, floors and warrants not attached to
112 another financial instrument purchased and used in hedging transactions then engaged in by the
113 insurer does not exceed seven and one-half percent of its admitted assets;

114 (b) The aggregate statement value of options, caps and floors written in hedging
115 transactions then engaged in by the insurer does not exceed three percent of its admitted assets;

116 and

117 (c) The aggregate potential exposure of collars, swaps, forwards and futures used in
118 hedging transactions then engaged in by the insurer does not exceed six and one-half percent of
119 its admitted assets;

120 (4) An insurance company may only enter into the following types of income generation
121 transactions if as a result of and after giving effect to an income generation transaction, the
122 aggregate statement value of the fixed income assets that are subject to call or that generate the
123 cash flows for payments under the caps or floors, plus the face value of fixed income securities
124 underlying a derivative instrument subject to call, plus the amount of the purchase obligations
125 under the puts, shall not exceed ten percent of its admitted assets:

126 (a) Sales of covered call options on noncallable fixed income securities, callable fixed
127 income securities if the option expires by its terms prior to the end of the noncallable period, or
128 derivative instruments based on fixed income securities;

129 (b) Sales of covered call options on equity securities if the insurance company holds in
130 its portfolio or can immediately acquire through the exercise of options, warrants or conversion
131 rights already owned, the equity securities subject to call during the complete term of the call
132 option sold;

133 (c) Sales of covered puts on investments that the insurance company is permitted to
134 acquire under the applicable insurance laws of the state, if the insurance company has escrowed
135 or entered into a custodian agreement segregating cash or cash equivalents with a market value
136 equal to the amount of its purchase obligations under the put during the complete term of the put
137 option sold; or

138 (d) Sales of covered caps or floors if the insurance company holds in its portfolio the
139 investments generating the cash flow to make the required payments under the caps or floors
140 during the complete term that the cap or floor is outstanding;

141 (5) An insurance company may use derivative instruments for replication transactions
142 only after the director promulgates reasonable rules that set forth methods of disclosure,
143 reserving for risk-based capital, and determining the asset valuation reserve for these
144 instruments. Any asset being replicated is subject to all the provisions and limitations on the
145 making thereof specified in this chapter and chapters 376 and 379, RSMo, with respect to
146 investments by the insurer as if the transaction constituted a direct investment by the insurer in
147 the replicated asset;

148 (6) An insurance company shall include all counterparty exposure amounts in
149 determining compliance with this state's single-entity investment limitations;

150 (7) The director may approve, by rule or order, additional transaction conditions
151 involving the use of derivative instruments for other risk management purposes.

152 3. Written investment policies and record-keeping procedures shall be approved by the
153 board of directors of the insurance company or by a committee authorized by such board before
154 the insurance company may engage in the practices and activities authorized by this section.
155 These policies and procedures must be specific enough to define and control permissible and
156 suitable investment strategies with regard to derivative transactions with a view toward the
157 protection of the policyholders. The minutes of any such committee shall be recorded and
158 regular reports of such committee shall be submitted to the board of directors.

159 4. The director may promulgate reasonable rules and regulations pursuant to the
160 provisions of chapter 536, RSMo, not inconsistent with this section and any other insurance laws
161 of this state, establishing standards and requirements relating to practices and activities
162 authorized in this section, including, but not limited to, rules which impose financial solvency
163 standards, valuation standards, and reporting requirements.

375.390. 1. No officer, stockholder, agent or employee of any insurance company,
2 formed under the laws of this state, or doing business herein, shall, directly or indirectly, use or
3 employ, or permit others to use or employ, any of the money, funds or securities of such
4 company for private profit or gain, and any such use shall be deemed a felony, punishable, upon
5 conviction, by imprisonment in the penitentiary not less than two years nor more than five years
6 for each offense.

7 **2. This section shall not apply to an insurer organized under chapter 376, RSMo.**

375.424. 1. It shall be unlawful for any beneficial owner, director or officer, directly or
2 indirectly, to sell any equity security of such company if the person selling the security or his
3 principal does not own the security sold, or if owning the security, does not deliver it against
4 such sale within twenty days thereafter, or does not within five days after such sale deposit it in
5 the mails or other usual channels of transportation; but no person shall be deemed to have
6 violated this section if he proves that notwithstanding the exercise of good faith he was unable
7 to make such delivery or deposit within such time, or that to do so would cause undue
8 inconvenience or expense.

9 **2. This section shall not apply to an insurer organized under chapter 376, RSMo.**

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

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

375.480. 1. When any company, which has on deposit the securities named in [sections]
2 **section 376.170 [and 376.300], RSMo,** with the director of the insurance department, shall desire
3 to relinquish and cease its business in this state, said director shall, upon application of such
4 company, under the oath of the president or vice president and secretary or assistant secretary,
5 give notice of such intention in any newspaper of general circulation published in the county or
6 city in which said company is located, if it is a company of this state, or in some newspaper
7 published in the city of St. Louis, if it is a company of another state or government, at least twice
8 a week for six weeks.

9 2. After such publication he shall deliver up and transfer to said company the securities
10 held by him and belonging to the company; but before making such transfer, the director shall

11 be satisfied, by an examination of the books and papers of such company, to be made by himself
12 or some competent person to be appointed by him, or by the oath of the acting president and
13 secretary or assistant secretary of said company if it be a company organized under the laws of
14 this state, that all debts and liabilities of every kind that are due, or may become due, upon all
15 contracts or agreements made with the policyholders in said company, or in any company
16 reinsured by said company, if the deposit is that of a reinsured company and is held for the
17 security of the policyholders of said reinsured company under sections 375.010 to 375.920, are
18 released, satisfied or extinguished; or if it be a company not organized under the laws of this
19 state, that all debts and liabilities of every kind, whether fixed or contingent, due or that may
20 become due to this state or to any county or municipality or citizen thereof, are released, satisfied
21 or extinguished; and the said director may, from time to time, authorize the delivery in the
22 manner aforesaid, to such company or its assigns, of any portion of such securities, on being
23 satisfied in the manner and form aforesaid, that all debts and liabilities of every kind as aforesaid
24 are less than one-half the amount of the said securities which are retained.

375.532. 1. The capital, reserve and surplus of a domestic insurer may be invested in
2 bonds, notes or other evidences of indebtedness, or preferred or guaranteed stocks or shares,
3 issued, assumed or guaranteed by an institution organized under the laws of the United States,
4 any state, territory or possession of the United States, or the District of Columbia, if such bonds,
5 notes or other evidences of indebtedness, or preferred or guaranteed stocks or shares, shall carry
6 at least the second highest designation or quality rating conferred by the Securities Valuation
7 Office of the National Association of Insurance Commissioners, or some similar or equivalent
8 rating by a nationally recognized rating agency which has been approved by the director.

9 2. As used in this section, the term "institution" means a corporation, a joint stock
10 company, an association, a trust, a business partnership, a business joint venture or similar entity.

11 **3. This section shall not apply to an insurer organized under chapter 376, RSMo.**

375.534. 1. In addition to other foreign investments permitted by Missouri law for the
2 type or kind of insurance company involved, the capital, reserves and surplus of all insurance
3 companies of whatever kind and character organized under the laws of this state, having admitted
4 assets of not less than one hundred million dollars, may be invested in securities, investments
5 and deposits issued, guaranteed or assumed by a foreign government or foreign corporation, or
6 located in a foreign country, whether denominated in United States dollars or in foreign currency,
7 subject to the following conditions:

8 (1) Such securities, investments and deposits shall be of substantially the same kind,
9 class and quality of like United States investments eligible for investment by an insurance
10 company under Missouri law;

11 (2) An insurance company shall not invest or deposit in the aggregate more than five
12 percent of its admitted assets under this section, except that an insurance company may reinvest
13 or redeposit any income or profits generated by investments permitted under this section; and

14 (3) Such securities, investments and deposits shall be aggregated with United States
15 investments of the same class in determining compliance with percentage limitations imposed
16 under Missouri law for investments in that class for the type or kind of insurance company
17 involved.

18 **2. This section shall not apply to an insurer organized under chapter 376, 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 pursuant thereto, or**
9 **a that 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 pursuant thereto, the director may issue such administrative**
12 **orders as authorized under section 374.046, RSMo. A violation of this section is a level**
13 **three violation under section 374.049, RSMo. The director of insurance may also suspend**
14 **or 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 pursuant thereto, or**
17 **that 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 pursuant thereto, 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 class
13 mail, at the insured's last known address, to each insured of the insolvent insurer for whom he
14 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 pursuant thereto, or**
28 **that 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 pursuant thereto, the director may issue such administrative**
31 **orders as authorized under section 374.046, RSMo. A violation of this section is a level two**

32 violation under section 374.049, RSMo. The director of insurance may also suspend or
33 revoke the 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 pursuant thereto, or**
36 **that 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 pursuant thereto, 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 pursuant thereto, or**
97 **that 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 pursuant thereto, the director may issue such administrative**
100 **orders as authorized under section 374.046, RSMo. A violation of this section is a level four**
101 **violation 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 pursuant thereto, or**
104 **that 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 pursuant thereto, 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 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 pursuant thereto, or that a person has materially aided, is materially aiding, or is
32 about to materially aid a practice constituting a violation of sections 375.930 to 375.948 or
33 a rule adopted or order issued pursuant thereto, the director may issue such administrative
34 orders as authorized under section 374.046, RSMo. Each practice in violation of section
35 375.934 is a level two violation under section 374.049, RSMo. Each act as part of a trade
36 practice does not constitute a separate violation under section 374.049, RSMo. The
37 director of insurance may also suspend or revoke the license or certificate of authority of
38 an insurer 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 pursuant thereto, 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 pursuant thereto, 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 pursuant thereto,**
11 **or that a person has materially aided, is materially aiding, or is about to materially aid an**
12 **act, practice, omission, or course of business constituting a violation of section 375.991 or**
13 **a rule adopted or order issued pursuant thereto, the director may issue such administrative**
14 **orders as authorized under section 374.046, RSMo. A violation of any of these sections is**
15 **a level two violation under section 374.049, RSMo. The director of insurance may also**
16 **suspend or revoke the license or certificate of authority of such person for any willful**
17 **violation.**

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

25 6. Nothing in this section shall be construed as prohibiting the department of insurance
26 from regulating unfair or fraudulent trade practices as provided for in sections 375.930 to
27 375.948.

28 [5. In the event] 7. **If the director determines that a person regulated under this chapter**
29 **has conducted its business fraudulently with respect to sections 375.991 to 375.994, or has as a**
30 **matter of business practice abused its rights under said sections, such conduct shall [be**
31 **considered] constitute either an unfair trade practice under the provisions of sections 375.930**
32 **to 375.948 or an unfair claims settlement practice under the provisions of sections 375.1000 to**
33 **375.1018. [The director shall have the power and authority, pursuant to the unfair trade practices**
34 **act and the unfair claims settlement practices act to subject such persons to the monetary penalty**
35 **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 pursuant thereto, 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 pursuant thereto, the**

40 **director may issue such administrative orders as authorized under section 374.046, RSMo.**
41 **Each 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 **pursuant thereto, 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 pursuant thereto, the**
50 **director may maintain a civil action for relief authorized under section 374.048, RSMo.**
51 **Each 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.**

 375.1070. **1.** Sections 375.1070 to 375.1075 may be cited as the "Investments in
2 Medium and Lower Quality Obligations Law".

3 **2. Sections 375.1070 to 375.1075 shall not apply to an insurer organized under**
4 **chapter 376, RSMo.**

5 375.1072. As used in sections 375.1070 to 375.1075, the following terms mean:

6 (1) "Admitted assets", the amount thereof as of the last day of the most recently
7 concluded annual statement year, computed in the same manner as admitted assets in sections
8 [376.300 to 376.309] **376.291 to 376.307**, RSMo, for life insurers and section 379.080, RSMo,
9 for insurers other than life;

10 (2) "Aggregate amount of medium to lower quality obligations", the aggregate statutory
11 statement value thereof;

12 (3) "Institution", a corporation, a joint-stock company, an association, a trust, a business
13 partnership, a business joint venture or similar entity;

14 (4) "Medium to lower quality obligations", obligations which are rated three, four, five
15 and six by the Securities Valuation Office of the National Association of Insurance
16 Commissioners.

 375.1075. **1.** No domestic insurer shall acquire, directly or indirectly, any medium or
2 lower quality obligation of any institution if, after giving effect to any such acquisition, the
3 aggregate amount of all medium and lower quality obligations then held by the domestic insurer
4 would exceed twenty percent of its admitted assets, and no more than ten percent of its admitted

5 assets consists of obligations rated four, five or six by the Securities Valuation Office, and no
6 more than three percent of its admitted assets consists of obligations rated five or six by the
7 Securities Valuation Office, and no more than one percent of its admitted assets consists of
8 obligations rated six by the Securities Valuation Office. Attaining or exceeding the limit of any
9 one category shall not preclude an insurer from acquiring obligations in other categories subject
10 to the specific and multicategory limits.

11 2. The provisions of this section shall not prohibit a domestic insurer from acquiring any
12 obligations which it has committed to acquire if the insurer would have been permitted to acquire
13 that obligation pursuant to this section on the date on which such insurer committed to purchase
14 that obligation.

15 3. Notwithstanding the other provisions of this section, a domestic insurer may acquire
16 an obligation of an institution in which the insurer already has one or more obligations, if the
17 obligation is acquired in order to protect an investment previously made in the obligations of the
18 institution, provided that all such acquired obligations shall not exceed one-half of one percent
19 of the insurer's admitted assets.

20 4. The board of directors of any domestic insurance company which acquires or invests
21 in, directly or indirectly, medium or lower quality obligations of any institution shall adopt a
22 written plan for the making of such investments. The plan, in addition to guidelines with respect
23 to the quality of the obligations invested in, shall contain diversification standards including, but
24 not limited to, standards for issuer, industry, duration, liquidity and geographic location.

25 5. No investments in excess of the limitations provided by this act shall be recognized
26 as an asset of the insurer pursuant to section [376.307, RSMo, and section] 379.080, RSMo.

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 reinsurer**
8 **has engaged, is engaging, or is about to engage in a violation of sections 375.1110 to**
9 **375.1140 or a rule adopted or order issued pursuant thereto, or that a person has**
10 **materially aided, is materially aiding, or is about to materially aid an act, practice,**
11 **omission, or course of business constituting a violation of sections 375.1110 to 375.1140 or**
12 **a rule adopted or order issued pursuant thereto, the director may issue such administrative**
13 **orders as authorized under section 374.046, RSMo. A violation of any of these sections is**
14 **a level two violation under section 374.049, RSMo. The director of insurance may also**

15 suspend or revoke the license or certificate of authority of a reinsurance intermediary,
16 insurer, or reinsurer for 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 pursuant thereto, or that a person has materially aided,**
20 **is 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 pursuant thereto, the director may maintain a civil action for relief authorized**
23 **under section 374.048, RSMo. A violation of any of these sections is a level two violation**
24 **under 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 pursuant thereto, or that a person has materially aided, is materially aiding, or is
4 about to materially aid an act, practice, omission, or course of business constituting a
5 violation of sections 375.1150 to 375.1246 or a rule adopted or order issued pursuant
6 thereto, the director may issue such administrative orders as authorized under section
7 374.046, RSMo. A violation of any of these sections is a level four violation under section
8 374.049, RSMo. The director of insurance may also suspend or revoke the license or
9 certificate of authority of 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 pursuant thereto, 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 pursuant thereto, the
15 director may maintain a civil action for relief authorized under section 374.048, RSMo.
16 A violation 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
17 of imposition of such administrative penalties shall be paid to the state treasurer for deposit to
18 the 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 pursuant thereto, or that a**
29 **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 pursuant thereto, the director may issue such administrative**
32 **orders as authorized under section 374.046, RSMo. A violation of this section is a level one**
33 **violation under section 374.049, RSMo. The director of insurance may also suspend,**
34 **revoke, or refuse to renew any license issued by the director to any offending person for**
35 **any willful violation.**

36 **3. If the director believes that a person has engaged, is engaging, or is about to**
37 **engage in a violation of this section or a rule adopted or order issued pursuant thereto, or**
38 **that a 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 this section or a rule**
40 **adopted or order issued pursuant thereto, the director may maintain a civil action for relief**
41 **authorized under section 374.048, RSMo. A violation of this section is a level one violation**
42 **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 pursuant thereto, or that a person has materially aided, is
17 materially aiding, or is about to materially aid an act, practice, omission, or course of
18 business constituting a violation of this section or a rule adopted or order issued pursuant
19 thereto, the director may issue such administrative orders as authorized under section
20 374.046, RSMo. A violation of any of these sections is a level two violation under section
21 374.049, 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 pursuant thereto, or
24 that 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 pursuant thereto, 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.**

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 pursuant**
17 **thereto, or that a person has materially aided, is materially aiding, or is about to materially**
18 **aid an act, practice, omission, or course of business constituting a violation of this section**
19 **or a rule adopted or order issued pursuant thereto, the director may issue such**
20 **administrative orders as authorized under section 374.046, RSMo. A violation of any of**
21 **these sections is a level two 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 pursuant thereto, or**
24 **that 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 pursuant thereto, 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.**

376.170. All life insurance companies organized under the provisions of sections
2 376.010 to 376.670 shall deposit with the director of the insurance department, in addition to
3 other amounts required by law to be deposited by life insurance companies before such
4 companies are permitted to engage in the business of issuing policies of life insurance and
5 annuity bonds, cash or securities of the kind and type in which life insurance companies are
6 required to invest their funds under [section 376.300] **sections 376.291 to 376.307**, as same now
7 is or as same may be hereafter amended, in an amount sufficient to equal the net value on all
8 policies or annuity bonds hereafter issued by such companies, the amount thereof to be
9 determined by an evaluation made in accord with the provisions of sections 376.010 to 376.670.

376.190. The director shall annually cause the registered policies and annuity bonds of
2 each company outstanding and in force to be carefully valued, and whenever the total of the
3 actual net value of such policies and annuity bonds exceeds the market value of the securities on
4 deposit, the company issuing such policies or annuity bonds shall immediately deposit sufficient
5 securities of the same kind and type provided for in [section 376.300] **sections 376.291 to**
6 **376.307** to equal the net value of such policies and annuity bonds so that the market value of the
7 securities deposited shall always be equal to the actual net value of the registered policies and
8 annuity bonds issued by such company and still in force[; provided, however, that bonds and
9 other evidences of debt having a fixed term and rate may be valued in accordance with the
10 provisions of section 376.320].

376.280. 1. No joint stock or stock and mutual company formed under the provisions
2 of sections 376.010 to 376.670, or the laws of this state, for any purpose mentioned in section
3 376.010, shall commence to do business or issue policies unless upon an actual capital of at least
4 six hundred thousand dollars and a surplus of at least six hundred thousand dollars, nor shall any
5 such company commence to do any business unless the full amount of capital stock and surplus
6 named in its charter or articles of association has been paid in and invested in such securities and
7 in accordance with all the provisions as is provided for in [section 376.300] **sections 376.291 to**
8 **376.307**, or as the same may be subsequently amended.

9 2. In order to continue writing new business, any stock company organized under the
10 provisions of sections 376.010 to 376.670, or the laws of this state, for any purpose mentioned
11 in section 376.010, shall maintain an actual capital and surplus in the amount required to
12 commence business.

13 3. Any other provision of this section notwithstanding, a joint stock or stock and mutual
14 company licensed to do business in this state on August 13, 1982, may renew its license for
15 business specified therein until December 31, 1984, by maintaining in lieu of the capital and
16 surplus requirements an actual capital and surplus of at least nine hundred thousand dollars.

17 4. No mutual company formed under the provisions of sections 376.010 to 376.670, or
18 of the laws of this state, shall commence or continue to do any business mentioned in section
19 376.010 until agreement, in writing, with such company shall have been entered into by not less
20 than one hundred persons for assurance upon their own lives, or the lives of other persons for
21 their benefit, nor until it shall have received premiums on the same in cash, to an aggregate
22 amount of not less than six hundred thousand dollars and in addition shall have a surplus of six
23 hundred thousand dollars; provided further, that nothing herein contained shall be so construed
24 as to prohibit any such company from complying with the provisions of sections 362.180 to
25 362.195, RSMo.

26 5. Any other provision of this section notwithstanding, a mutual company licensed to do
27 business in this state on August 13, 1982, may renew its license for business specified therein
28 until December 31, 1984, by maintaining in lieu of the surplus requirement paid-in premiums
29 in an aggregate amount of not less than nine hundred thousand dollars.

30 6. Violation of any of the provisions of this section by any insurer is grounds for the
31 revocation of its certificate of authority by the director.

