

FIRST REGULAR SESSION

HOUSE BILL NO. 586

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE YATES.

Read 1st time January 24, 2007 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

1664L.01I

AN ACT

To repeal sections 354.180, 354.210, 354.350, 354.400, 354.435, 354.444, 354.455, 354.460, 354.464, 354.475, 354.485, 354.500, 354.510, 354.530, 354.540, 354.545, 354.550, 354.600, 354.722, 374.210, 374.215, 374.280, 374.285, 374.512, 374.710, 374.715, 374.755, 374.760, 374.787, 374.789, 375.012, 375.020, 375.152, 375.236, 375.306, 375.310, 375.445, 375.720, 375.777, 375.780, 375.786, 375.881, 375.922, 375.940, 375.942, 375.946, 375.994, 375.1010, 375.1014, 375.1016, 375.1135, 375.1156, 375.1160, 375.1204, 375.1306, 375.1309, 376.309, 376.889, 376.1094, 379.361, 379.510, 379.790, 380.391, 380.571, 384.054, and 384.071, RSMo, and to enact in lieu thereof ninety-one new sections relating to various enforcement and regulatory powers of the department of insurance, financial institutions and professional registration, with penalty provisions.

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

Section A. Sections 354.180, 354.210, 354.350, 354.400, 354.435, 354.444, 354.455,
2 354.460, 354.464, 354.475, 354.485, 354.500, 354.510, 354.530, 354.540, 354.545, 354.550,
3 354.600, 354.722, 374.210, 374.215, 374.280, 374.285, 374.512, 374.710, 374.715, 374.755,
4 374.760, 374.787, 374.789, 375.012, 375.020, 375.152, 375.236, 375.306, 375.310, 375.