**376.291. Sections 376.291 to 376.307 shall apply only to investments and investment
2 practices of domestic insurers organized under the provisions of this chapter. Sections
3 376.291 to 376.307 shall not apply to separate accounts of an insurer except to the extent
4 that the provisions of section 376.309 so provide.**

376.292. As used in sections 376.291 to 376.307, the following terms mean:

2 (1) "Acceptable collateral", as to securities lending, repurchase, and reverse
3 repurchase transactions, any financial assets of a type for which securities lent, purchased,
4 or sold are secured by such assets would constitute admitted assets as specified in the
5 relevant statement of the Statutory Accounting Principles promulgated from time to time
6 by the NAIC;

7 (2) "Acceptable private mortgage insurance", insurance written by a private
8 insurer protecting a mortgage lender against loss occasioned by a mortgage loan default
9 and issued by a licensed mortgage insurance company with an SVO "1" designation or a
10 rating issued by a nationally recognized statistical rating organization equivalent to an
11 SVO "1" designation that covers losses to an eighty percent loan-to-value ratio;

12 (3) "Accident and health insurance", protection that provides payment of benefits
13 for covered sickness or accidental injury, excluding credit insurance, disability insurance,
14 accidental death and dismemberment insurance, and long-term care insurance;

15 (4) "Accident and health insurer", a licensed life or health insurer or health service
16 corporation whose insurance premiums and required statutory reserves for accident and
17 health insurance constitute at least ninety-five percent of total premium considerations or
18 total statutory required reserves, respectively;

19 (5) "Admitted assets", assets permitted to be reported as admitted assets on the
20 statutory financial statement of the insurer most recently required to be filed with the
21 director but excluding assets of separate accounts;

22 (6) "Affiliate", as to any person, another person that, directly or indirectly through
23 one or more intermediaries controls, is controlled by, or is under common control with the
24 person;

25 (7) "Asset-backed security", a security or other instrument, excluding shares in a
26 mutual fund, evidencing an interest in or the right to receive payments from, or payable
27 from distributions on an asset, a pool of assets, or specifically divisible cash flows which
28 are legally transferred to a trust or another special purpose bankruptcy-remote business
29 entity on the following conditions:

30 (a) The trust or other business entity is established solely for the purpose of
31 acquiring specific types of assets or rights to cash flows, issuing securities and other
32 instruments representing an interest in or right to receive cash flows from those assets or
33 rights, and engaging in activities required to service the assets or rights and any credit
34 enhancement or support features held by the trust or other business entity; and

35 (b) The assets of the trust or other business entity consist solely of interest bearing
36 obligations or other contractual obligations representing the right to receive payment from
37 the cash flow from the assets. However, the existence of credit enhancements, such as

38 letters of credit or guarantees or support features, such as swap agreements, shall not cause
39 a security or other instrument to be ineligible as an asset-backed security;

40 (8) "Business entity", a sole proprietorship, limited liability company, association,
41 partnership, joint stock company, joint venture, mutual fund, trust, joint tendency, or
42 other similar form of business organization, whether organized for- profit or not-for-
43 profit;

44 (9) "Capital and surplus", the sum of the capital and surplus of the insurer
45 required to be shown on the statutory financial statement of the insurer most recently
46 required to be filed with the director;

47 (10) "Cash equivalents", short-term, highly rated, and highly liquid investments
48 or securities readily convertible to known amounts of cash without penalty and so near
49 maturity that they present insignificant risk of change in value. Cash equivalents include
50 government money market mutual funds and class one money market mutual funds. For
51 purposes of this subdivision:

52 (a) "Short-term" means investments with a remaining term to maturity of ninety
53 days or less; and

54 (b) "Highly rated" means an investment rated "P-1" by Moody's Investors Service,
55 Inc., or "A-1" by Standard and Poor's division of The McGraw Hill Companies, Inc., or
56 its equivalent rating by a nationally recognized statistical rating organization recognized
57 by the SVO;

58 (11) "Class one bond mutual fund", a mutual fund that at all times qualifies for
59 investment using the bond class one reserve factor under the Purpose and Procedures of
60 the Securities Valuation Office or any successor publication;

61 (12) "Class one money market mutual fund", a money market mutual fund that at
62 all times qualifies for investment using the bond class one reserve factor under the Purpose
63 and Procedures of the Securities Valuation Office or any successor publication;

64 (13) "Code", this chapter and chapters 374, 375, and 382, RSMo;

65 (14) "Commercial mortgage loan", a loan secured by a mortgage other than a
66 residential mortgage loan;

67 (15) "Construction loan", a loan less than three years in term made for financing
68 the cost of construction of a building or other improvement to real estate that is secured
69 by the real estate;

70 (16) "Control", the possession, directly or indirectly, of the power to direct or cause
71 the direction of the management and policies of a person, whether through the ownership
72 of voting securities, by contract, other than a commercial contract for goods or
73 nonmanagement service, or otherwise, unless the power is the result of an official position

74 with or corporate office held by the person. Control shall be presumed to exist if a person,
75 directly or indirectly, owns, controls, holds with power to vote, or holds proxies
76 representing ten percent or more of the voting securities of another person. This
77 presumption may be rebutted by a showing that control does not exist in fact. The director
78 may determine after furnishing all interested persons notice and an opportunity to be
79 heard and making specific findings of fact to support the determination that control exists
80 in fact, notwithstanding the absence of a presumption to that effect;

81 (17) "Credit tenant loan", a mortgage loan which is made primarily in reliance on
82 the credit standing of a major tenant, structured with an assignment of the rental payments
83 to the lender with real estate pledged as collateral in the form of a first lien;

84 (18) "Direct" or "directly", in connection with an obligation, the designated obligor
85 primarily liable on the instrument representing the obligation;

86 (19) "Dollar roll transaction", two simultaneous transactions with different
87 settlement dates no more than ninety-six days apart so that in the transaction with the
88 earlier settlement date an insurer sells to a business entity, and in the other transaction the
89 insurer is obligated to purchase, from the same business entity, substantially similar
90 securities of the following types:

91 (a) Asset-backed securities issued, assumed or guaranteed by the Government
92 National Mortgage Association, the Federal National Mortgage Association, or the Federal
93 Home Loan Mortgage Corporation or their respective successors; and

94 (b) Other asset-backed securities referred to in section 106 of Title I of the
95 Secondary Mortgage Market Enhancement Act of 1984 (15 U.S.C. 77r-1), as amended;

96 (20) "Domestic jurisdiction", the United States, Canada, any state, any province
97 of Canada, or any political subdivision of the foregoing;

98 (21) "Equity interest", any of the following that are not rated credit instruments:

99 (a) Common stock;

100 (b) Preferred stock;

101 (c) Trust certificate;

102 (d) Equity investment in an investment company other than a money market
103 mutual fund or a class one bond mutual fund;

104 (e) Investment in a common trust fund of a bank regulated by a federal or state
105 agency;

106 (f) An ownership interest in mineral, oil, or gas to which the rights have been
107 separated from the underlying fee interest in the real estate where the mineral, oil, or gas
108 are located;

- 109 **(g) Instruments which are mandatory, or at the option of the issuer, convertible to**
110 **equity;**
- 111 **(h) Limited partnership interest and those general partnership interests authorized**
112 **under subdivision (4) of section 376.294;**
- 113 **(i) Member interests in limited liability companies;**
- 114 **(j) Warrants or other rights to acquire equity interests that are created by the**
115 **person that owns or would issue the equity to be acquired; or**
- 116 **(k) Instruments that would be rated credit instruments except for the provisions**
117 **under subdivision (48) of this section;**
- 118 **(22) "Foreign currency", currency other than that of a domestic jurisdiction;**
- 119 **(23) (a) "Foreign investment", an investment in a foreign jurisdiction or an**
120 **investment in a person, real estate, or asset domiciled in a foreign jurisdiction that is**
121 **substantially of the same type as those eligible for investment under this chapter other than**
122 **under section 376.304. An investment shall not be deemed foreign if the issuing person,**
123 **qualified primary credit source, or qualified guarantor is a domestic jurisdiction or a**
124 **person domiciled in a domestic jurisdiction unless:**
- 125 **a. The issuing person is a shell business entity; and**
- 126 **b. The investment is not assumed, accepted, guaranteed, or insured or otherwise**
127 **backed by a domestic jurisdiction, or a person that is not a shell business entity domiciled**
128 **in a domestic jurisdiction;**
- 129 **(b) For purposes of this definition:**
- 130 **a. "Shell business entity" means a business entity having no economic substance**
131 **except as a vehicle for owning interests in assets issued, owned, or previously owned by a**
132 **person domiciled in a foreign jurisdiction;**
- 133 **b. "Qualified guarantor" means a guarantor against which an insurer has a direct**
134 **claim for full and timely payment, evidenced by a contractual right for which an**
135 **enforcement action can be brought in a domestic jurisdiction;**
- 136 **c. "Qualified primary credit score" means the credit score to which an insurer**
137 **looks for payment as to an investment and against which an insurer has a direct claim for**
138 **full and timely payment evidenced by a contractual right for which an enforcement action**
139 **can be brought in a domestic jurisdiction;**
- 140 **(24) "Foreign jurisdiction", a jurisdiction other than a domestic jurisdiction;**
- 141 **(25) "Government money market mutual fund", a money market mutual fund that**
142 **at all times:**

- 143 (a) Invests only in obligations issued, guaranteed, or insured by the federal
144 government of the United States or collateralized repurchase agreements composed of these
145 obligations; and
- 146 (b) Qualifies for investment without a reserve under the Purposes and Procedures
147 of the Securities Valuation Office or any successor publication;
- 148 (26) "Government sponsored enterprise", a:
- 149 (a) Government agency; or
- 150 (b) Corporation, limited liability company, association, partnership, joint stock
151 company, joint venture, trust, or other entity or instrumentality organized under the laws
152 of any domestic jurisdiction to accomplish a public policy or other governmental purpose;
- 153 (27) "Guaranteed" or "insured", in connection with an obligation acquired under
154 this chapter, the guarantor or insurer has agreed to:
- 155 (a) Perform or insure the obligation of the obligor or purchase the obligation; or
- 156 (b) Be unconditionally obligated until the obligation is repaid to maintain in the
157 obligor a minimum net worth, fixed charge coverage, stockholders' equity or sufficient
158 liquidity to enable the obligor to pay the obligation in full;
- 159 (28) "High grade investment", a rated credit instruments rated "1", "2", "P1",
160 "P2", "PSF1", or "PSF2" by the SVO;
- 161 (29) "Investment company", an investment company as defined in section 3(a) of
162 the Investment Company Act of 1940 (15 U.S.C. 80a-1), as amended, and a person
163 described in section 3(c) of that Act;
- 164 (30) "Investment company series", an investment portfolio of an investment
165 company that is organized as a series company and to which assets of the investment
166 company have been specifically allocated;
- 167 (31) "Investment subsidiary", a subsidiary of an insurer engaged or organized to
168 engage exclusively in the ownership and management of assets authorized as investments
169 for the insurer if such subsidiary limits its investment in any asset so that its investments
170 will not cause the amount of the total investment of the insurer to exceed any of the
171 investment limitation or avoid any other provisions of this chapter applicable to the
172 insurer. As used in this subdivision, the total investment insurer shall include:
- 173 (a) Direct investment by the insurer in an asset; and
- 174 (b) The insurer's proportionate share of an investment in an asset by an investment
175 subsidiary of the insurer which shall be calculated by multiplying the amount of the
176 subsidiary's investment by the percentage of the insurer's ownership interest in the
177 subsidiary;

178 (32) "Investment strategy", the techniques and methods used by an insurer to meet
179 its investment objectives, such as active bond portfolio management, passive bond portfolio
180 management, interest rate anticipation, growth investing, and value investing;

181 (33) "Letter of credit", a clean, irrevocable, and unconditional letter of credit
182 issued or confirmed by and payable and presentable at a financial institution on the list of
183 financial institutions meeting the standards for issuing letters of credit under the Purposes
184 and Procedures of the Securities Valuation Office or any successor publication. To
185 constitute applicable collateral for the purposes of section 376.303, a letter of credit shall
186 have an expiration date beyond the term of the subject transaction;

187 (34) "Limited liability company", a business organization, excluding partnerships
188 and ordinary business corporation, organized or operating under the laws of the United
189 States or any state thereof that limits the personal liability of investors to the equity
190 investment of the investor in the business entity;

191 (35) "Lower grade investment", a rated credit instrument rated "4", "5", "6",
192 "P4", "P5", "P6", "PSF4", "PSF5", or "PSF6" by the SVO;

193 (36) "Market value":

194 (a) As to cash and credit, the amounts thereof; and

195 (b) As to a security as of any date, the price for the security in that date obtained
196 from a generally recognized source or the most recent quotation from a source, or to the
197 extent no generally recognized source exists, the price for the security as determined in
198 good faith by the insurer plus accrued but unpaid income thereon to the extent not
199 included in the price as of that date;

200 (37) "Medium grade investment", a rated credit instrument rated "3", "P3", or
201 "PSF3" by the SVO;

202 (38) "Money market mutual fund", a mutual fund that meets the conditions of 17
203 C.F.R. 270.2a-7 under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.), as
204 amended or renumbered;

205 (39) "Mortgage loan", an obligation secured by a mortgage, deed of trust, trust
206 deed, or other consensual lien on real estate;

207 (40) "Multilateral development bank", an international development organization
208 of which the United States is a member;

209 (41) "Mutual fund", an investment company or in the case of an investment
210 company that is organized as a series company, an investment company series, that in
211 either case is registered with the United States Securities and Exchange Commission under
212 the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.), as amended;

213 (42) "NAIC", the National Association of Insurance Commissioners;

214 (43) "Obligation", a bond, note, debenture, trust certificate, including an
215 equipment trust certificate, production payment, negotiable bank certificate of deposit,
216 bankers' acceptance, credit tenant loan, loan secured by financing net leases, and other
217 evidence of indebtedness for the payment of money, or participations, certificates, or other
218 evidence of an interest in any of the foregoing, whether constituting a general obligation
219 of the issuer or payable only out of certain revenues or certain funds pledged or otherwise
220 dedicated for payment;

221 (44) "Person", an individual, a business entity, a multilateral development bank,
222 or a government or quasi-government body, such as a political subdivision or a
223 government sponsored enterprise;

224 (45) "Preferred stock", preferred, preference, or guaranteed stock of a business
225 entity authorized to issue the stock that has a preference in liquidation over the common
226 stock of the business entity;

227 (46) "Qualified business entity", a business entity that is:

228 (a) An issuer of obligations or preferred stock that are rated "1" or "2" by the
229 SVO or an issuer of obligations, preferred stock, or derivative instruments that are rated
230 the equivalent of "1" or "2" by the SVO or the equivalent by a nationally recognized
231 statistical rating organization recognized by the SVO;

232 (b) A primary dealer in the United States government securities recognized by the
233 Federal Reserve Bank of New York;

234 (c) With respect to securities lending arrangements under section 376.303, an
235 affiliate of an entity that is a qualified business entity under paragraph (a) or (b) of this
236 subdivision whose arrangement with the insurer is guaranteed by the affiliated entity that
237 is a qualified business entity under paragraph (a) or (b) of this subdivision; or

238 (d) An affiliated entity of the insurer;

239 (47) "Rated credit instrument":

240 (a) An obligation or other instrument which gives its holder a contractual right to
241 receive cash or another rated credit instrument from another entity if the instrument:

242 a. Is rated or required to be rated by the SVO;

243 b. In the case of an instrument with a maturity of three hundred ninety-seven days
244 or less, is issued, guaranteed, or insured by an entity that is rated by or another instrument
245 of such entity is rated by the SVO or by a nationally recognized statistical rating
246 organization recognized by the SVO;

247 c. In the case of an instrument with a maturity of ninety days or less, has been
248 issued, assumed, accepted, guaranteed, or insured by a qualified bank;

249 d. Is a share of a class one bond mutual fund; or

- 250 e. Is a share of a money market mutual fund;
- 251 (b) "Rated credit instrument" shall not mean:
- 252 a. An instrument that is mandatorily, or at the option of the issuer, convertible to
- 253 an equity interest; or
- 254 b. A security that has a par value and whose terms provide that the issuer's net
- 255 obligation to repay all or part of the security's par value is determined by reference to the
- 256 performance of an equity, a commodity, a foreign currency, or an index of equities,
- 257 commodities, foreign currencies, or combination thereof;
- 258 (48) "Real estate":
- 259 (a) Real property;
- 260 (b) Interests in real property, such as leaseholds, mineral, oil, and gas that have not
- 261 been separated from the underlying fee interest;
- 262 (c) Improvements and fixtures located on or in real property; and
- 263 (d) The seller's equity in a contract providing for a deed of real estate;
- 264
- 265 As to a mortgage on a leasehold estate, real estate shall include the leasehold estate only if
- 266 it has an unexpired term, including renewal options exercisable at the option of the lessee
- 267 extending beyond the scheduled maturity date of the obligation that is secured by a
- 268 mortgage on a leasehold estate by a period equal to at least twenty percent of the original
- 269 term of the obligation or ten years, whichever is greater;
- 270 (49) "Repurchase transaction", a transaction in which an insurer purchases
- 271 securities from a business entity that is obligated to repurchase the purchased securities
- 272 or substantially similar securities from the insurer at a specified price within a specified
- 273 period of time or on demand;
- 274 (50) "Required liabilities", total liabilities required to be reported on the statutory
- 275 financial statement of the insurer most recently required to be filed with the director;
- 276 (51) "Residential mortgage loan", a loan primarily secured by a mortgage on real
- 277 estate improved with a one-to-four family residence;
- 278 (52) "Reverse repurchase transaction", a transaction in which an insurer sells
- 279 substantially similar securities to a business entity and is obligated to repurchase the sold
- 280 securities or securities from the business entity at a specified price within a specified period
- 281 of time or upon demand;
- 282 (53) "Secured location", the contiguous real estate owned by one person;
- 283 (54) "Securities lending transaction", a transaction in which securities are loaned
- 284 by an insurer to a business entity that is obligated to return the loaned securities or

285 substantially similar securities to the insurer within a specified period of time or upon
286 demand;

287 (55) "Series company", an investment company that is organized as series
288 company, as defined in Rule 18f-2 under the Investment Company Act of 1940 (15 U.S.C.
289 80a-1 et seq.), as amended;

290 (56) "Sinking fund stock", preferred stock that:

291 (a) Is subject to a mandatory sinking fund or similar arrangement that will provide
292 for the redemption or open market purchase of the entire issue over a period not longer
293 than forty years from the date of acquisition; and

294 (b) Provides for mandatory sinking fund installments or open market purchases
295 commencing not more than ten and one-half years from the date of issue with the sinking
296 fund installments providing for the purchase or redemption on a cumulative basis
297 commencing ten years from the date of issue of at least two and one-half percent per year
298 of the original number of shares that issue preferred stock;

299 (57) "Special rated credit instrument", a rated credit instrument that is:

300 (a) Structured so that if it is held until retired by or on behalf of the issuer, its rate
301 of return based on its purchase cost and any cash flow stream possible under the structure
302 of the transaction may become negative due to reasons other than the credit risk associated
303 with the issuer of the instrument; however, a rated credit instrument shall not be a special
304 rated credit instrument under this paragraph if it is:

305 a. A share in a class one bond mutual fund;

306 b. An instrument other than an asset-backed security with payments of par value
307 fixed as to an amount and timing or callable but in any event payable only at par value or
308 greater and interest or dividend cash flows that based on a fixed or variable rate
309 determined by reference to a specified rate or index;

310 c. An instrument other than an asset-backed security that has a par value and is
311 purchased at a price no greater than one hundred ten percent of par;

312 d. An instrument, including an asset-backed security, whose rate of return would
313 become negative only as a result of prepayment due to casualty, condemnation, or
314 economic obsolescence of collateral or change of law;

315 e. An asset-backed security that relies on collateral that meets the requirements of
316 subparagraph b. of this paragraph and the par value of which collateral:

317 (i) Is not permitted to be paid sooner than one-half of the remaining term to
318 maturity from the date of acquisition;

319 (ii) Is permitted to be paid prior to maturity only at a premium sufficient to provide
320 a yield to maturity for the investment, considering the amount of prepaid and reinvestment

321 rates at the time of early repayment, at least equal to the yield to maturity of the initial
322 investment; or

323 (iii) Is permitted to be paid prior to maturity at a premium at least equal to the
324 yield of a treasury issue of comparable remaining life; or

325 f. An asset-backed security that relies on cash flow from assets that are not
326 prepayable at any time at par but is not otherwise governed by subparagraph e. of this
327 paragraph if the asset-backed security has a par value reflecting principal payments to be
328 received if held until retired by or on behalf of the issuer and is purchased at a price no
329 greater than one hundred five percent of such par amount;

330 (b) An asset-backed security that:

331 a. Relies on cash flow from assets that are prepayable at par at any time;

332 b. Does not make payments of par that are fixed as to amount and timing; and

333 c. Has a negative rate of return at the time of acquisition if a prepayment threshold
334 assumption is used with such prepayment threshold assumption defined as either:

335 (i) Two times the prepayment expectation reported by a recognized publicly
336 available source as being the median of expectations contributed by broker dealers or other
337 entities except insurers engaged in the business of selling or evaluating such securities or
338 assets. At the insurer's election, the prepayment expectation used in this calculation shall
339 be the prepayment expectation for pass-through securities of the Federal National
340 Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government
341 National Mortgage Association, or for other assets of the same type of assets that underlie
342 the asset-backed security in a gross weighted average coupon comparable to the gross
343 weighted average coupon of the assets that underlie the asset-backed security; or

344 (ii) Another prepayment threshold assumption specified by the director by
345 regulation;

346 (c) For purposes of paragraph (b) of this subdivision, if the asset-backed security
347 is purchased in combination with one or more other asset-backed securities that are
348 supported by identical underlying collateral, the insurer may calculate the rate of return
349 for these specific combined asset-backed securities in combination. The insurer shall
350 maintain documentation demonstrating that such securities were acquired and are
351 continuing to be held in combination;

352 (58) "State", a state, territory, or possession of the United States, District of
353 Columbia, or the Commonwealth of Puerto Rico;

354 (59) "Substantially similar securities", securities that meet all criteria for
355 substantially similar securities specified in the NAIC Accounting Practices and Procedures

356 **Manual, as amended, and in an amount that constitutes good delivery form as determined**
357 **from time to time by the PSA The Bond Market Trade Association;**

358 **(60) "Subsidiary", as to any person, an affiliate controlled by such person, directly**
359 **or indirectly, through one or more intermediaries;**

360 **(61) "SVO", the Securities Valuation Office of the NAIC or any successor office**
361 **established by the NAIC;**

362 **(62) "Unrestricted surplus", the amount by which total admitted assets exceed one**
363 **hundred and twenty-five percent of the insurer's required liabilities.**

376.293. 1. (1) Insurers may acquire, hold, or invest in investments or engage in
2 **investment practices as set forth in this chapter or section 375.345, RSMo. Insurers may**
3 **also acquire, hold, or invest in investments not conforming to the requirements of this**
4 **section that are not otherwise prohibited by this chapter or section 375.345, RSMo.**
5 **Investments not conforming to this section shall not be admitted assets unless they are**
6 **acquired under other authority of this chapter or section 375.345, RSMo. The provisions**
7 **and definitions of terms of section 375.345, RSMo, related to derivative transactions shall**
8 **also apply to investments under this chapter.**

9 **(2) Subject to subdivision (3) of this subsection, an insurer shall not acquire or hold**
10 **an investment as an admitted asset unless at the time of acquisition:**

11 **(a) It is eligible for the payment or accrual of interest or discount, whether in cash**
12 **or other forms of income or securities, eligible to receive dividends or other distributions**
13 **or is otherwise income producing; or**

14 **(b) It is acquired under section 375.345, RSMo, subsection 3 of section 376.302,**
15 **section 376.303 or 376.307 or under the authority of sections of the code other than sections**
16 **376.291 to 376.307.**

17 **(3) An insurer may acquire or hold as admitted assets investments that do not**
18 **otherwise qualify, as provided in sections 376.291 to 376.307, if this insurer has not**
19 **acquired the assets investments for the purpose of circumventing any limitations contained**
20 **in sections 376.291 to 376.307 and if the insurer acquires the investments in the following**
21 **circumstances and complies with the provisions of sections 376.291 to 376.307 as to the**
22 **investments:**

23 **(a) As a payment on account of existing indebtedness or in connection with the**
24 **refinancing, restructuring, or workout of existing indebtedness, if taken to protect the**
25 **insurer's interest in that investment;**

26 **(b) As realization of collateral for indebtedness;**

27 **(c) In connection with an otherwise qualified investment or investment practice as**
28 **interest on, or a dividend, or other distribution related to the investment or investment**

29 practice or in connection with the refinancing of the investment. In each case, no
30 additional or only nominal consideration is necessary;

31 (d) Under lawful and bona fide agreement of recapitalization or voluntary or
32 involuntary reorganization in connection with an investment held by the insurer; or

33 (e) Under a bulk reinsurance, merger, or consolidation transaction approved by the
34 director if the assets constitute admissible investments for the ceding, merged, or
35 consolidated companies.

36 (4) An investment or portion of an investment acquired by an insurer under
37 subdivision (3) of this subsection shall become a nonadmitted asset three years, or five
38 years in the case of mortgage loans and real estate, from the date of its acquisition unless
39 within that period the investment has become a qualified investment under a section of this
40 chapter other than subdivision (3) of this subsection, but an investment acquired under an
41 agreement of bulk reinsurance, merger, or consolidation may be qualified for a longer
42 period if so provided in the plan for reinsurance, merger, or consolidation as approved by
43 the director. Upon application by the insurer and a showing that the nonadmission of an
44 asset held under subdivision (3) of this subsection would materially injure the interests of
45 the insurer, the director may extend the period of admissibility for an additional,
46 reasonable period of time.

47 (5) Except as provided in subdivisions (6) and (8) of this subsection, an investment
48 shall qualify under this chapter if on the date the insurer committed to acquire the
49 investment or on the date of its acquisition it would have qualified under this chapter. For
50 the purposes of determining limitations contained in this chapter, an insurer shall give
51 appropriate recognition to any commitments to acquire investments.

52 (6) (a) An investment held as an admitted asset by an insurer on August 28, 2006,
53 which qualified under this chapter, or chapter 375, RSMo, shall remain qualified as an
54 admitted asset.

55 (b) Each specific transaction constituting an investment practice of the type
56 described in this chapter that was lawfully entered into by an insurer and was in effect on
57 August 28, 2006, shall continue to be permitted under this chapter until its expiration or
58 termination under its terms, including any expiration or termination after an extension
59 under its terms.

60 (7) Unless otherwise specified, an investment limitation computed on the basis of
61 an insurer's admitted assets or capital and surplus shall relate to the amount required to
62 be shown on the statutory balance sheet of the insurer most recently required to be filed,
63 annual or last quarter, with the director. Solely for the purposes of computing any

64 limitation based upon admitted assets, the insurer shall deduct from the amount of its
65 admitted assets the amount of the liability recorded on such statutory balance sheet for:

66 (a) The return of acceptable collateral received in a reverse repurchase transaction
67 or a securities lending transaction;

68 (b) Cash received in a dollar roll transaction; and

69 (c) The amount reported as borrowed money in such statutory balance sheet to the
70 extent not included in paragraph (b) and this paragraph of this subdivision.

71 (8) An investment qualified, in whole or in part, for acquisition or holding as an
72 admitted asset may be qualified or requalified at the time of acquisition or a later date, in
73 whole or in part, under any section if the relevant conditions contained in the other section
74 are satisfied at the time of the qualification or requalification.

75 (9) Upon request of the director, an insurer shall provide evidence demonstrating
76 that the investments made by the insurer were investments of the type authorized in this
77 chapter.

78 (10) An insurer shall not enter into an agreement to purchase securities in advance
79 of their issuance for resale to the public as part of a distribution of the securities by the
80 issuer or otherwise guarantee the distribution, except that an insurer may acquire privately
81 placed securities with registration rights.

82 (11) Notwithstanding the provisions of this chapter, the director, for good cause,
83 may order an insurer to nonadmit, limit, dispose of, withdraw from, or discontinue an
84 investment or investment practice. The authority of the director under this subsection is
85 in addition to any other authority of the director.

86 2. (1) Within three months after August 28, 2006, an insurer's board of directors
87 shall adopt a written plan for acquiring and holding investments and for engaging in
88 investment practices that specifies guidelines as to the quality, maturity, and diversification
89 of the investments and other specifications, including investment strategies intended to
90 assure that the investments and investment practices are appropriate for the business
91 conducted by the insurer, its liquidity needs, and its capital and surplus. The board shall
92 review and assess the insurer's technical investment and administrative capabilities and
93 expertise before adopting a written plan concerning an investment strategy or investment
94 practice.

95 (2) Investments acquired and held under this chapter and section 375.345, RSMo,
96 shall be acquired and held under the supervision and direction of the board of directors
97 of the insurer. The board of directors shall evidence by formal resolution at least annually
98 that it has determined whether all investments have been made in accordance with

99 delegations, standards, limitations, and investment objectives prescribed by the board or
100 a committee of the board charged with the responsibility to direct its investments.

101 (3) On no less than a quarterly basis and more often if deemed appropriate, an
102 insurer's board of directors or committee of the board of directors shall:

103 (a) Receive and review a summary report on the insurer's investment portfolio, its
104 investments activities, and investment practices engaged in under delegated authority in
105 order to determine whether the investment activity of the insurer is consistent with its
106 written plan; and

107 (b) Review and revise, as appropriate, the written plan.

108 (4) In discharging its duties under this section, the board of directors shall require
109 that records of any authorization or approvals, other documentation as the board may
110 require, and reports of any action taken under authority delegated under the plan referred
111 to in subsection 1 of this section shall be made available on a regular basis to the board of
112 directors.

113 (5) In discharging their duties under this section, the directors of an insurer shall
114 perform their duties in good faith and with that degree of care that ordinarily prudent
115 individuals in like positions would use under similar circumstances.

116 (6) If an insurer does not have a board of directors, all references to the board of
117 directors in sections 376.291 to 376.307 shall be deemed to be references to the governing
118 body of the insurer having authority equivalent to that of a board of directors.

376.294. 1. An insurer shall not directly or indirectly:

2 (1) Invest in an obligation or security or make a guarantee for the benefit of or in
3 favor of an officer or director of the insurer except as provided in section 376.295;

4 (2) Invest in an obligation or security, make a guarantee for the benefit of or in
5 favor of, or make other investments in a business entity of which ten percent or more of the
6 voting securities or equity interests are owned directly or indirectly by or for the benefit
7 of one or more officers or directors in the insurer except under a transaction entered into
8 in compliance with section 382.195, RSMo, or provided in section 376.295;

9 (3) Engage on its own behalf or through one or more affiliates in a transaction or
10 series of transactions designed to evade the prohibitions of section 375.345, RSMo, and
11 sections 376.291 to 376.307, or section 376.311;

12 (4) Invest in a partnership as a general partner, except that an insurer may make
13 an investment as a general partner:

14 (a) If all other partners in the partnership are subsidiaries of the insurer or other
15 insurance company affiliates of the insurer;

16 (b) For the purpose of:

17 **a. Meeting cash calls committed to prior to August 28, 2006;**
18 **b. Completing those specific projects or activities of the partnership in which the**
19 **insurer was a general partner as of August 28, 2006, that had been undertaken as of that**
20 **date; or**

21 **c. Making capital improvements to property owned by the partnership on August**
22 **28, 2006, if the insurer was a general partner as of that date; or**

23 **(c) In accordance with subdivision (3) of subsection 1 of section 376.293; or**

24 **(5) Invest or lend its funds upon the security of shares of its own stock, except as**
25 **authorized by other provisions of this chapter. However, no such shares shall be admitted**
26 **assets of the insurer.**

27 **2. Subdivision (4) of subsection 1 of this section shall not prohibit a subsidiary or**
28 **other affiliate of the insurer from becoming a general partner.**

376.295. 1. (1) Except as provided in subsection 2 of this section, an insurer shall
2 **not without written approval of the director, directly or indirectly, unless it has notified**
3 **the director in writing of its intention to enter into the transaction at least thirty days prior**
4 **thereto or any shorter period as the director may permit and the director has not**
5 **disapproved it within that period:**

6 **(a) Make a loan to or other investment in an officer or director of the insurer or a**
7 **person in which the officer has any direct or indirect financial interest;**

8 **(b) Make a guarantee for the benefit of in favor of an officer or director of the**
9 **insurer or a person in which the officer or director has any direct or indirect financial**
10 **interest; or**

11 **(c) Enter into an agreement for the purchase or sale of property from or to an**
12 **officer or director of the insurer or a person in which the officer or director has any direct**
13 **or indirect financial interest.**

14 **(2) For purposes of this section, an officer or director shall not be deemed to have**
15 **a financial interest by reason of an interest that is held directly or indirectly through the**
16 **ownership of equity interests representing less than two percent of all outstanding equity**
17 **interest issued by a person that is a party to the transaction or solely by reason of that**
18 **individual's position as a director or officer of a person that is a party to the transaction.**

19 **(3) This subsection shall not permit an investment that is prohibited by section**
20 **376.294.**

21 **(4) This subsection shall not apply to a transaction between an insurer and any of**
22 **its subsidiaries or affiliates that is entered into in compliance with chapter 382, RSMo,**
23 **other than a transaction between an insurer and its officer or director.**

24 **2. An insurer may, without the prior written approval of the director make:**

25 (1) Policy loans in accordance with the terms of the policy or contract and section
26 376.306;

27 (2) Advances to officers or directors for expenses reasonably expected to be
28 incurred in the ordinary course of the insurer's business or guarantees associated with
29 credit or charge cards issued or credit extended for the purpose of financing these
30 expenses;

31 (3) Loans secured by the principal residence of an existing or new officer of the
32 insurer made in connection with the officer's relocation at the insurer's request if the loans
33 comply with the requirements of section 376.302 and the terms and conditions otherwise
34 are the same as those generally available from unaffiliated third parties;

35 (4) Loans and advances to officers or directors made in compliance with state or
36 federal law specifically related to the loans and advances by a regulated noninsurance
37 subsidiary or affiliate of the insurer in the ordinary course of business and on terms no
38 more favorable than available to other customers of the entity; and

39 (5) Secured loans to an existing or new officer of the insurer made in connection
40 with the officer's relocation at the insurer's request, if the loans:

41 (a) Do not have a term exceeding two years;

42 (b) Are required to finance mortgage loans outstanding at the same time on the
43 prior and new residences of the officer;

44 (c) Do not exceed an amount equal to the equity of the officer in the prior residence;

45 (d) Are required to be fully repaid upon the earlier of the end of the two-year
46 period or the sale of the prior residence.

376.296. The value or amount of an investment acquired or held or an investment
2 practice engaged in under this chapter, unless otherwise specified in this code, shall be the
3 value at which assets of an insurer are required to be reported for statutory accounting
4 purposes as determined in accordance with procedures prescribed in published accounting
5 and valuation standards of the NAIC, including the Purposes and Procedures of the
6 Securities Valuation Office, the Valuation of Securities manual, the Accounting Practices
7 and Procedures manual, the Annual Statement Instructions, or any successor valuation
8 procedures officially adopted by the NAIC.

376.297. 1. (1) Except as otherwise specified in this chapter, an insurer shall not
2 acquire an investment directly or indirectly through an investment subsidiary if, as a result
3 of and after giving effect to the investment, the insurer would hold more than three percent
4 of its admitted assets in the investments of all kinds issued, assumed, accepted, insured, or
5 guaranteed by a single person.

6 **(2) The three percent limitation described in subdivision (1) of this subsection shall**
7 **not apply to the aggregate amounts insured by a single financial guaranty insurer with the**
8 **highest generic rating issued by a nationally recognized statistical rating organization.**

9 **(3) Asset-backed securities shall not be subject to the limitations of subdivision (1)**
10 **of this subsection; however, except as permitted by subdivision (4) of this subsection, an**
11 **insurer shall not acquire an asset-backed security if as a result of and after giving effect**
12 **to the investment the aggregate amount of asset-backed securities secured by or evidencing**
13 **an interest in a single asset or single pool of assets held by a trust or other business entity**
14 **then held by the insurer would exceed three percent of its admitted assets.**

15 **(4) An insurer's investments in mortgage related securities, as defined by the**
16 **Secondary Mortgage Market Enhancement Act of 1984, as amended, that are backed by**
17 **any single pool of mortgages and made under the authority of that Act shall not exceed five**
18 **percent of its admitted assets.**

19 **2. (1) An insurer shall not acquire directly or indirectly through an investment**
20 **subsidiary an investment under sections 376.298, 376.301, and 376.304, or counterparty**
21 **exposure under subdivision (6) of subsection 2 of section 375.345, RSMo, if as a result of**
22 **and after giving effect to the investment:**

23 **(a) The aggregate amount of medium and lower grade investments then held by the**
24 **insurer would exceed twenty percent of its admitted assets;**

25 **(b) The aggregate amount of lower grade investments then held by the insurer**
26 **would exceed ten percent of its admitted assets;**

27 **(c) The aggregate amount of investments rated "5" or "6" by the SVO then held**
28 **by the insurer would exceed three percent of its admitted assets;**

29 **(d) The aggregate amount of investments rated "6" by the SVO then held by the**
30 **insurer would exceed one percent of its admitted assets; or**

31 **(e) The aggregate amount of lower grade investments then held by the insurer that**
32 **receive cash income less than the equivalent yield for treasury issues with a comparative**
33 **average life would exceed one percent of its admitted assets.**

34 **(2) An insurer shall not acquire directly or indirectly through an investment**
35 **subsidiary an investment under sections 376.298, 376.301, and 376.304, or counterparty**
36 **exposure under subdivision (6) of subsection 2 of section 375.345, RSMo, if as a result of**
37 **and after giving effect to the investment:**

38 **(a) The aggregate amount of medium and lower grade investments issued, assumed,**
39 **accepted, guaranteed, or insured by any one person or as to asset-backed securities secured**
40 **by or evidencing an interest in a single asset or pool of assets then held by the insurer**
41 **would exceed one percent of its admitted assets; or**

42 (b) The aggregate amount of lower grade investments issued, assumed, accepted,
43 guaranteed, or insured by any one person or as to asset-backed securities secured by or
44 evidencing an interest in a single asset or pool of assets then held by the insurer would
45 exceed one-half of one percent of its admitted assets.

46 (3) If an insurer attains or exceeds the limit of any one rating category referred to
47 in this subsection, the insured shall not thereby be precluded from acquiring investments
48 in other rating categories subject to the specific and multi-category limits applicable to
49 those investments.

50 3. An insurer shall not directly or indirectly through an investment subsidiary or
51 a Canadian investment authorized by this chapter if as a result of and after giving effect
52 to the investment the aggregate amount of these investments then held by the insurer would
53 exceed forty percent of its admitted assets or if the aggregate amount of Canadian
54 investments not acquired under subsection 2 of section 376.298 then held by the insurer
55 would exceed twenty-five percent of its admitted assets. However, as to an insurer that is
56 authorized to do business in Canada or that has outstanding insurance, annuity, or
57 reinsurance contracts on lives or risks resident or located in Canada and denominated in
58 Canadian currency, the limitations of this section shall be increased by the greater of:

59 (1) The amount the insurer is required by Canadian law to invest in Canada or to
60 be denominated in Canadian currency; or

61 (2) One hundred fifteen percent of the amount of its reserves and other obligations
62 under contracts on lives or risks or located in Canada.

376.298. 1. Subject to the limitations of subsection 6 of this section and subsection
2 2 of section 376.297, except for subdivision (4) of subsection 1 of section 376.297, an insurer
3 may acquire rated credit instruments issued, assumed, guaranteed or issued by:

4 (1) The United States; or

5 (2) A government sponsored enterprise of the United States if the instruments of
6 the government sponsored enterprise are assumed, guaranteed, or insured by the United
7 States or are otherwise backed or supported by the full faith and credit clause of the United
8 States.

9 2. Subject to the limitation of subdivision (6) of this section and subsection 2 of
10 section 376.297, an insurer may acquire rated credit instruments issued, assumed,
11 guaranteed, or insured by:

12 (1) Canada; or

13 (2) A government sponsored enterprise of Canada if the instruments of the
14 government sponsored enterprise are assumed, guaranteed, or insured by Canada or are
15 otherwise backed or supported by the full faith and credit clause of Canada.

16 **An insurer shall not acquire an instrument under this subsection if as a result of and after**
17 **giving effect to the investment the aggregate amount of investments then held by the**
18 **insurer under this subsection would exceed forty percent of its admitted assets.**

19 **3. Subject to the limitations of subsection 6 of this section and subsection 2 of**
20 **section 376.297, an insurer may acquire rated credit instruments excluding asset-backed**
21 **securities:**

22 **(1) Issued by a government money market mutual fund, a class one money market**
23 **mutual fund, or a class one bond mutual fund;**

24 **(2) Issued, assumed, guaranteed, or insured by a government sponsored enterprise**
25 **of the United States other than those eligible under subsection 1 of this section;**

26 **(3) Issued, assumed, guaranteed, or insured by a state if the instruments are general**
27 **obligations of the state; or**

28 **(4) Issued by a multilateral development bank.**

29

30 **An insurer shall not acquire an instrument of any one fund, any one enterprise or entity,**
31 **or any one state under this subsection if as a result of and after giving effect to the**
32 **investment the aggregate amount of investments then held by the insurer in any one fund,**
33 **enterprise, entity, or state under this subsection would exceed ten percent of its admitted**
34 **assets.**

35 **4. Subject to the limitations of subsection 6 of this section and section 376.297, an**
36 **insurer may acquire preferred stocks that are not foreign investments and that meet the**
37 **requirement of rated credit instruments if as a result of and after giving effect to the**
38 **investment:**

39 **(1) The aggregate amount of preferred stocks then held by the insurer under this**
40 **subsection does not exceed thirty-three and one-third percent of its admitted assets; and**

41 **(2) The aggregate amount of preferred stocks then held by the insurer under this**
42 **subsection which are not sinking fund stocks or rated "P1" or "P2" by the SVO does not**
43 **exceed fifteen percent of its admitted assets.**

44 **5. Subject to the limitations of subsection 6 of this section and section 376.297, in**
45 **addition to those investments eligible under subsections 1 to 4 of this section, an insurer**
46 **may acquire rated credit instruments that are not foreign investments.**

47 **6. An insurer shall not acquire special rated credit instruments under this section**
48 **if as a result of and after giving effect to the investment the aggregate amount of special**
49 **rated credit instruments then held by the insurer would exceed five percent of its admitted**
50 **assets. The director may by rule under section 376.305 identify certain special rated credit**
51 **instruments that will be exempt from the limitation imposed by this subsection.**

376.300. 1. [All other laws to the contrary notwithstanding, the capital, reserve and surplus of all life insurance companies of whatever kind and character organized pursuant to the laws of this state shall be invested only in the following:

(1) Bonds, notes or other evidences of indebtedness, issued, assumed or guaranteed as to principal and interest, by the United States, any state, territory or possession of the United States, the District of Columbia, or of an administration, agency, authority or instrumentality of any of the political units enumerated, and of the Dominion of Canada;

(2) Bonds, notes or other evidences of indebtedness issued, assumed or guaranteed as to principal and interest by any foreign country or state not mentioned in subdivision (1) insofar as such bonds, notes or other evidences of indebtedness may be necessary or required in order to do business in such foreign state or country;

(3) Bonds, notes or other evidences of indebtedness issued, guaranteed or insured as to principal and interest by a city, county, drainage district, levee district, road district, school district, tax district, town, township, village or other civil administration, agency, authority, instrumentality or subdivision of a city, county, state, territory or possession of the United States or of the District of Columbia, provided such obligations are authorized by law;

(4) Loans evidenced by bonds, notes or other evidences of indebtedness guaranteed or insured, but only to the extent guaranteed or insured by the United States, any state, territory or possession of the United States, the District of Columbia, or by any agency, administration, authority or instrumentality of any of the political units enumerated;

(5) Bonds, notes or other evidences of indebtedness issued, assumed or guaranteed by a corporation organized under the laws of the United States, any state, territory or possession of the United States, or the District of Columbia, provided such bonds, notes or other evidences of indebtedness shall meet with the requirements of section 375.532, RSMo, and sections 375.1070 to 375.1075, RSMo;

(6) (a) Notes, equipment trust certificates or obligations which are adequately secured, or other adequately secured instruments evidencing an interest in any equipment leased or sold to a corporation, other than the life insurance company making the investment or its parent or affiliates, which qualifies under subdivision (5) of this subsection for investment in its bonds, notes, or other evidences of indebtedness, or to a common carrier, domiciled within the United States or the Dominion of Canada, with gross revenues exceeding one million dollars in the fiscal year immediately preceding purchase, which provide a right to receive determined rental, purchase, or other fixed obligatory payments for the use or purchase of such equipment and which obligatory payments are adequate to retire the obligations within twenty years from date of issue; or

36 (b) Notes, trust certificates, or other instruments which are adequately secured. Such
37 notes, trust certificates, or other instruments shall be considered adequately secured for the
38 purposes of this paragraph if a corporation or corporations which qualify under subdivision (5)
39 of this subsection for investment in their bonds, notes, or other evidences of indebtedness, are
40 jointly or severally obliged under a binding lease or agreement to make rental, purchase, use, or
41 other payments for the benefit of the life insurance company making the investment which are
42 adequate to retire the instruments according to their terms within twenty years from date of issue;

43 (7) Preferred or guaranteed stocks or shares of any solvent corporation created or
44 existing under the laws of the United States, any state, territory or possession of the United
45 States, or the District of Columbia, if all of the prior obligations including prior preferred stocks,
46 if any, of such corporation, at the date of acquisition, are eligible as investments under any
47 provisions of this section; and if qualified under section 375.532, RSMo, and sections 375.1070
48 to 375.1075, RSMo;

49 (8) Stocks or shares of insured state-chartered building and loan associations, federal
50 savings and loan associations, if such shares are insured by the Federal Savings and Loan
51 Insurance Corporation pursuant to the terms of Title IV of the act of the Congress of the United
52 States, entitled "The National Housing Act" (12 U.S.C.A. Sections 1724 to 1730), as the same
53 presently exists or may subsequently be amended, and federal home loan banks;

54 (9) Loans evidenced by notes or other evidences of indebtedness and secured by first
55 mortgage liens on unencumbered real estate or unencumbered leaseholds having at least
56 twenty-five years of unexpired term, such real estate or leaseholds to be located in the United
57 States, any territory or possession of the United States. Such loans shall not exceed eighty
58 percent of the fair market value of the security of the loan for insurance companies. However,
59 insurance companies may make loans in excess of eighty percent of the fair market value of the
60 security for the loan, but not to exceed ninety-five percent of the fair market value of the security
61 for the loan, if that portion of the total indebtedness in excess of seventy-five percent of the value
62 of the security for the loan is guaranteed or insured by a mortgage insurance company authorized
63 by the director of insurance to do business in this state, and provided the mortgage insurance
64 company is not affiliated with the entity making the loan. In addition, an insurance company
65 may not place more than two percent of its admitted assets in loans in which the amount of the
66 loan exceeds ninety percent of the fair market value of the security for the loan. An entity which
67 is restricted by section 104.440, RSMo, in making investments to those authorized life insurance
68 companies may make loans in excess of eighty percent of the fair market value of the security
69 of the loan if that portion of the total indebtedness in excess of eighty percent of the fair market
70 value is insured by a mortgage insurance company authorized by the director of insurance to do
71 business in this state. Any life insurance company may sell any real estate acquired by it and

72 take back a purchase money mortgage or deed of trust for the whole or any part of the sale price;
73 and such percentage may be exceeded if and to the extent such excess is guaranteed or insured
74 by the United States, any state, territory or possession of the United States, any city within the
75 United States having a population of one hundred thousand or more or by an administration,
76 agency, authority or instrumentality of any such governmental units; and such percentage shall
77 not exceed one hundred percent if such a loan is made to a corporation which qualifies pursuant
78 to subdivision (5) for investment in its bonds, notes or other evidences of indebtedness, or if the
79 borrower assigns to the lender a lease or leases on the real estate providing rentals payable to the
80 borrower in amounts sufficient to repay such loan with interest in the manner specified by the
81 note or notes evidencing such loan and executed as lessee or lessees by a corporation or
82 corporations, which qualify pursuant to subdivision (5) for investment in its or their bonds, notes
83 or other evidences of indebtedness. No mortgage loan upon leasehold shall be made or acquired
84 pursuant to this subdivision unless the terms of the mortgage loan shall provide for amortization
85 payments to be made by the borrower on the principal thereof at least once in each year in
86 amounts sufficient to completely amortize the loan within four-fifths of the term of the leasehold
87 which is unexpired at the time the loan is made, but in no event exceeding thirty years. Real
88 estate or a leasehold shall not be deemed to be encumbered by reason of the existence in relation
89 thereto of:

90 (a) Liens inferior to the lien securing the loan made by the life insurance company;

91 (b) Taxes or assessment liens not delinquent;

92 (c) Instruments creating or reserving mineral, oil or timber rights, rights-of-way,
93 common or joint driveways, easements for sewers, walls or utilities;

94 (d) Building restrictions and other restrictive covenants; or

95 (e) An unassigned lease reserving rents or profits to the owner;

96 (10) Shares of stock, bonds, notes or other evidences of indebtedness issued, assumed
97 or guaranteed by an urban redevelopment corporation organized pursuant to the provisions of
98 chapter 353, RSMo, known as the "Urban Redevelopment Corporations Law", or any
99 amendments thereto, or any law enacted in lieu thereof; provided, that one or more such life
100 insurance companies may, with the approval of the director of the department of insurance,
101 subscribe to and own all of the shares of stock of any such urban redevelopment corporation; and
102 provided further, that the aggregate investment by any such company pursuant to the terms of
103 this subdivision shall not be in excess of five percent of the admitted assets of such company;

104 (11) Land situated in this state and located within an area subject to redevelopment
105 within the meaning of the urban redevelopment corporations law, or any amendments thereto,
106 or any law enacted in lieu thereof, which land is acquired for the purposes specified in such
107 urban redevelopment corporations law, and any such life insurance company may erect

108 apartments, tenements or other dwelling houses, not including hotels, but including
109 accommodations for retail stores, shops, offices and other community services reasonably
110 incident to such projects, and such company may thereafter own, hold, rent, lease, collect or
111 receive income, maintain and manage such land so acquired and the improvements thereon, as
112 real estate necessary and proper for the carrying on of its legitimate business; provided, that any
113 such life insurance company shall have power to own, hold, maintain and manage such land, and
114 all improvements thereon, in accordance with the urban redevelopment corporations law,
115 amendments thereto or any law enacted in lieu thereof, and shall have all the powers, duties,
116 obligations, privileges and immunities, including any tax exemption, credits or relief, granted
117 an urban redevelopment corporation, pursuant to the urban redevelopment corporations law,
118 amendments thereto or any law enacted in lieu thereof, the same as if such insurance company
119 were an urban redevelopment corporation organized pursuant to the provisions of that law;
120 provided, that two or more such life insurance companies may, with the approval of the director
121 of the department of insurance, enter into agreements whereby the ownership and management
122 and control of a redevelopment project is participated in by each such company; and provided
123 further that the aggregate investment by any such company pursuant to the terms of this
124 subdivision shall not be in excess of five percent of the admitted assets of such company;

125 (12) Investments in property and processes for the development and production of solar
126 or geothermal energy, fossil or synthetic fuels, or gasohol, whether made directly or as a
127 participant in a general partnership, limited partnership or joint venture.] **Subject to the**
128 **limitations of section 376.297, an insurer may acquire directly or indirectly through an**
129 **investment subsidiary equity interests in business entities organized under the laws of any**
130 **domestic jurisdiction; provided, however, that the authorization contained in this section**
131 **shall be in addition to the authority of an insurer to invest in subsidiaries and affiliates**
132 **under section 376.355 and chapter 382, RSMo.**

133 2. [No such life insurance company shall invest in any of the foregoing securities in
134 excess of the following percentages of the admitted assets of such company, as shown by its last
135 annual statement preceding the date of acquisition, as filed with the director of the insurance
136 department of the state of Missouri:

137 (1) Ten percent of its admitted assets in the securities issued by any one corporation or
138 governmental unit falling pursuant to the classification set forth in subdivisions (3), (5), (6), (7)
139 and (8) of subsection 1;

140 (2) One percent of its admitted assets or ten percent of its capital and surplus, whichever
141 is greater, in any single loan on real estate pursuant to subdivision (9) of subsection 1;

142 (3) Ten percent of the admitted assets in the total amount of securities described in
143 subdivision (7) of subsection 1, and no such life insurance company shall own securities

144 described in subdivision (7) of subsection 1 of any one corporation which, in the aggregate,
145 represents more than five percent of the total of all outstanding shares of stock of that
146 corporation;

147 (4) One percent of its admitted assets in the bonds, notes or other evidences of
148 indebtedness of the Dominion of Canada and mentioned in subdivision (1) of subsection 1;
149 provided, however, that in addition thereto any such life insurance company which has
150 outstanding insurance contracts on lives of persons residing in the Dominion of Canada may
151 invest in bonds, notes or other evidences of indebtedness of the Dominion of Canada and
152 mentioned in subdivision (1) of subsection 1, to an amount not in excess of the total amount of
153 its reserves and other accrued liabilities under such contracts;

154 (5) Five percent of its admitted assets in the notes or trust certificates secured by any
155 equipment leased or sold to a corporation falling under the classification set forth in subdivision
156 (5) of subsection 1 or to a common carrier domiciled in the Dominion of Canada and mentioned
157 in subdivision (6) of subsection 1;

158 (6) Three percent of its admitted assets in loans evidenced by notes or other evidences
159 of indebtedness and secured by liens on unencumbered leaseholds having at least twenty-five
160 years of unexpired term and mentioned in subdivision (9) of subsection 1;

161 (7) One percent of its admitted assets, or five percent of that portion of its admitted
162 assets in excess of two hundred fifty million dollars, whichever is greater, in energy-related
163 investments specified in subdivision (12) of subsection 1.] **An insurer shall not acquire**
164 **directly or indirectly through an investment subsidiary an investment under this section**
165 **if as a result of and after giving effect to the investment the aggregate amount of**
166 **investments then held by the insurer under this section would exceed twenty percent of its**
167 **admitted assets, or except for mutual funds, the amount of equity interests then held by the**
168 **insurer that are not listed on a qualified exchange would exceed five percent of its admitted**
169 **assets.**

170 3. [The term "corporation", as used in subdivisions (5) and (7) of subsection 1, shall
171 include private corporations, joint stock associations or business trusts. In applying the earnings
172 tests, provided herein, to any issuing, assuming or guaranteeing corporation, whether or not in
173 legal existence during the whole of the test period, and if such corporation has during the test
174 period acquired the assets of any other corporation or corporations by purchase, merger,
175 consolidation or otherwise, or has been reorganized pursuant to the bankruptcy law, the earnings
176 available for interest and dividends of such other predecessor or constituent corporation or the
177 corporation so reorganized shall be considered as the earnings of the issuing, assuming or
178 guaranteeing corporation.] **An insurer shall not acquire under this section any investment**
179 **that the insurer may acquire under section 376.302.**

180 4. [Nothing contained in this section shall be construed as repealing or affecting the
181 provisions of sections 375.330, 375.340, and 375.355, RSMo.] **An insurer shall not short sell**
182 **equity interests unless the insurer covers the short sale by owning the equity interest or an**
183 **unrestricted right to the equity interest exercisable within six months of the short sale.**

376.301. 1. [In addition to the investments permitted by section 376.300, the capital,
2 reserve and surplus of all life insurance companies of whatever kind and character, organized
3 under the laws of this state, may be invested in the following, and the same shall be eligible for
4 deposit under section 376.170:

5 (1) Bonds, notes or other evidences of indebtedness issued, assumed or guaranteed as
6 to principal and interest, by the Dominion of Canada, or any province thereof;

7 (2) Investments in Canada which are substantially of the same kinds, classes and
8 investment grades or quality as those specified in subsection 1 of section 376.300.] **(1) Subject**
9 **to the limitations of section 376.297, an insurer may acquire tangible personal property or**
10 **equity interest therein located or used wholly or in part within a domestic jurisdiction**
11 **directly or indirectly through limited partnership interest and general partnership interest**
12 **not otherwise prohibited by subsection 4 of section 376.294, joint ventures, stock of an**
13 **investment subsidiary or membership interests in a limited liability company, trust**
14 **certificates, or other similar instruments.**

15 (2) Investments acquired under subdivision (1) of this subsection shall be eligible
16 only if:

17 (a) The property is subject to a lease or other agreement with a person whose rated
18 credit instruments in the amount of the purchase prices of the personal property the
19 insurer could then acquire under section 376.298; and

20 (b) The lease or other agreement provides the insurer the right to receive rental,
21 purchase, or other fixed payments for this use or purchase of the property and the
22 aggregate value of the payments, together with the estimated residual value of the property
23 at the end of its useful life and the estimated tax benefits to the insurer resulting from
24 ownership of the property shall be adequate to return the cost of the insurer's investment
25 in the property plus a return deemed adequate by the insurer.

26 2. [No life insurance company shall invest in excess of one percent of its admitted assets
27 in any one investment under this section and the aggregate amount of all investments under this
28 section shall not exceed ten percent of its admitted assets; provided, however, that in addition
29 thereto any life insurance company which has outstanding insurance contracts on lives of persons
30 residing in the Dominion of Canada may make investments under this section to an amount not
31 in excess of the total amount of its reserves and other accrued liabilities under such contracts.]
32 **An insurer shall compute the amount of each investment under this section on the basis of**

33 the out-of-pocket purchase price and applicable related expenses paid by the insurer for
34 the investment, net of each borrowing made to finance the purchase price, and expenses
35 to the extent the borrowing is without recourse to the insurer.

36 3. An insurer shall not acquire directly or indirectly through an investment
37 subsidiary an investment under this section if as a result of and after giving effect to the
38 investment the aggregate amount of all investments then held by the insurer under this
39 section would exceed:

40 (1) Two percent of its admitted assets; or

41 (2) One-half of one percent of its admitted assets as to any single item of tangible
42 personal property.

43 4. For purposes of determining compliance with the limitations of section 376.297,
44 investments acquired by an insurer under this section shall be aggregated with those
45 acquired under section 376.298 and each lessee of the property under a lease referred to
46 in this section shall be deemed the issuer of an obligation in the amount of the investment
47 of the insurer in the property determined as provided in subsection 2 of this section.

48 5. Nothing in the section is applicable to tangible personal property lease
49 arrangements between an insurer and its subsidiaries and affiliates under a cost-sharing
50 arrangement or agreement permitted under chapter 382, RSMo.

376.302. 1. (1) Subject to the limitations of section 376.297, an insurer may acquire
2 directly or indirectly through limited partnership interests and general partnership
3 interests not otherwise prohibited by subsection 4 of section 376.294, joint ventures, stock
4 of an investment subsidiary or membership interests in a limited liability company, trust
5 certificates, or other similar instruments or obligations secured by mortgages on real estate
6 situated within a domestic jurisdiction, but a mortgage loan which is secured by other than
7 a first lien shall not be acquired under this subdivision unless the insurer is the holder of
8 the first lien. The obligations held by the insurer and any obligations with an equal lien
9 priority shall not at the time of acquisition of the obligation exceed:

10 (a) Ninety percent of the fair market value of the real estate if the mortgage loan
11 is secured by a purchase money mortgage or like security received by the insurer upon
12 disposition of the real estate;

13 (b) Eighty percent of the fair market value of the real estate if the mortgage
14 requires immediate scheduled payment in periodic installments of principal and interest
15 and has an amortization period of thirty years or less and periodic payments not less than
16 annually. Each periodic payment shall be sufficient to assure that at all times:

17 **a. The outstanding principal balance of the mortgage loan is not greater than the**
18 **outstanding principal balance that would be outstanding under a mortgage loan with the**
19 **same original principal balance and interest rate; and**

20 **b. There are equal payments of principal and interest with the same frequency over**
21 **the same amortization period.**

22

23 **Mortgage loans permitted under this subsection are permitted notwithstanding the fact**
24 **that they provide for a payment of the principal balance prior to the end of the period of**
25 **the amortization of the loan. For residential mortgage loans, the eighty percent limitation**
26 **may be increased to ninety-seven percent if acceptable private mortgage insurance has**
27 **been obtained; or**

28 **(c) Seventy-five percent of the fair market value of the real estate for mortgage**
29 **loans that do not meet the requirements of paragraph (a) or (b) of this subdivision.**

30 **(2) For purposes of subdivision (1) of this subsection, the amount of an obligation**
31 **required to be included in the calculation of the loan-to-value ratio may be reduced to the**
32 **extent the obligation is insured by the Federal Housing Administration or guaranteed by**
33 **the Administrator of Veterans' Affairs, or their successor.**

34 **(3) Subject to the limitations of section 376.297, an insurer may acquire directly or**
35 **indirectly through limited partnership interests and general partnership interest not**
36 **otherwise prohibited by subsection 4 of section 376.294, joint ventures, stock of an**
37 **investment subsidiary or membership interests in a limited liability company, trust**
38 **certificates, or other similar instruments or obligations secured by a second mortgage on**
39 **real estate situated within a domestic jurisdiction other than as authorized in subdivision**
40 **(1) of this subsection. The obligation held by the insurer shall be the sole second lien**
41 **priority obligation and shall not at the time of acquisition of the obligation exceed seventy**
42 **percent of the amount by which the fair market value of the real estate exceeds the amount**
43 **outstanding under the first mortgage.**

44 **(4) A mortgage loan that is held by an insurer under subdivision (6) of subsection**
45 **1 of section 376.293 or acquired under this section and is restructured in a manner that**
46 **meets the requirements of a restructured mortgage loan in accordance with the NAIC**
47 **Accounting Practices and Procedures Manual or its successor publication shall continue**
48 **to qualify as a mortgage loan.**

49 **(5) Subject to the limitations of section 376.297, credit lease transactions that do not**
50 **qualify for investment under section 376.298 with the following characteristics shall be**
51 **exempt from the provisions of subdivision (1) of this subsection:**

52 (a) The loan amortizes over the initial fixed lease term at least in an amount
53 sufficient so that the loan balance at the end of the lease term does not exceed the original
54 appraised value of the real estate;

55 (b) The lease payments cover or exceed the total debt service over the life of the
56 loan;

57 (c) A tenant or its affiliated entity whose rated credit instruments have a SVO "1"
58 or "2" designation or a comparable rating from a nationally recognized statistical rating
59 organization recognized by the SVO has a full faith and credit obligation to make the lease
60 payments;

61 (d) The insurer holds or is the beneficial holder of a first lien mortgage on the real
62 estate;

63 (e) The expenses of the real estate are passed through to the tenant, excluding
64 exterior structural, parking and heating, ventilation and air conditioning replacement
65 expenses, unless annual escrow contributions from cash flows derived from the lease
66 payments cover the expense shortfall; and

67 (f) There is a perfected assignment of the rents due under the lease to or for the
68 benefit of the insurer.

69 2. (1) An insurer may acquire, manage, and dispose of real estate situated in a
70 domestic jurisdiction directly or indirectly through limited partnership interests and
71 general partnership interest not otherwise prohibited by subsection 4 of section 376.294,
72 joint ventures, stock of an investment subsidiary or membership interests in a limited
73 liability company, trust certificates, or other similar instruments. The real estate shall be
74 income producing or intended for improvement or development for investment purposes
75 under an existing program in which case the real estate shall be deemed to be income
76 producing.

77 (2) The real estate may be subject to mortgages, liens, or other encumbrances, and
78 the amount of which shall, to the extent that the obligations secured by the mortgages,
79 liens, or encumbrances are without recourse to the insurer, be deducted from the amount
80 of the investment of the insurer in the real estate for purposes of determining compliance
81 with paragraphs (b) and (c) of subsection 4 of this section.

82 3. An insurer may acquire, manage, and dispose of real estate for the convenient
83 accommodation of the insurer's (which may include its affiliates) business operations,
84 including home office, branch office, and field office operations. Such real estate acquired
85 may:

86 (1) Include excess space for rent to others if the excess space at its fair market value
87 would otherwise be a permitted investment under subsection 2 of this section and is so
88 qualified by the insurer; or

89 (2) Be subject to one or more mortgage, lien, or other encumbrance, and the
90 amount of which shall, to the extent that the obligations secured by the mortgages, liens,
91 or encumbrances are without recourse to the insurer, be deducted from the amount of the
92 investment of the insurer in the real estate for purposes of determining compliance with
93 subsection 4 of this section.

94

95 For purposes of this subsection, business operations shall not include that portion of real
96 estate used for the direct provision of health care services by an accident and health insurer
97 for its insureds. An insurer may acquire real estate used for these purposes under
98 subsection 2 of this section.

99 4. An insurer may not acquire an investment:

100 (1) Under subsection 1 of this section if as a result of an after giving effect to the
101 investment the aggregate amount of all investments then held by the insurer under
102 subsection 1 of this section would not exceed:

103 (a) One percent of its admitted assets in mortgage loans covering any one secured
104 location;

105 (b) One-fourth of one percent of its admitted assets in construction loans covering
106 any one secured location; or

107 (c) Two percent of its admitted assets in construction loans in the aggregate;

108 (2) Under subsection 2 of this section if as a result of and after giving effect to the
109 investment and any outstanding guarantees made by the insurer in connection with the
110 investment the aggregate amount of investments then held by the insurer under subsection
111 2 of this section plus the guarantees then outstanding would exceed:

112 (a) One percent of its admitted assets in one parcel or group of contiguous parcels
113 of real estate, except that this limitation shall not apply to that portion of real estate used
114 for the direct provision of health care services by an accident and health insurer for its
115 insureds, such as hospitals, medical clinics, medical professional buildings, or other health
116 facilities for the purposes of providing health services; or

117 (b) Fifteen percent of its admitted assets in the aggregate but not more than five
118 percent of its admitted assets in real estate to be improved or developed;

119 (3) Under subsection 1 or 2 of this section if as a result of and after giving effect to
120 the investment and any guarantees made by the insurer in connection with the investment
121 the aggregate amount of all investments then held by the insurer under subsections 1 and

122 **2 of this section plus the guarantees then outstanding would exceed forty-five percent of**
123 **its admitted assets. However, an insurer may exceed this limitation by no more than thirty**
124 **percent of its admitted assets if:**

125 (a) **This increase amount is invested only in residential mortgage loans;**

126 (b) **The insurer has no more than ten percent of its admitted assets invested in**
127 **mortgage loans other than residential mortgage loans;**

128 (c) **The loan-to-value ratio of each residential mortgage loan does not exceed sixty**
129 **percent at the time the mortgage loan is qualified under this increased authority and the**
130 **fair market value is supported by an appraisal no more than two years old prepared by an**
131 **independent appraiser;**

132 (d) **A single mortgage loan qualified under this increased authority does not exceed**
133 **one-half of one percent of its admitted assets;**

134 (e) **The insurer files with the director and receives approval from the director for**
135 **a plan that is designed to result in a portfolio of residential mortgage loans that is**
136 **geographically diversified; and**

137 (f) **The insurer agrees to file annually with the director records that demonstrate**
138 **that its portfolio of residential mortgage loans is geographically diversified in accordance**
139 **with the plan.**

140

141 **The limitations of section 376.297 shall not apply to an insurer's acquisition of real estate**
142 **under subsection 3 of this section. An insurer shall not acquire real estate under subsection**
143 **3 of this section if as a result of and after giving effect to the acquisition the aggregate**
144 **amount of real estate then held by the insurer under subsection 3 of this section would**
145 **exceed ten percent of its admitted assets. With the permission of the director, additional**
146 **amounts of real estate may be acquired under subsection 3 of this section.**

376.303. [In addition to the investments permitted by section 376.300, the capital,
2 reserve and surplus of all life insurance companies of whatever kind and character, organized or
3 doing business under this chapter, may be invested in bonds, notes, or other evidences of
4 indebtedness, payable in United States dollars, issued, assumed or guaranteed as to principal and
5 interest by the International Bank for Reconstruction and Development, Inter-American
6 Development Bank, the Asian Development Bank, or the African Development Bank, and such
7 securities shall be eligible for deposit under section 376.170, provided, however, that the amount
8 invested by any such life insurance company in such bonds, notes, or other evidences of
9 indebtedness shall not in the aggregate exceed two percent of the admitted assets of such life
10 insurance company.] **An insurer may enter into securities lending, repurchase, reverse**

11 repurchase, and dollar roll transactions with business entities subject to the following
12 requirements:

13 (1) The insurer's board of directors shall adopt a written plan that is consistent
14 with the requirements of the written plan under subdivision (1) of subsection 2 of section
15 376.293 that specifies guidelines and objectives to be followed, such as:

16 (a) A description of how cash received will be invested or used for general
17 corporate purposes of the insurer;

18 (b) Operational procedures to manage interest rate risk, counterparty default risk,
19 the conditions under which proceeds from reverse repurchase transactions may be used
20 in the ordinary course of business, and use of acceptable collateral in a manner that reflects
21 the liquidity needs of the transaction; and

22 (c) The extent to which the insurer may engage in these transactions;

23 (2) The insurer shall enter into a written agreement for all transactions authorized
24 in this section other than dollar roll transactions. The written agreement shall require that
25 each transaction terminate no more than one year from its inception or upon the earlier
26 demand of the insurer. The agreement shall be with the business entity counterparty and
27 the agreement may be with an agent acting on behalf of the insurer if the agent is a
28 qualified business entity and if the agreement:

29 (a) Requires the agent to enter into separate agreements with each counterparty
30 that are consistent with the requirements of this section; and

31 (b) Prohibits securities lending transactions under the agreement with the agent or
32 its affiliates;

33 (3) Cash received in a transaction under this section shall be invested in accordance
34 with this chapter and in a manner that recognizes the liquidity needs of the transaction or
35 used by the insurer for its general corporate purpose. So long as the transaction remains
36 outstanding, the insurer, its agent, or custodian shall maintain as to acceptable collateral
37 received in a transaction under this section either physically or through the book entry
38 systems of the Federal Reserve, Depository Trust Company, Participants Trust Company,
39 or other securities depositories approved by the director:

40 (a) Possession of the acceptable collateral;

41 (b) A perfected security interest in the acceptable collateral; or

42 (c) In the case of a jurisdiction outside of the United States, title to or rights of a
43 secured creditor to the acceptable collateral;

44 (4) The limitations of sections 376.297 and 376.304 shall not apply to the business
45 entity counterparty exposure created by transactions under this section. For purposes of
46 calculations made to determine compliance with this subsection, no effect will be given to

47 the insurer's future obligation to resell securities in the case of a repurchase transaction
48 or to repurchase securities in the case of a reverse repurchase transaction. An insurer shall
49 not enter into a transaction under this section if as a result of and after giving effect to the
50 transaction:

51 (a) The aggregate amount of securities then loaned, sold to, or purchased from any
52 one business entity counterparty under this section would exceed five percent of its
53 admitted assets. In calculating the amount sold to or repurchased from a business entity
54 counterparty under repurchase or reverse repurchase transactions, effect may be given to
55 netting provisions under a master written agreement; or

56 (b) The aggregate amount of all securities then loaned, sold to, or purchased from
57 all business entities under this section would exceed forty percent of its admitted assets;

58 (5) In a dollar roll transaction, the insurer shall receive cash in an amount at least
59 equal to the market value of the securities transferred by the insurer in the transaction as
60 of the transaction date.

376.304. 1. Subject to the limitations of section 376.297, an insurer may acquire
2 directly or indirectly through an investment subsidiary foreign investments or engage in
3 investment practices with persons of or in foreign jurisdictions of substantially the same
4 types as those that an insurer is permitted to acquire under this chapter, other than the
5 type permitted under section 376.311 if as a result and after giving effect to the investment:

6 (1) The aggregate amount of foreign investments then held by the insurer under
7 this subsection does not exceed twenty percent of the admitted assets; and

8 (2) The aggregate amount of foreign investments then held by the insurer under
9 this subsection in a single foreign jurisdiction does not exceed ten percent of its admitted
10 assets as to a foreign jurisdiction that has a sovereign debt rating of SVO "1" or three
11 percent of its admitted assets as to any other foreign jurisdiction.

12 2. Subject to the limitations of section 376.297, an insurer may acquire investments
13 or engage in investment practice denominated in foreign currencies whether or not they
14 are foreign investments acquired under subsection 1 of this section or additional foreign
15 currency exposure as a result of the termination or expiration of a hedging transaction
16 with respect to investments denominated in a foreign currency if as a result of and after
17 giving effect to the transaction:

18 (1) The aggregate amount of investments then held by the insurer under this
19 subsection denominated in foreign currencies does not exceed ten percent of its admitted
20 assets; and

21 (2) The aggregate amount of investments then held by the insurer under this
22 subsection denominated in the foreign currency of a single foreign jurisdiction does not

23 exceed ten percent of its admitted assets as to a foreign jurisdiction that has a sovereign
24 debt rating of SVO "1" or three percent of its admitted assets as to any other foreign
25 jurisdiction.

26 **3. An investment shall not be considered denominated in a foreign currency if the**
27 **acquiring insurer enters into one or more contracts in transactions permitted under section**
28 **375.345, RSMo, in which the business entity counterparty agrees to exchange or grants to**
29 **the insurer the option to exchange all payments made on the foreign currency denominated**
30 **investment, or amounts equivalent to the payments that are or will be due to the insurer**
31 **in accordance with the terms of such investment, for United States currency during the**
32 **period the contract or contracts are in effect to insulate the insurer from loss caused by**
33 **diminution of the value of payments owed to the insurer due to future changes in currency**
34 **exchange rates.**

35 **4. In addition to investments permitted under subsections 1 to 3 of this section, an**
36 **insurer that is authorized to do business in a foreign jurisdiction and that has an**
37 **outstanding insurance, annuity, or reinsurance contract on lives or risks resident or located**
38 **in that foreign jurisdiction and denominated in foreign currency of that jurisdiction may**
39 **acquire investments denominated in the currency of that jurisdiction subject to the**
40 **limitations of section 376.297. However, investments made under this subsection in**
41 **obligations of foreign governments, their political subdivisions, and government sponsored**
42 **enterprises shall not be subject to the limitations of section 376.297 if those investments**
43 **carry an SVO rating of "1" or "2". The aggregate amount of investments acquired by the**
44 **insurer under this subsection shall not exceed the greater of:**

45 **(1) The amount the insurer is required by the law of the foreign jurisdiction to**
46 **invest in the foreign jurisdiction; or**

47 **(2) One hundred fifteen percent of the amount of its reserves, net of reinsurance,**
48 **and other obligations under the contracts on lives or risks resident or located in the foreign**
49 **jurisdiction.**

50 **5. In addition to investments permitted under subsections 1 to 3 of this section, an**
51 **insurer that is not authorized to do business in a foreign jurisdiction but which has**
52 **outstanding insurance, annuity, or reinsurance contracts on lives or risks resident or**
53 **located in that foreign jurisdiction and denominated in foreign currency of that**
54 **jurisdiction may acquire foreign investments respecting that foreign jurisdiction and may**
55 **acquire investments denominated in the currency of that jurisdiction, subject to the**
56 **limitations of section 376.297. However, investments made under this subsection in**
57 **obligations of foreign governments, their political subdivisions, and government sponsored**
58 **enterprises shall not be subject to the limitations of section 376.297 if those investments**

59 carry an SVO rating of "1" or "2". The aggregate amount of investments acquired by the
60 insurer under this subsection shall not exceed one hundred five percent of the amount of
61 its reserves, net of reinsurance, and other obligations under the contracts on lives and risks
62 resident or located in the foreign jurisdiction.

63 **6. Investments acquired under this section shall be aggregated with investments of**
64 **the same type made under all other sections of this chapter and in a similar manner for**
65 **purposes of determining compliance with the limitations, if any, contained in the other**
66 **sections. Investments in obligations of foreign governments, their political subdivisions,**
67 **and government sponsored enterprises of these persons, except for those exempted under**
68 **subsections 4 and 5 of this section, shall be subject to the limitations of section 376.297.**

376.305. [1. In addition to the investments permitted by section 376.300, the capital,
2 reserve and surplus of all life insurance companies of whatever kind and character organized or
3 doing business under sections 376.010 to 376.670, may be invested in the common stock of any
4 solvent corporation, organized under the laws of the United States, any state, territory or
5 possession of the United States, or the District of Columbia, or of the Dominion of Canada, or
6 any province of the Dominion of Canada, provided the corporation's net worth as shown on its
7 balance sheet at the end of the last fiscal year preceding purchase shall have been at least ten
8 million dollars, and that such common stocks are registered on a national securities exchange or
9 quoted in established over-the-counter markets, or provided that such corporation is registered
10 and operated as an open-end regulated investment company in accordance with the Investment
11 Company Act of 1940, as amended. Common stocks meeting the preceding qualifications shall
12 be eligible for deposit, as provided under section 376.170.

13 2. No such life insurance company shall invest in excess of ten percent of its admitted
14 assets or an amount in excess of its combined capital and surplus, whichever is the lesser, as
15 shown by its last annual statement preceding the date of acquisition, as filed with the director of
16 the insurance department of the state of Missouri, in the total amount of such common stocks,
17 nor shall such life insurance company own securities described in subdivision (7) of subsection
18 1 of section 376.300, and subsection 1 of this section, which, in the aggregate, represent more
19 than five percent of the total of all outstanding shares of stock of the issuing corporation, nor
20 shall any such life insurance company own common stock described in subsection 1 issued by
21 any one corporation which represents more than two percent of the admitted assets of such life
22 insurance company.] **The director may promulgate rules to implement the provisions of**
23 **sections 376.291 to 376.307. Any rule or portion of a rule, as that term is defined in section**
24 **536.010, RSMo, that is created under the authority delegated in this section shall become**
25 **effective only if it complies with and is subject to all of the provisions of chapter 536,**
26 **RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are**

27 nonseverable and if any of the powers vested with the general assembly under chapter 536,
28 RSMo, to review, to delay the effective date, or to disapprove and annul a rule are
29 subsequently held unconstitutional, then the grant of rulemaking authority and any rule
30 proposed or adopted after August 28, 2006, shall be invalid and void.

376.306. A life insurer may lend to a policyholder on the security of the cash
2 surrender value of the policyholder's policy a sum not to exceeding the legal reserve that
3 the insurer is required to maintain on the policy.

376.307. 1. [Notwithstanding any direct or implied prohibitions in this chapter or
2 chapter 375, RSMo, the capital, reserve and surplus funds of all life insurance companies of
3 whatever kind and character organized or doing business under this chapter or chapter 375,
4 RSMo, may be invested in any investments which do not otherwise qualify under any other
5 provision of this chapter or chapter 375, RSMo, provided, however, the investments authorized
6 by this section are not eligible for deposit with the department of insurance and shall be subject
7 to all the limitations set forth in subsection 2.] **Solely for the purpose of acquiring investments
8 that exceed the quantitative limitations of sections 376.297 to 376.304, an insurer may
9 acquire under this subsection an investment or engage in investment practices described
10 in section 376.303, but an insurer shall not acquire an investment or engage in investment
11 practices described in section 376.303 under this subsection if as a result of and after giving
12 effect to the transaction:**

13 (1) **The aggregate amount of investments then held by an insurer under this
14 subsection would exceed three percent of its admitted assets; or**

15 (2) **The aggregate amount of investments as to one limitation in sections 376.297 to
16 376.304 then held by the insurer under this subsection would exceed one percent of its
17 admitted assets.**

18 2. [No such life insurance company shall own such investments in an amount in excess
19 of the following limitations, to be based upon its admitted assets, capital and surplus as shown
20 in its last annual statement filed with the director of the department of insurance of the state of
21 Missouri:

22 (1) The aggregate amount of all such investments under this section shall not exceed the
23 lesser of:

24 (a) Eight percent of its admitted assets; or

25 (b) The amount of its capital and surplus in excess of nine hundred thousand dollars; and

26 (2) The amount of any one such investment under this section shall not exceed one
27 percent of its admitted assets.] **In addition to the authority provided in subsection 1 of this
28 section, an insurer may acquire under this subsection an investment of any kind or engage
29 in investment practices described in section 376.303 that are not specifically prohibited by**

30 **this chapter without regard to the categories, conditions, standards, or other limitations**
31 **of sections 376.297 to 376.304 if as a result of and after giving effect to the transaction the**
32 **aggregate amount of investments then held under this subsection would not exceed the**
33 **lesser of:**

- 34 **(1) Ten percent of its admitted assets; or**
35 **(2) Seventy-five percent of its capital and surplus.**

36

37 **An insurer shall not acquire any investment or engage in any investment practice under**
38 **this subsection if as a result of and after giving effect to the transaction the aggregate**
39 **amount of all investments in any one person then held by the insurer under this subsection**
40 **would exceed three percent of its admitted assets.**

41 3. [If, subsequent to its acquisition hereunder, any such investment shall become
42 specifically authorized or permitted under any other section contained in chapter 375 or 376,
43 RSMo, any such company may thereafter consider such investment as held under such other
44 applicable section and not under this section.] **In addition to the investments acquired under**
45 **subsections 1 and 2 of this section, an insurer may acquire under this subsection an**
46 **investment of any kind or engage in investment practices described in section 376.303 that**
47 **are not specifically prohibited by this chapter without regard to any limitations of sections**
48 **376.297 to 376.304 if:**

- 49 **(1) The director grants prior approval;**
50 **(2) The insurer demonstrates that its investments are being made in a prudent**
51 **manner and that the additional amounts will be invested in a prudent manner; and**
52 **(3) As a result of and after giving effect to the transaction, the aggregate amount**
53 **of investments then held by the insurer under this subsection does not exceed the greater**
54 **of:**

- 55 **(a) Twenty-five percent of its capital and surplus; or**
56 **(b) One hundred percent of capital and surplus less ten percent of its admitted**
57 **assets.**

58 **4. Under this section, an insurer shall not acquire or engage in an investment**
59 **practice prohibited under section 376.294 or an investment that is a derivative transaction.**

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

11 may issue such administrative orders as authorized under section 374.046, RSMo. A
12 violation 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 **pursuant thereto, 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 pursuant thereto, the director**
18 **may maintain a civil action for relief authorized under section 374.048, RSMo. A violation**
19 **of any of these sections is a level two violation under section 374.049, RSMo.**

376.1012. Funds collected from the participating employers under multiple employer
2 self-insured health plans shall be held in trust subject to the following requirements:

3 (1) A board of trustees elected by participating employers shall serve as fund managers
4 on behalf of participants. Trustees shall be plan participants. No participating employer may
5 be represented by more than one trustee. No trustee may represent more than one employer. A
6 minimum of three and a maximum of seven trustees may be elected. Trustees may not receive
7 remuneration but they may be reimbursed for actual and reasonable expenses incurred in
8 connection with duties as trustee. A trustee may not be an agent, or broker for or an owner,
9 officer or employee of any third-party administrator, insurance agency or insurer utilized by the
10 plan. The trustees shall have the authority to approve applications of association members for
11 participation in the arrangement and to contract with a licensed third-party administrator to
12 administer the day-to-day affairs of the plan;

13 (2) Each trustee shall be bonded in an amount of not less than one hundred fifty thousand
14 dollars by a licensed insurer;

15 (3) Investment of plan funds is subject to the same restrictions which are applicable to
16 insurers pursuant to sections [376.300 to 376.310] **376.291 to 376.307**; provided, however, that
17 no foreign plan shall be exempt under section 376.310 from the investment laws of this state
18 unless such plan is subject to laws in its state of domicile which are substantially similar to
19 sections 376.1032 to 376.1045. All investments shall be managed by a bank or other investment
20 entity licensed to operate in Missouri;

21 (4) Trustees, on behalf of the plan, shall file an annual report with the director of the
22 department of insurance by March first showing the condition and affairs of the plan as of the
23 preceding thirty-first day of December. The report shall be made on forms prescribed by the
24 director. The report shall summarize the financial condition of the fund, itemize collections from
25 participating employers, detail all fund expenditures and provide any additional information
26 which the director requires. More frequent reports may be required at the discretion of the
27 director.

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 pursuant thereto, or that
50 a 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 pursuant thereto, 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 pursuant thereto, 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 pursuant thereto, the
60 director may maintain a civil action for relief authorized under section 374.048, RSMo.
61 A violation of any of these sections is a level three violation under section 374.049, RSMo.**

377.100. Every corporation doing business under sections 377.010 to 377.190 shall
2 annually, on or before the first day of February, return to the director of the insurance
3 department, in such manner and form as he shall prescribe, a statement of its affairs for the year
4 ending on the preceding thirty-first day of December, and the director, in person or by deputy,
5 shall have the power of visitation of and examination into the affairs of any such corporation,
6 which is conferred upon him in the case of life insurance companies by the laws of this state; and
7 all companies are hereby declared to be subject to and required to conform to the provisions of
8 chapters 374 and 375, RSMo, and sections [376.300] **376.291** to 376.330, 376.580, 376.610 and
9 376.620, RSMo, and governed and controlled by all the provisions in said sections contained;

10 provided, always, that nothing herein contained shall subject any corporation doing business
11 under sections 377.010 to 377.190 to any other provisions or requirements of the general
12 insurance laws of this state, except as distinctly herein set forth and provided.

377.200. Any corporation, company or association issuing policies or certificates
2 promising money or other benefits to a member or policyholder, or upon his decease to his legal
3 representatives, or to beneficiaries designated by him, which money or benefit is derived from
4 stipulated premiums collected in advance from its members or policyholders, and from interest
5 and other accumulations and wherein the money or other benefits so realized is applied to or
6 accumulated solely for the use and purposes of the corporation as herein specified, and for the
7 necessary expenses of the corporation, and the prosecution and enlargement of its business, and
8 which shall comply with all the provisions of sections 377.200 to 377.460, shall be deemed to
9 be engaged in the business of life insurance upon the stipulated premium plan and shall be
10 subject only to the provisions of sections 377.200 to 377.460, except that the provisions of
11 chapters 374 and 375, RSMo, and sections [376.300] **376.291** to 376.330, 376.675, 376.770 to
12 376.795, 376.500 to 376.510, and 376.590 to 376.600, RSMo, shall be applicable. It shall be
13 unlawful for any corporation, company or association not having complied with the provisions
14 of sections 377.200 to 377.460 to use the term "stipulated premium" in its application or
15 contracts, or to print or write the same in its policies or literature.

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 pursuant thereto, 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 section 379.017 and sections 379.316 to 379.361 or a rule
22 adopted or order issued pursuant thereto, the director may issue such administrative
23 orders as authorized under section 374.046, RSMo. A violation of any of these sections is
24 a level two violation under section 374.049, RSMo. The practice of using a rate not in effect
25 under section 379.321, if caused by a single act or omission by the insurer or filing
26 organization, is a level two violation under section 374.049, RSMo. Each act as part of a
27 rating violation does not constitute a separate violation under section 374.049, RSMo. The
28 director of insurance may also suspend or revoke the license or certificate of authority of
29 an insurer or filing company for any willful violation.

30 2. If the director believes that a person has engaged, is engaging, or is about to
31 engage in a violation of section 379.017 and sections 379.316 to 379.361 or a rule adopted
32 or order issued pursuant thereto, or that a person has materially aided, is materially
33 aiding, or is about to materially aid an act, practice, omission, or course of business
34 constituting a violation of section 379.017 and sections 379.316 to 379.361 or a rule adopted
35 or order issued pursuant thereto, the director may maintain a civil action for relief
36 authorized under section 374.048, RSMo. A violation of any of these sections is a level two
37 violation under section 374.049, RSMo. The practice of using a rate not in effect under
38 section 379.321, if caused by a single act or omission by the insurer or filing organization,
39 is a level two violation under section 374.049, RSMo. Each act as part of a rating violation
40 does not constitute a separate violation under 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
7 as he may prescribe, issue a permit for organization purposes, the permit to continue in force or
8 be 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 pursuant thereto, 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 this section or a rule**
13 **adopted or order issued pursuant thereto, the director may issue such administrative**
14 **orders as authorized under section 374.046, RSMo. A violation of this section is a level one**
15 **violation 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 pursuant thereto, or**
18 **that 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 pursuant thereto, 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.**

385.200. As used in sections 385.200 to 385.212, the following terms mean:

2 **(1) "Administrator", the person, other than a provider, who is responsible for the**
3 **administration of the service contracts or the service contracts plan or for any filings**
4 **required by sections 385.200 to 385.212;**

5 **(2) "Consumer", a natural person who buys other than for purposes of resale any**
6 **tangible personal property that is distributed in commerce and that is normally used for**
7 **personal, family, or household purposes and not for business or research purposes;**

8 **(3) "Dealers", any motor vehicle dealer or boat dealer licensed or required to be**
9 **licensed under the provisions of sections 301.550 to 301.573, RSMo;**

10 **(4) "Director", the director of the department of insurance;**

11 **(5) "Maintenance agreement", a contract of limited duration that provides for**
12 **scheduled maintenance only;**

13 **(6) "Manufacturer", any of the following:**

14 **(a) A person who manufactures or produces the property and sells the property**
15 **under the person's own name or label;**

16 **(b) A subsidiary of the person who manufactures or produces the property;**

17 (c) A person who owns one hundred percent of the entity that manufactures or
18 produces the property;

19 (d) A person that does not manufacture or produce the property, but the property
20 is sold under its trade name label;

21 (e) A person who manufactures or produces the property and the property is sold
22 under the trade name or label of another person;

23 (f) A person who does not manufacture or produce the property but, under a
24 written contract, licenses the use of its trade name or label to another person who sells the
25 property under the licensor's trade name or label;

26 (7) "Mechanical breakdown insurance", a policy, contract, or agreement issued by
27 an authorized insurer who provides for the repair, replacement, or maintenance of a motor
28 vehicle or indemnification for repair, replacement, or service, for the operational or
29 structural failure of a motor vehicle due to a defect in materials or workmanship or to
30 normal wear and tear;

31 (8) "Motor vehicle extended service contract" or "service contract", a contract or
32 agreement for a separately stated consideration or for a specific duration to perform the
33 repair, replacement, or maintenance of a motor vehicle or indemnification for repair,
34 replacement, or maintenance, for the operational or structural failure due to a defect in
35 materials, workmanship, or normal wear and tear, with or without additional provision
36 for incidental payment of indemnity under limited circumstances, including but not limited
37 to towing, rental, and emergency road service, but does not include mechanical breakdown
38 insurance or maintenance agreements;

39 (9) "Nonoriginal manufacturer's parts", replacement parts not made for or by the
40 original manufacturer of the property, commonly referred to as "after market parts";

41 (10) "Person", an individual, partnership, corporation, incorporated or
42 unincorporated association, joint stock company, reciprocal, syndicate, or any similar
43 entity or combination of entities acting in concert;

44 (11) "Premium", the consideration paid to an insurer for a reimbursement
45 insurance policy;

46 (12) "Provider", a person who is contractually obligated to the service contract
47 holder under the terms of a motor vehicle extended service contract;

48 (13) "Provider fee", the consideration paid for a motor vehicle extended service
49 contract by a service contract holder;

50 (14) "Reimbursement insurance policy", a policy of insurance issued to a provider
51 and under which the insurer agrees, for the benefit of the motor vehicle extended service
52 contract holders, to discharge all of the obligations and liabilities of the provider under the

53 terms of the motor vehicle extended service contracts in the event of nonperformance by
54 the provider. All obligations and liabilities include, but are not limited to, failure of the
55 provider to perform under the motor vehicle extended service contract and the return of
56 the unearned provider fee in the event of the provider's unwillingness or inability to
57 reimburse the unearned provider fee in the event of termination of a motor vehicle
58 extended service contract;

59 (15) "Service contract holder" or "contract holder", a person who is the purchaser
60 or holder of a motor vehicle extended service contract;

61 (16) "Warranty", a warranty made solely by the manufacturer, importer, or seller
62 of property or services without charge, that is not negotiated or separated from the sale of
63 the product and is incidental to the sale of the product, that guarantees indemnity for
64 defective parts, mechanical or electrical breakdown, labor, or other remedial measures,
65 such as repair or replacement of the property or repetition of services.

385.201. 1. Motor vehicle extended service contracts shall not be issued, sold, or
2 offered for sale in this state unless the provider or its designee has:

3 (1) Provided a receipt for the purchase of the motor vehicle extended service
4 contract to the contract holder at the date of purchase;

5 (2) Provided a copy of the motor vehicle extended service contract to the service
6 contract holder within a reasonable period of time from the date of purchase; and

7 (3) Complied with the provisions of sections 385.200 to 385.212.

8 2. All providers of motor vehicle extended service contracts sold in this state shall
9 file a registration with the director on a form, at a fee and at a frequency prescribed by the
10 director.

11 3. In order to assure the faithful performance of a provider's obligations to its
12 contract holders, each provider who is contractually obligated to provide service under a
13 motor vehicle extended service contract shall:

14 (1) Insure all motor vehicle extended service contracts under a reimbursement
15 insurance policy issued by an insurer authorized to transact insurance in this state; or

16 (2) (a) Maintain a funded reserve account for its obligation under its contracts
17 issued and outstanding in this state. The reserves shall not be less than forty percent of
18 gross consideration received, less claims paid, on the sale of the motor vehicle extended
19 service contract for all in-force contracts. The reserve account shall be subject to
20 examination and review by the director; and

21 (b) Place in trust with the director a financial security deposit, having a value of not
22 less than five percent of the gross consideration received, less claims paid, on the sale of the
23 motor vehicle extended service contract for all motor vehicle extended service contracts

24 issued and in force, but not less than twenty-five thousand dollars, consisting of one of the
25 following:

- 26 a. A surety bond issued by an authorized surety;
- 27 b. Securities of the type eligible for deposit by authorized insurers in this state;
- 28 c. Cash;
- 29 d. A letter of credit issued by a qualified financial institution; or
- 30 e. Another form of security prescribed by regulations issued by the director; or

31 (3) (a) Maintain a net worth of one hundred million dollars; and

32 (b) Upon request, provide the director with a copy of the provider's or, if the
33 provider's financial statements are consolidated with those of its parent company, the
34 provider's parent company's most recent Form 10-K filed with the Securities and
35 Exchange Commission (SEC) within the last calendar year, or if the company does not file
36 with the SEC, a copy of the company's audited financial statements, which shows a net
37 worth of the provider or its parent company of at least one hundred million dollars. If the
38 provider's parent company's Form 10-K or audited financial statements are filed to meet
39 the provider's financial stability requirement, then the parent company shall agree to
40 guarantee the obligations of the obligor relating to motor vehicle extended service contracts
41 sold by the provider in this state.

42 4. Provider fees collected on motor vehicle extended service contracts shall not be
43 subject to premium taxes. Premiums for reimbursement insurance policies shall be subject
44 to applicable premium taxes.

45 5. Except for the registration requirement in subsection 2 of this section, persons
46 marketing, selling, or offering to sell motor vehicle extended service contracts for providers
47 that comply with sections 379.1050 to 379.1070 are exempt from this state's licensing
48 requirements.

49 6. Providers complying with the provisions of sections 385.200 to 385.212 are not
50 required to comply with other provisions of chapter 374 or 375, or any other provisions
51 governing insurance companies, except as specifically provided.

385.203. Reimbursement insurance policies insuring motor vehicle extended service
2 contracts issued, sold, or offered for sale in this state shall conspicuously state that, upon
3 failure of the provider to perform under the contract, such as failure to return the
4 unearned provider fee, the insurer that issued the policy shall pay on behalf of the provider
5 any sums the provider is legally obligated to pay or shall provide the service for which the
6 provider is legally obligated to perform according to the provider's contractual obligations
7 under the motor vehicle extended service contracts issued or sold by the provider.

385.204. 1. No person, other than a dealer, manufacturer, federally insured depository institution, or a lender licensed and defined under the requirements of sections 367.100 to 367.215, RSMo, shall sell, offer for sale, or solicit the sale of a motor vehicle extended service contract to a consumer.

2. No administrator or provider shall use a dealer as a fronting company, and no dealer shall act as a fronting company. For purposes of this subsection, "fronting company" means a dealer that authorizes a third-party administrator or provider to use its name or business to evade or circumvent the provisions of subsection 1 of this section.

3. Motor vehicle extended service contracts issued, sold, or offered for sale in this state shall be written in clear, understandable language, and the entire contract shall be printed or typed in easy-to-read type and conspicuously disclose the requirements in this section, as applicable.

4. Motor vehicle extended service contracts insured under a reimbursement insurance policy under subsection 3 of section 385.201 shall contain a statement in substantially the following form: "Obligations of the provider under this service contract are guaranteed under a service contract reimbursement insurance policy. If the provider fails to pay or provide service on a claim within sixty days after proof of loss has been filed, the contract holder is entitled to make a claim directly against the insurance company." A claim against the provider also shall include a claim for return of the unearned provider fee. The motor vehicle extended service contract also shall state conspicuously the name and address of the insurer.

5. Motor vehicle extended service contracts not insured under a reimbursement insurance policy pursuant to subsection 3 of section 385.201 shall contain a statement in substantially the following form: "Obligations of the provider under this service contract are backed only by the full faith and credit of the provider (issuer) and are not guaranteed under a service contract reimbursement insurance policy." A claim against the provider also shall include a claim for return of the unearned provider fee. The motor vehicle extended service contract also shall state conspicuously the name and address of the provider.

6. Motor vehicle extended service contracts shall identify any administrator, the provider obligated to perform the service under the contract, the motor vehicle extended service contract seller, and the service contract holder to the extent that the name and address of the service contract holder has been furnished by the service contract holder.

7. Motor vehicle extended service contracts shall state conspicuously the total purchase price and the terms under which the motor vehicle extended service contract is

36 sold. The purchase price is not required to be preprinted on the motor vehicle extended
37 service contract and may be negotiated at the time of sale with the service contract holder.

38 **8. If prior approval of repair work is required, the motor vehicle extended service**
39 **contracts shall state conspicuously the procedure for obtaining prior approval and for**
40 **making a claim, including a toll-free telephone number for claim service and a procedure**
41 **for obtaining emergency repairs performed outside of normal business hours.**

42 **9. Motor vehicle extended service contracts shall state conspicuously the existence**
43 **of any deductible amount.**

44 **10. Motor vehicle extended service contracts shall specify the merchandise and**
45 **services to be provided and any limitations, exceptions, and exclusions.**

46 **11. Motor vehicle extended service contracts shall state the conditions upon which**
47 **the use of non-original manufacturer's parts, or substitute service, may be allowed.**
48 **Conditions stated shall comply with applicable state and federal laws.**

49 **12. Motor vehicle extended service contracts shall state any terms, restrictions, or**
50 **conditions governing the transferability of the motor vehicle extended service contract.**

51 **13. Motor vehicle extended service contracts shall state the terms, restrictions, or**
52 **conditions governing termination of the service contract by the service contract holder.**
53 **The provider of the motor vehicle extended service contract shall mail a written notice to**
54 **the contract holder within fifteen days of the date of termination.**

55 **14. Motor vehicle extended service contracts shall require every provider to permit**
56 **the service contract holder to return the contract within at least twenty business days of**
57 **mailing date of the motor vehicle extended service contract or within at least ten days if the**
58 **service contract is delivered at the time of sale or within a longer time period permitted**
59 **under the contract. If no claim has been made under the contract, the contract is void and**
60 **the provider shall refund to the contract holder the full purchase price of the contract. A**
61 **ten percent penalty per month shall be added to a refund that is not paid within thirty days**
62 **of return of the contract to the provider. The applicable free-look time periods on service**
63 **contracts shall apply only to the original service contract purchaser.**

64 **15. Motor vehicle extended service contracts shall set forth all of the obligations and**
65 **duties of the service contract holder, such as the duty to protect against any further**
66 **damage and the requirement for certain service and maintenance.**

67 **16. Motor vehicle extended service contracts shall state clearly whether or not the**
68 **service contract provides for or excludes consequential damages or preexisting conditions.**

385.205. 1. A provider shall not use in its name the words insurance, casualty,
2 **guaranty, surety, mutual, or any other words descriptive of the insurance, casualty,**
3 **guaranty, or surety business, nor shall such provider use a name deceptively similar to the**

4 name or description of any insurance or surety corporation, or any other provider. This
5 section shall not apply to a company that was using any of the prohibited language in its
6 name prior to August 28, 2004. However, a company using the prohibited language in its
7 name shall disclose conspicuously in its motor vehicle extended service contract the
8 following statement: "This agreement is not an insurance contract."

9 2. A provider or its representative shall not in its motor vehicle extended service
10 contracts or literature make, permit, or cause to be made any false or misleading
11 statement, or deliberately omit any material statement that would be considered misleading
12 if omitted, in connection with the sale, offer to sell or advertisement of a motor vehicle
13 extended service contract.

14 3. A person, such as a bank, savings and loan association, lending institution,
15 manufacturer or seller of any product, shall not require the purchase of a service contract
16 as a condition of a loan or a condition for the sale of any property.

 385.207. 1. An administrator, provider, or other intermediary shall keep accurate
2 accounts, books, and records concerning transactions regulated by sections 385.200 to
3 385.212.

4 2. An administrator's, provider's, or other intermediary's accounts, books, and
5 records shall include:

6 (1) Copies of each type of motor vehicle extended service contract issued;

7 (2) The name and address of each service holder to the extent that the name and
8 address have been furnished by the service contract holder;

9 (3) A list of the provider locations where motor vehicle extended service contracts
10 are marketed, sold, or offered for sale; and

11 (4) Claims files that shall contain at least the dates, amounts, and description of all
12 receipts, claims, and expenditures related to the motor vehicle extended service contracts.

13 3. Except as provided in this section, an administrator shall retain all records
14 pertaining to each motor vehicle extended service contract holder for at least three years
15 after the specified period of coverage has expired.

16 4. An administrator, provider, or other intermediary may keep all records required
17 under sections 385.200 to 385.212 on a computer disk or other similar technology. If an
18 administrator, provider, or other intermediary maintains records in other than hard copy,
19 records shall be accessible from a computer terminal available to the director and be
20 capable of duplication to legible hard copy.

21 5. An administrator, provider, or other intermediary discontinuing business in this
22 state shall maintain its records until it furnishes the director satisfactory proof that it has
23 discharged all obligations to contract holders in this state.

24 **6. An administrator, provider, or other intermediary shall make all accounts,**
25 **books, and records concerning transactions regulated pursuant to sections 385.200 to**
26 **385.212 or other pertinent laws available to the director upon request.**

385.208. As applicable, an insurer that issued a reimbursement insurance policy
2 **shall not terminate the policy until a notice of termination, in a form and time frame**
3 **prescribed by the director, has been mailed or delivered to the director. The termination**
4 **of a reimbursement insurance policy shall not reduce the issuer's responsibility for motor**
5 **vehicle extended service contracts issued by providers prior to the date of the termination.**

385.209. 1. Providers are considered to be the agent of the insurer that issued the
2 **reimbursement insurance policy. In cases where a provider is acting as an administrator**
3 **and enlists other providers, the provider acting as the administrator shall notify the insurer**
4 **of the existence and identities of the other providers.**

5 **2. The provisions of sections 385.200 to 385.212 shall not prevent or limit the right**
6 **of an insurer that issued a reimbursement insurance policy to seek indemnification or**
7 **subrogation against a provider if the insurer pays or is obligated to pay the service contract**
8 **holder sums that the provider was obligated to pay under the provisions of the motor**
9 **vehicle extended service contract or under a contractual agreement.**

385.210. 1. The director may conduct investigations or examinations of providers,
2 **administrators, insurers, or other persons to enforce the provisions of sections 385.200 to**
3 **385.212 and protect service contract holders in this state.**

4 **2. If the director determines that a person has engaged, is engaging, or is about to**
5 **engage in a violation of sections 385.200 to 385.212 or a rule adopted or order issued**
6 **pursuant thereto, or that a person has materially aided, is materially aiding, or is about to**
7 **materially aid an act, practice, omission or course of business constituting a violation of**
8 **sections 385.200 to 385.212 or a rule adopted or order issued pursuant thereto, the director**
9 **may issue such administrative orders as authorized under section 374.046, RSMo. A**
10 **violation of this section is a level two violation under section 374.049, RSMo.**

11 **3. If the director believes that a person has engaged, is engaging, or is about to**
12 **engage in a violation of sections 385.200 to 385.212 or a rule adopted or order issued**
13 **pursuant thereto, or that a person has materially aided, is materially aiding, or is about to**
14 **materially aid an act, practice, omission or course of business constituting a violation of**
15 **sections 385.200 to 385.212 or a rule adopted or order issued pursuant thereto, the director**
16 **may maintain a civil action for relief authorized under section 374.048, RSMo. A violation**
17 **of this section is a level two violation under section 374.049, RSMo.**

18 **4. The enforcement authority of the director under this section is cumulative to any**
19 **other statutory authority of the director.**

385.211. The director may promulgate rules to effectuate sections 385.200 to
2 385.212. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,
3 that is created under the authority delegated in this section shall become effective only if
4 it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if
5 applicable, section 536.028, RSMo. Sections 385.200 to 385.212 and chapter 536, RSMo,
6 are nonseverable and if any of the powers vested with the general assembly pursuant to
7 chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule
8 are subsequently held unconstitutional, then the grant of rulemaking authority and any
9 rule proposed or adopted after August 28, 2006, shall be invalid and void.

385.212. 1. The provisions of sections 385.200 to 385.212 shall not apply to:

2 (1) Warranties;

3 (2) Maintenance agreements;

4 (3) Commercial transactions; and

5 (4) Service contracts sold or offered for sale to persons other than consumers.

6 2. Manufacturer's contracts on the manufacturer's products need only comply with
7 the provisions of sections 385.204, 385.205, and 385.210.

385.300. 1. As used in sections 385.300 to 385.312, the terms "consumer",
2 "director", "maintenance agreement", "manufacturer", "nonoriginal manufacturer's
3 parts", "person", "premium", and "warranty" shall have the same meaning as provided
4 in section 385.200.

5 2. As used in sections 385.300 to 385.312, the following terms mean:

6 (1) "Administrator", the person who is responsible for the handling and
7 adjudication of claims under the product service agreements;

8 (2) "Contract holder", a person who is the purchaser or holder of a service
9 contract;

10 (3) "Property", all forms of property;

11 (4) "Provider", a person who issues, makes, or directly underwrites a service
12 contract, or is contractually obligated to the service contract holder under the terms of the
13 service contract;

14 (5) "Provider fee", the consideration paid for a service contract, if any, by a service
15 contract holder;

16 (6) "Reimbursement insurance policy", a policy of insurance issued to a provider
17 to either provide reimbursement to the provider under the terms of the insured service
18 contract issued or sold by the provider, or alternatively, in the event of nonperformance
19 by the provider, to pay to service contract holders on behalf of the provider all covered

20 contractual obligations incurred by the provider under the terms of the insured service
21 contract issued or sold by the provider; and

22 (7) "Service contract", a contract for a specific duration and consideration to
23 perform the repair, replacement, or maintenance of property or indemnification for repair,
24 replacement, or maintenance, for the operational or structural failure of any residential
25 or other property due to a defect in materials, workmanship, or normal wear and tear,
26 with or without additional provision for incidental payment of indemnity under limited
27 circumstances, including, but not limited to, unavailability of parts, obsolescence, food
28 spoilage, rental, and shipping. Service contracts may provide for the repair, replacement
29 or maintenance of property for damage resulting from power surges or accidental damage.
30 Service contract providers and administrators are not deemed to be engaged in the
31 business of insurance in this state.

385.301. 1. It is unlawful for any person to issue, sell or offer for sale in this state
2 any service contract, unless each provider has registered with the director on a form
3 prescribed by the director. Each provider shall pay to the director a fee established by the
4 director by rule, but not to exceed three hundred dollars annually.

5 2. A provider may, but is not required to, appoint an administrator or other
6 designee to be responsible for any or all of the administration of service contracts and
7 compliance with sections 385.300 to 385.312.

8 3. A provider or its designee shall provide a copy of the service contract to the
9 service contract holder within a reasonable period of time following the date of purchase.

10 4. In order to assure the faithful performance of a provider's obligations to its
11 contract holders, each provider who contractually is obligated to provide service under a
12 service contract shall comply with one of the following subdivisions:

13 (1) (a) Maintain a funded reserve account for its obligations under its contracts
14 issues and outstanding in this state. The reserve shall not be less than forty percent of
15 gross consideration received, less claims paid, on the sale of the service contract for all in-
16 force contracts. The reserve account shall be subject to examination and review by the
17 director; and

18 (b) Place in trust with the director a financial security deposit, having a value of not
19 less than five percent of the gross consideration received, less claims paid, on the sale of the
20 service contract for all service contracts issued and in force, but not less than twenty-five
21 thousand dollars, consisting of one of the following:

22 a. A surety bond issued by an authorized surety;

23 b. Securities of the type eligible for deposit by authorized insurers in this state;

24 c. Cash;

- 25 **d. A letter of credit issued by a qualified financial institution; or**
26 **e. Another form of security prescribed by regulations issued by the director; or**
27 **(2) (a) Maintain a net worth of one hundred million dollars; and**
28 **(b) Provide the director with a copy of the provider's or, if the provider's financial**
29 **statements are consolidated with those of its parent company, the provider's parent**
30 **company's most recent Form 10-K filed or Form 20-F with the Securities and Exchange**
31 **Commission (SEC) within the last calendar year, or if the company does not file with the**
32 **SEC, a copy of the company's audited financial statements, which shows a net worth of the**
33 **provider or its parent company of at least one hundred million dollars. If the provider's**
34 **parent company's Form 10-K, Form 20-F, or audited financial statements are filed to meet**
35 **the provider's financial stability requirement, then the parent company shall agree to**
36 **guarantee the obligations of the obligor relating to service contracts sold by the provider**
37 **in this state; or**
38 **(3) Obtain a reimbursement insurance policy that demonstrates to the satisfaction**
39 **of the director that one hundred percent of its service contract obligations to contract**
40 **holders is covered by such policy and satisfies the requirements of this section. For the**
41 **purposes of this subsection, the reimbursement insurance policy shall contain the following**
42 **provisions:**
43 **(a) In the event that the provider is unable to fulfill its obligation under contracts**
44 **issued in this state for any reason, including insolvency, bankruptcy, or dissolution, the**
45 **insurer will pay losses and unearned fees under such plans directly to the contract holder**
46 **making a claim under the contract;**
47 **(b) The insurer issuing the contractual liability policy shall assume full**
48 **responsibility for the administration of claims in the event of the inability of the provider**
49 **to do so; and**
50 **(c) The policy may be canceled or not renewed by either the insurer or the provider**
51 **not less than sixty days after written notice thereof has been given to the director and**
52 **provider by the insurer;**
53 **(4) The reimbursement insurance referenced in subdivision (3) above shall be**
54 **obtained from an insurer that is authorized, registered or otherwise permitted to transact**
55 **insurance in this state or a surplus lines insurer authorized pursuant to the laws of this**
56 **state and which insurer meets one of the following requirements:**
57 **(a) Maintain, at the time the policy is filed with the director and continuously**
58 **thereafter:**
59 **a. Surplus as to policyholders and paid-in capital of at least fifteen million dollars;**
60 **and**

61 **b. Annually file copies of the insurer's financial statements, its National Association**
62 **of Insurance Commissioners annual statement, and the actuarial certification if required**
63 **and filed in the insurer's state of domicile; or**

64 **(b) Maintain, at the time the policy is filed with the director and continuously**
65 **thereafter:**

66 **a. Surplus as to policyholders and paid-in capital of less than fifteen million dollars**
67 **but at least equal to ten million dollars;**

68 **b. Demonstrate to the satisfaction of the director that the insurer maintains a ratio**
69 **of net written premiums, wherever written, to surplus as to policyholders and paid-in**
70 **capital of not greater than three to one; and**

71 **c. Annually file copies of the insurer's financial statements, its National Association**
72 **of Insurance Commissioners annual statement, and the actuarial certification if required**
73 **and filed in the insurer's state of domicile.**

74 **5. Provider fees collected on service agreements shall not be subject to premium**
75 **taxes. Premiums for reimbursement insurance policies shall be subject to applicable taxes.**

76 **6. Except for compliance with the provider's registration requirement in subsection**
77 **1 of this section, a person marketing, selling, or offering to sell service contracts for a**
78 **provider that is registered under this section is exempt from licensing as a producer under**
79 **the insurance laws of this state.**

385.302. Reimbursement insurance policies insuring service contracts issued, sold
2 **or offered for sale in this state shall state that, upon failure of the provider to perform**
3 **under the contract, including the failure to return the unearned provider fee, the insurer**
4 **that issued the policy shall pay or perform according to the provider's contractual**
5 **obligations under the service contracts insured by the insurer.**

385.303. 1. Service contracts marketed, issued, sold, or offered for sale in this state
2 **shall be written in clear, conspicuous, and understandable language, and the entire**
3 **contract shall be printed or typed in easy-to-read, type and conspicuously disclose the**
4 **requirements in this section, as applicable.**

5 **2. Service contracts insured under a reimbursement insurance policy under**
6 **subdivision (3) of subsection 4 of section 385.301 shall contain a statement in substantially**
7 **the following form: "Obligations of the provider under this service contract are**
8 **guaranteed under a reimbursement insurance policy. If the provider fails to pay or**
9 **provide service on a claim within sixty days after proof of loss has been filed, the contract**
10 **holder is entitled to make a claim directly against the insurance company." A claim**
11 **against the provider may also include a claim for return of the unearned provider fee. The**
12 **service contract also shall state the name and address of the insurer.**

13 **3. Service contracts not insured under a reimbursement insurance policy under**
14 **subdivision (3) of subsection 4 of section 385.301 shall contain a statement in substantially**
15 **the following form: "Obligations of the provider under this service contract are backed**
16 **only by the full faith and credit of the provider (issuer) and are not guaranteed under a**
17 **reimbursement insurance policy." A claim against the provider shall also include a claim**
18 **for return of the unearned provider fee. The service contract shall also state the name and**
19 **address of the provider.**

20 **4. Service contracts shall identify any administrator, the provider obligated to**
21 **perform under the contract, and the service contract seller, if different than the provider**
22 **or administrator. The identities of such parties are not required to be preprinted on the**
23 **service contract and may be added to the service contract prior to delivery to the contract**
24 **holder.**

25 **5. Service contracts shall state the total purchase price and the terms under which**
26 **the service contract is sold. The purchase price is not required to be pre-printed on the**
27 **service contract and may be negotiated at the time of sale with the service contract holder.**

28 **6. If prior approval of repair work is required, the service contracts shall state the**
29 **procedure for obtaining prior approval and for making a claim, including a toll-free**
30 **telephone number for claim service and a procedure for obtaining emergency repairs**
31 **performed outside of normal business hours.**

32 **7. Service contracts shall state the existence of any deductible amount.**

33 **8. Service contracts shall specify the merchandise and services to be provided and**
34 **any limitations, exceptions, or exclusions.**

35 **9. Service contracts shall state the conditions upon which the use of non-original**
36 **manufacturers' parts, refurbished merchandise, or substitute service, may be allowed.**
37 **Conditions stated shall comply with applicable state and federal laws.**

38 **10. Service contracts shall state any terms, restrictions, or conditions governing the**
39 **transferability of the service contract.**

40 **11. Service contracts shall state any terms, restrictions, or conditions governing**
41 **termination of the service agreement by the service contract holder and provider.**

42 **12. Service contracts for which the service contract holder pays a separate,**
43 **identified consideration shall require every provider to permit the service contract holder**
44 **to return the contract within at least twenty days of the date of mailing of the service**
45 **contract or within at least ten days if the service contract is delivered at the time of sale or**
46 **within a longer time period permitted under the contract. If no claim has been made under**
47 **the contract, the contract is void and the provider shall refund to the contract holder the**
48 **full purchase price of the contract. A ten percent penalty per month shall be added to a**

49 refund that is not paid within forty-five days of return of the contract to the provider. The
50 applicable free-look time periods on service contracts shall apply only to the original
51 service contract purchaser, and only if no claim has been made prior to its return to the
52 provider.

53 **13. Service contracts shall set forth all of the obligations and duties of the service**
54 **contract holder, such as the duty to protect against any further damage and the**
55 **requirement for certain service and maintenance.**

56 **14. Service contracts shall state clearly whether or not the service contract provides**
57 **for or excludes consequential damages, preexisting conditions, or events covered under the**
58 **original manufacturer's warranty.**

59 **15. Service contracts shall state any limitations on the number or value of repairs,**
60 **replacements, or monetary settlements, as applicable, that will be provided during the term**
61 **of coverage.**

385.304. 1. It is unlawful for any provider to use in its name the words insurance,
2 **casualty, guaranty, surety, mutual, or any other words descriptive of the insurance,**
3 **casualty, guaranty, or surety business, or any name deceptively similar to the name or**
4 **description of any insurance or surety corporation, or other provider.**

5 **2. This section shall not apply to a company that was using any of the prohibited**
6 **language in its name prior to August 28, 2006. However, a company using the prohibited**
7 **language in its name shall disclose in its service contracts a statement in substantially the**
8 **following: "This contract is not an insurance contract."**

9 **3. It is unlawful for a provider or its representative in its service contracts or**
10 **literature to make, permit, or cause to be made any false or misleading statement, or**
11 **deliberately omit any material statement that would be considered misleading if omitted,**
12 **in connection with the sale, offer to sell or advertisement of a product service contract.**

13 **4. It is unlawful for a person, such as a bank, savings and loan association, or**
14 **lending institution, to require the purchase of a service contract as a condition of a loan or**
15 **other financing transaction.**

16 **5. It is unlawful for a person, such as a manufacturer or retailer, to require the**
17 **purchase of a service contract as a condition to the sale of goods or services, unless**
18 **consideration for the service contract is paid directly by such person and a service contract**
19 **is furnished without separate consideration to all similarly situated purchasers of the**
20 **related goods or services.**

385.305. 1. A provider or administrator shall keep accurate accounts, books, and
2 **records concerning transactions regulated under sections 385.300 to 385.312. However,**

3 only one set of such accounts, books, and records is required to be maintained and may be
4 maintained by third parties provided the provisions of this section are met.

5 2. An administrator's or provider's accounts, books, and records shall include:

6 (1) Copies of each type of service contract issued;

7 (2) The name and address of each service contract holder to the extent that the
8 name and address have been furnished by the service contract holder;

9 (3) A list of the provider locations where service contracts are marketed, sold, or
10 offered for sale; and

11 (4) Claims files that shall contain at least the dates, amounts, and description of all
12 receipts, claims, and expenditures related to the service contracts.

13 3. Except as provided in subsection 5 of this section, an administrator or provider
14 shall retain or arrange for the retention of all records pertaining to each service contract
15 holder for at least three years after the specified period of coverage had expired.

16 4. An administrator or provider may keep all records required under sections
17 385.300 to 385.312 on a computer disk or other similar technology. If an administrator or
18 provider maintains records in other than hard copy, records shall be accessible from a
19 computer terminal available to the director and be capable of duplication to legible hard
20 copy.

21 5. An administrator or provider discontinuing business in this state shall maintain
22 or arrange for the maintenance of its records until it furnishes the director satisfactory
23 proof that it has discharged all obligations to contract holders in this state.

24 6. An administrator or provider shall make all accounts, books, and records
25 concerning transactions regulated under sections 385.300 to 385.312 or other pertinent
26 laws available to the director upon request.

385.306. As applicable, an insurer that issued a reimbursement insurance policy
2 shall not terminate or non-renew the policy until a notice of termination has been mailed
3 or delivered to the director. The termination or non-renewal of a reimbursement
4 insurance policy shall not reduce the issuer's responsibility for service contracts issued by
5 providers prior to the date of the termination.

385.307. 1. Providers are considered to be the agent of the insurer which issued the
2 reimbursement insurance policy for purposes of obligating the insurer to contract holders
3 under service contracts associated with the insurer's reimbursement policy, and the
4 payment of premium by the provider is not a condition to the insurer's obligations for
5 otherwise validly issued service contracts.

6 2. Sections 385.300 to 385.312 shall not prevent or limit the right of an insurer
7 which issued a reimbursement insurance policy to seek indemnification or subrogation

8 against a provider if the issuer pays or is obligated to pay the service contract holder sums
9 that the provider was obligated to pay pursuant to the provisions of the product service
10 contract.

385.310. 1. The director may conduct investigations or examinations of providers,
2 administrators, insurers, or other persons to enforce the provisions of sections 385.300 to
3 385.312 and protect service contract holders in this state.

4 2. If the director determines that a person has engaged, is engaging, or is about to
5 engage in a violation of sections 385.300 to 385.312 or a rule adopted or order issued
6 pursuant thereto, or that a person has materially aided, is materially aiding, or is about to
7 materially aid an act, practice, omission, or course of business constituting a violation of
8 sections 385.300 to 385.312 or a rule adopted or order issued pursuant thereto, the director
9 may issue such administrative orders as authorized under section 374.046, RSMo. A
10 violation of this section is a level two violation under section 374.049, RSMo.

11 3. If the director believes that a person has engaged, is engaging, or is about to
12 engage in a violation of sections 385.300 to 385.312 or a rule adopted or order issued
13 pursuant thereto, or that a person has materially aided, is materially aiding, or is about to
14 materially aid an act, practice, omission, or course of business constituting a violation of
15 sections 385.300 to 385.312 or a rule adopted or order issued pursuant thereto, the director
16 may maintain a civil action for relief authorized under section 374.048, RSMo. A violation
17 of this section is a level two violation under section 374.049, RSMo.

18 4. The enforcement authority of the director under this section is cumulative to any
19 other statutory authority of the director.

385.311. The director may promulgate rules to effectuate sections 385.300 to
2 385.312. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,
3 that is created under the authority delegated in this section shall become effective only if
4 it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if
5 applicable, section 536.028, RSMo. Sections 385.300 to 385.312 and chapter 536, RSMo,
6 are nonseverable and if any of the powers vested with the general assembly pursuant to
7 chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule
8 are subsequently held unconstitutional, then the grant of rulemaking authority and any
9 rule proposed or adopted after August 28, 2006, shall be invalid and void.

385.312. 1. Sections 385.300 to 385.312 shall not apply to:

- 2 (1) Warranties;
- 3 (2) Maintenance agreements;

4 **(3) Warranties, service contracts, or maintenance agreements offered by public**
5 **utilities on their transmission devices to the extent they are regulated under the laws of this**
6 **state;**

7 **(4) Service contracts sold or offered for sale to persons other than consumers;**

8 **(5) Service contracts sold or offered to nonresidents of this state regardless of**
9 **whether the entity selling or offering such contracts is located or doing business in this**
10 **state;**

11 **(6) Motor vehicle extended service contracts, as defined in section 385.200; and**

12 **(7) Agreements or warranties which provide for the service, repair, replacement,**
13 **or maintenance of the systems, appliances, and structural components of residential or**
14 **commercial real property.**

15 **2. Manufacturer's service contracts on the manufacturer's products need only**
16 **comply with the provisions of sections 385.301, 385.304, 385.307, and 385.310.**

 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 pursuant thereto. Before any cease and desist
5 order shall be issued, a copy of the proposed order together with an order to show cause why
6 such cease and desist order should not be issued shall be served either personally or by certified
7 mail 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 pursuant thereto, or that**
38 **a 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 pursuant thereto, 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 **pursuant thereto, 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 pursuant thereto, the director**
51 **may maintain a civil action for relief authorized under section 374.048, RSMo. A violation**
52 **of any of these sections is a level two violation under section 374.049, RSMo, except a**
53 **violation of section 380.391 is a level four violation under section 374.049, RSMo.**

381.068. In determining the financial condition of a title insurer doing business pursuant
2 to this chapter, the general investment provisions of sections [376.300 to 376.305] **376.291 to**
3 **376.307**, RSMo, shall apply; except that, an investment in a title plant or plants in an amount
4 equal to the actual cost shall be allowed as an admitted asset for title insurers. The aggregate
5 amount of the investment shall not exceed fifty percent of surplus to policyholders, as shown on
6 the most recent annual statement of the title insurer on file with the director.

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 pursuant thereto, or that a person has materially aided, is materially aiding, or is**
4 **about to materially aid an act, practice, omission, or course of business constituting a**
5 **violation of 384.011 to 384.071 or a rule adopted or order issued pursuant thereto, the**
6 **director may issue such administrative orders as authorized under section 374.046, RSMo.**
7 **A violation of any 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 **pursuant thereto, 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 pursuant thereto, the director**
13 **may maintain a civil action for relief authorized under section 374.048, RSMo. A violation**
14 **of 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.]

 409.950. Notwithstanding any other law to the contrary, securities or other obligations
2 issued by multinational development banks in which the United States is a member nation,
3 including the African Development Bank, shall be treated as eligible for investment by all
4 employee retirement systems and by all fiduciaries created or regulated pursuant to the laws of
5 this state. Nothing in this section or in section [376.303 or] 379.080, RSMo, shall be construed
6 to require such investments.

 [374.261. As used in sections 374.261 to 374.269, the following words
2 mean:

- 3 (1) "Director", the director of the department of insurance;
4 (2) "Examiners", nonsalaried employees of the department of insurance
5 conducting an examination pursuant to section 374.190;
6 (3) "Sick leave", those days of leave taken during the conduct of an
7 examination during which an examiner is prevented from conducting an
8 examination due to illness or injury.]
9

 [374.263. There is hereby created in the state treasury a fund to be known
2 as the "Insurance Examiner's Sick Leave Fund", hereinafter referred to as the
3 "fund". The fund shall be used to pay the daily wages of department of insurance
4 examiners who are temporarily unable to continue an examination of an
5 insurance company or companies pursuant to section 374.190, because of illness
6 or injury suffered or sustained by the examiner during the course of the
7 examination which the examiner is conducting.]
8

 [374.265. 1. There shall be an amount assessed against those domestic
2 insurers which are subject to premium tax and are engaged in the business of
3 insurance within this state, which amount shall be no less than one hundred and
4 fifty nor greater than five hundred dollars.

5 2. The initial assessment shall be made within one month of September
6 28, 1981, in the total amount of thirty-six thousand dollars. Thereafter,
7 assessments shall be made annually, or as needed whenever the balance in the
8 fund becomes less than ten thousand dollars. The amount of such subsequent
9 assessments shall be that amount necessary to return the balance in the fund to
10 thirty-six thousand dollars.]
11

 [374.267. 1. The director of the department of insurance, his agents or
2 appointees shall be empowered to make assessments pursuant to section 374.265,
3 and to administer the fund.

4 2. The director, his agents or appointees shall compensate an examiner
5 out of the fund only after the examiner has satisfied the director, his agents or
6 appointees that:

7 (1) The examiner was employed by the department of insurance to
8 conduct an examination of an insurance company or companies pursuant to
9 section 374.190 at the time of the illness or injury for which daily wages are
10 claimed; and

11 (2) The examiner was prevented from conducting the examination due
12 to illness or injury.

13 3. The amount paid by the director, his agents or appointees to an
14 examiner from the fund shall not exceed the amount of the examiner's daily
15 wages times the number of days during which the examiner was prevented from
16 conducting an examination as result of illness or injury, but in no event shall any
17 examiner be paid for more than one and one-fourth days times the number of
18 months for which he has been employed by the department of insurance as an
19 examiner, nor shall an examiner be paid for or receive credit for sick leave after
20 August 13, 1988, for or on the basis of any month, months or portion thereof
21 before August 13, 1988.]

22

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
4 of section 375.786, the director may cause a complaint to be filed in the circuit
5 court of Cole County, Missouri, to enjoin and restrain such insurance company
6 from continuing such violation or engaging therein or doing any act in
7 furtherance thereof. The court shall have jurisdiction of the proceeding and shall
8 have the power to make and enter an order or judgment awarding such
9 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
375.1018.

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

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

31 4. Nothing contained in sections 375.1000 to 375.1018 shall be construed
32 to prohibit the director and the person from agreeing to a voluntary forfeiture
33 with or without proceedings being instituted.]
34

 [376.320. All bonds or other evidences of debt having a fixed term and
2 rate held by any life insurance company, assessment life association or fraternal
3 beneficiary association authorized to do business in this state may, if amply
4 secured and not in default as to principal and interest, be valued as follows: If
5 purchased at par, at the par value; if purchased above or below par, on the basis
6 of the purchase price adjusted so as to bring the value to par at maturity and so
7 as to yield in the meantime the effective rate of interest at which the purchase was
8 made; provided, that the purchase price shall in no case be taken at a higher
9 figure than the actual market value at the time of purchase; and provided further,
10 that the director of insurance shall have full discretion in determining the method
11 of calculating values according to the foregoing rule.]
12

 [376.672. The director of the department of insurance shall establish by
2 regulation the terms and conditions of policy loan interest rate provisions for all
3 policies issued or delivered by a life insurance company in this state after August
4 13, 1982. Such regulations shall include provisions for an adjustable maximum
5 interest rate based on the monthly average of the Moody's Corporate Bond Yield
6 Average--Monthly Average Corporates, as published by Moody's Investors
7 Service, Inc., the frequency at which the rate is to be determined and appropriate
8 notifications to policyholders. No other provision of law shall apply to policy
9 loan interest rates unless made specifically applicable to such rates. This section
10 shall also apply to loan interest rate provisions for certificates issued or delivered
11 by fraternal benefit societies in this state, and for purposes of this section the
12 word "policy" includes such certificates.]
13

2 [407.1200. As used in sections 407.1200 to 407.1227, the following
3 terms shall mean:

4 (1) "Administrator", the person who is responsible for the administration
5 of the service contracts or the service contracts plan and who is responsible for
6 any filings required by sections 407.1200 to 407.1227;

7 (2) "Consumer", a natural person who buys other than for purposes of
8 resale any motor vehicle that is distributed in commerce and that is normally used
9 for personal, family, or household purposes and not for business or research
10 purposes;

11 (3) "Director", the director of the department of insurance;

12 (4) "Maintenance agreement", a contract of limited duration that provides
13 for scheduled maintenance only;

14 (5) "Manufacturer", a person that:

15 (a) Manufactures or produces the property and sells the property under
16 its own name or label;

17 (b) Is a wholly owned subsidiary of the person who manufactures or
18 produces the property;

19 (c) Is a corporation which owns one hundred percent of the person who
20 manufactures or produces the property;

21 (d) Does not manufacture or produce the property, but the property is
22 sold under its trade name label;

23 (e) Manufactures or produces the property and the property is sold under
24 the trade name or label of another person; or

25 (f) Does not manufacture or produce the property but, pursuant to a
26 written contract, licenses the use of its trade name or label to another person that
27 sells the property under the licensor's trade name or label;

28 (6) "Mechanical breakdown insurance", a policy, contract, or agreement
29 issued by an authorized insurer that provides for the repair, replacement, or
30 maintenance of a motor vehicle or indemnification for repair, replacement, or
31 service, for the operational or structural failure of a motor vehicle due to a defect
32 in materials or workmanship or to normal wear and tear;

33 (7) "Motor vehicle extended service contract" or "service contract", a
34 contract or agreement for a separately stated consideration or for a specific
35 duration to perform the repair, replacement, or maintenance of a motor vehicle
36 or indemnification for repair, replacement, or maintenance, for the operational or
37 structural failure due to a defect in materials, workmanship, or normal wear and
38 tear, with or without additional provision for incidental payment of indemnity
39 under limited circumstances, including, but not limited to, towing, rental, and
40 emergency road service, but does not include mechanical breakdown insurance
41 or maintenance agreements;

42 (8) "Nonoriginal manufacturer's parts", replacement parts not made for
43 or by the original manufacturer of the property, commonly referred to as "after
market parts";

44 (9) "Person", an individual, partnership, corporation, incorporated or
45 unincorporated association, joint stock company, reciprocal, syndicate, or any
46 similar entity or combination of entities acting in concert;

47 (10) "Premium", the consideration paid to an insurer for a reimbursement
48 insurance policy;

49 (11) "Provider", a person who administers, issues, makes, provides, sells,
50 or offers to sell a motor vehicle extended service contract, or who is contractually
51 obligated to provide service under a motor vehicle extended service contract such
52 as sellers, administrators, and other intermediaries;

53 (12) "Provider fee", the consideration paid for a service contract in excess
54 of the premium;

55 (13) "Reimbursement insurance policy", a policy of insurance issued to
56 a provider and pursuant to which the insurer agrees, for the benefit of the service
57 contract holders, to discharge all of the obligations and liabilities of the provider
58 under the terms of the service contracts in the event of nonperformance by the
59 provider. All obligations and liabilities include, but are not limited to, failure of
60 the provider to perform under the service contract and the return of the unearned
61 provider fee in the event of the provider's unwillingness or inability to reimburse
62 the unearned provider fee in the event of termination of a service contract;

63 (14) "Service contract holder" or "contract holder", a person who is the
64 purchaser or holder of a service contract;

65 (15) "Warranty", a warranty made solely by the manufacturer, importer,
66 or seller of property or services without charge, that is not negotiated or separated
67 from the sale of the product and is incidental to the sale of the product, that
68 guarantees indemnity for defective parts, mechanical or electrical breakdown,
69 labor, or other remedial measures, such as repair or replacement of the property
70 or repetition of services.]

71

2 [407.1203. 1. Service contracts shall not be issued, sold, or offered for
3 sale in this state unless the administrator or its designee has:

4 (1) Provided a receipt for the purchase of the service contract to the
5 contract holder at the date of purchase;

6 (2) Provided a copy of the service contract to the service contract holder
7 within a reasonable period of time from the date of purchase; and

8 (3) Complied with the provisions of sections 407.1200 to 407.1227.

9 2. All administrators of service contracts sold in this state shall file a
10 registration with the director on a form, at a fee and at a frequency prescribed by
11 the director.

12 3. In order to assure the faithful performance of a provider's obligations
13 to its contract holders, each provider who is contractually obligated to provide
14 service under a service contract shall:

15 (1) Insure all service contracts under a reimbursement insurance policy
issued by an insurer authorized to transact insurance in this state; or

16 (2) (a) Maintain a funded reserve account for its obligation under its
17 contracts issued and outstanding in this state. The reserves shall not be less than
18 forty percent of gross consideration received, less claims paid, on the sale of the
19 service contract for all in-force contracts. The reserve account shall be subject
20 to examination and review by the director; and

21 (b) Place in trust with the director a financial security deposit, having a
22 value of not less than five percent of the gross consideration received, less claims
23 paid, on the sale of the service contract for all service contracts issued and in
24 force, but not less than twenty-five thousand dollars, consisting of one of the
25 following:

- 26 a. A surety bond issued by an authorized surety;
27 b. Securities of the type eligible for deposit by authorized insurers in this
28 state;
29 c. Cash;
30 d. A letter of credit issued by a qualified financial institution; or
31 e. Another form of security prescribed by regulations issued by the
32 director; or

33 (3) (a) Maintain a net worth of one hundred million dollars; and

34 (b) Upon request, provide the director with a copy of the provider's or,
35 if the provider's financial statements are consolidated with those of its parent
36 company, the provider's parent company's most recent Form 10-K filed with the
37 Securities and Exchange Commission (SEC) within the last calendar year, or if
38 the company does not file with the SEC, a copy of the company's audited
39 financial statements, which shows a net worth of the provider or its parent
40 company of at least one hundred million dollars. If the provider's parent
41 company's Form 10-K or audited financial statements are filed to meet the
42 provider's financial stability requirement, then the parent company shall agree to
43 guarantee the obligations of the obligor relating to service contracts sold by the
44 provider in this state.

45 4. Provider fees collected on service contracts shall not be subject to
46 premium taxes. Premiums for reimbursement insurance policies shall be subject
47 to applicable premium taxes.

48 5. Except for the registration requirement in subsection 2 of this section,
49 persons marketing, selling, or offering to sell service contracts for providers that
50 comply with sections 407.1200 to 407.1227 are exempt from this state's licensing
51 requirements.

52 6. Providers complying with the provisions of sections 407.1200 to
53 407.1227 are not required to comply with other provisions of chapter 374 or 375,
54 or any other provisions governing insurance companies, except as specifically
55 provided.]

56

2 [407.1206. Reimbursement insurance policies insuring service contracts
issued, sold, or offered for sale in this state shall conspicuously state that, upon

3 failure of the provider to perform under the contract, such as failure to return the
4 unearned provider fee, the insurer that issued the policy shall pay on behalf of the
5 provider any sums the provider is legally obligated to pay or shall provide the
6 service which the provider is legally obligated to perform according to the
7 provider's contractual obligations under the service contracts issued or sold by the
8 provider.]
9

2 [407.1209. 1. Service contracts issued, sold, or offered for sale in this
3 state shall be written in clear, understandable language and the entire contract
4 shall be printed or typed in easy to read ten-point type or larger and
5 conspicuously disclose the requirements in this section, as applicable.

6 2. Service contracts insured under a reimbursement insurance policy
7 pursuant to subsection 3 of section 407.1203 shall contain a statement in
8 substantially the following form: "Obligations of the provider under this service
9 contract are guaranteed under a service contract reimbursement insurance policy.
10 If the provider fails to pay or provide service on a claim within sixty days after
11 proof of loss has been filed, the contract holder is entitled to make a claim
12 directly against the insurance company.". A claim against the provider shall also
13 include a claim for return of the unearned provider fee. The service contract shall
14 also conspicuously state the name and address of the insurer.

15 3. Service contracts not insured under a reimbursement insurance policy
16 pursuant to subsection 3 of section 407.1203 shall contain a statement in
17 substantially the following form: "Obligations of the provider under this service
18 contract are backed only by the full faith and credit of the provider (issuer) and
19 are not guaranteed under a service contract reimbursement insurance policy."
20 A claim against the provider shall also include a claim for return of the unearned
21 provider fee. The service contract shall also conspicuously state the name and
22 address of the provider.

23 4. Service contracts shall identify any administrator, the provider
24 obligated to perform the service under the contract, the service contract seller,
25 and the service contract holder to the extent that the name and address of the
26 service contract holder has been furnished by the service contract holder.

27 5. Service contracts shall conspicuously state the total purchase price and
28 the terms under which the service contract is sold. The purchase price is not
29 required to be preprinted on the service contract and may be negotiated at the
30 time of sale with the service contract holder.

31 6. If prior approval of repair work is required, the service contracts shall
32 conspicuously state the procedure for obtaining prior approval and for making a
33 claim, including a toll-free telephone number for claim service and a procedure
34 for obtaining emergency repairs performed outside of normal business hours.

35 7. Service contracts shall conspicuously state the existence of any
deductible amount.

36 8. Service contracts shall specify the merchandise and services to be
37 provided and any limitations, exceptions, and exclusions.

38 9. Service contracts shall state the conditions upon which the use of
39 nonoriginal manufacturer's parts, or substitute service, may be allowed.
40 Conditions stated shall comply with applicable state and federal laws.

41 10. Service contracts shall state any terms, restrictions, or conditions
42 governing the transferability of the service contract.

43 11. Service contracts shall state the terms, restrictions, or conditions
44 governing termination of the service contract by the service contract holder. The
45 provider of the service contract shall mail a written notice to the contract holder
46 within fifteen days of the date of termination.

47 12. Service contracts shall require every provider to permit the service
48 contract holder to return the contract within at least twenty business days of the
49 date of mailing of the service contract or within at least ten days if the service
50 contract is delivered at the time of sale or within a longer time period permitted
51 under the contract. If no claim has been made under the contract, the contract is
52 void and the provider shall refund to the contract holder the full purchase price
53 of the contract. A ten percent penalty per month shall be added to a refund that
54 is not paid within thirty days of return of the contract to the provider. The
55 applicable free-look time periods on service contracts shall only apply to the
56 original service contract purchaser.

57 13. Service contracts shall set forth all of the obligations and duties of the
58 service contract holder, such as the duty to protect against any further damage and
59 the requirement for certain service and maintenance.

60 14. Service contracts shall clearly state whether or not the service
61 contract provides for or excludes consequential damages or preexisting
62 conditions.]

63

2 [407.1212. 1. A provider shall not use in its name the words insurance,
3 casualty, guaranty, surety, mutual, or any other words descriptive of the
4 insurance, casualty, guaranty, or surety business; or a name deceptively similar
5 to the name or description of any insurance or surety corporation, or any other
6 provider. This section shall not apply to a company that was using any of the
7 prohibited language in its name prior to August 28, 2004. However, a company
8 using the prohibited language in its name shall conspicuously disclose in its
9 service contract the following statement: "This agreement is not an insurance
10 contract."

11 2. A provider or its representative shall not in its service contracts or
12 literature make, permit, or cause to be made any false or misleading statement,
13 or deliberately omit any material statement that would be considered misleading
14 if omitted, in connection with the sale, offer to sell or advertisement of a service
contract.

15 3. A person, such as a bank, savings and loan association, lending
16 institution, manufacturer or seller of any product, shall not require the purchase
17 of a service contract as a condition of a loan or a condition for the sale of any
18 property.]
19

 [407.1215. 1. An administrator, provider, or other intermediary shall
2 keep accurate accounts, books, and records concerning transactions regulated by
3 sections 407.1200 to 407.1227.

4 2. An administrator's, provider's, or other intermediary's accounts, books,
5 and records shall include:

6 (1) Copies of each type of service contract issued;

7 (2) The name and address of each service contract holder to the extent
8 that the name and address have been furnished by the service contract holder;

9 (3) A list of the provider locations where service contracts are marketed,
10 sold, or offered for sale; and

11 (4) Claims files which shall contain at least the dates, amounts, and
12 description of all receipts, claims, and expenditures related to the service
13 contracts.

14 3. Except as provided in this section, an administrator shall retain all
15 records pertaining to each service contract holder for at least three years after the
16 specified period of coverage has expired.

17 4. An administrator, provider, or other intermediary may keep all records
18 required pursuant to sections 407.1200 to 407.1227 on a computer disk or other
19 similar technology. If an administrator, provider, or other intermediary maintains
20 records in other than hard copy, records shall be accessible from a computer
21 terminal available to the director and be capable of duplication to legible hard
22 copy.

23 5. An administrator, provider, or other intermediary discontinuing
24 business in this state shall maintain its records until it furnishes the director
25 satisfactory proof that it has discharged all obligations to contract holders in this
26 state.

27 6. An administrator, provider, or other intermediary shall make all
28 accounts, books, and records concerning transactions regulated pursuant to
29 sections 407.1200 to 407.1227 or other pertinent laws available to the director
30 upon request.]
31

 [407.1218. As applicable, an insurer that issued a reimbursement
2 insurance policy shall not terminate the policy until a notice of termination, in a
3 form and time frame prescribed by the director, has been mailed or delivered to
4 the director. The termination of a reimbursement insurance policy shall not
5 reduce the issuer's responsibility for service contracts issued by providers prior
6 to the date of the termination.]
7

2 [407.1221. 1. Providers are considered to be the agent of the insurer that
3 issued the reimbursement insurance policy. In cases where a provider is acting
4 as an administrator and enlists other providers, the provider acting as the
5 administrator shall notify the insurer of the existence and identities of the other
6 providers.

7 2. The provisions of sections 407.1200 to 407.1227 shall not prevent or
8 limit the right of an insurer which issued a reimbursement insurance policy to
9 seek indemnification or subrogation against a provider if the insurer pays or is
10 obligated to pay the service contract holder sums that the provider was obligated
11 to pay pursuant to the provisions of the service contract or under a contractual
12 agreement.]

2 [407.1224. 1. The director may conduct investigations or examinations
3 of providers, administrators, insurers, or other persons to enforce the provisions
4 of sections 407.1200 to 407.1227 and protect service contract holders in this
5 state.

6 2. The director may take action that is necessary or appropriate to enforce
7 the provisions of sections 407.1200 to 407.1227 and the director's regulations and
8 orders, and to protect service contract holders in this state.

9 3. The director may order a service contract provider to cease and desist
10 from committing violations of sections 407.1200 to 407.1227 or the director's
11 regulations or orders, may issue an order prohibiting a service contract provider
12 from selling or offering for sale service contracts, or may issue an order imposing
13 a civil penalty, or any combination of these, if the provider has violated the
14 provisions of sections 407.1200 to 407.1227 or the director's regulations or
15 orders.

16 4. A person aggrieved by an order pursuant to this section may request
17 a hearing before the director. The hearing request shall be filed with the director
18 within twenty days of the date the director's order is effective.

19 5. Pending the hearing and the decision by the director, the director shall
20 suspend the effective date of the order. At the hearing, the burden shall be on the
21 director to show why the order issued pursuant to this section is justified. Such
22 hearing shall be held in accordance with the provisions of chapter 536, RSMo.

23 6. The director may bring an action in the circuit court of Cole County
24 for an injunction or other appropriate relief to enjoin threatened or existing
25 violations of sections 407.1200 to 407.1227 or of the director's orders or
26 regulations. An action filed pursuant to this section may also seek restitution on
27 behalf of persons aggrieved by a violation of sections 407.1200 to 407.1227 or
28 orders or regulations of the director.

29 7. A person in violation of sections 407.1200 to 407.1227 or orders or
30 regulations of the director may be assessed a civil penalty not to exceed one
thousand dollars per violation.

31 8. The authority of the director pursuant to this section is in addition to
32 other authority of the director.]
33

2 [407.1225. The director may promulgate rules to effectuate sections
3 407.1200 to 407.1227. Any rule or portion of a rule, as that term is defined in
4 section 536.010, RSMo, that is created under the authority delegated in this
5 section shall become effective only if it complies with and is subject to all of the
6 provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo.
7 This section and chapter 536, RSMo, are nonseverable and if any of the powers
8 vested with the general assembly pursuant to chapter 536, RSMo, to review, to
9 delay the effective date, or to disapprove and annul a rule are subsequently held
10 unconstitutional, then the grant of rulemaking authority and any rule proposed or
11 adopted after August 28, 2004, shall be invalid and void.]

2 [407.1227. 1. The provisions of sections 407.1200 to 407.1224 shall not
3 apply to:

- 4 (1) Warranties;
- 5 (2) Maintenance agreements;
- 6 (3) Commercial transactions; and
- 7 (4) Service contracts sold or offered for sale to persons other than
8 consumers.

9 2. Manufacturer's contracts on the manufacturer's products need only
10 comply with the provisions of sections 407.1209, 407.1212, and 407.1224.]
11

✓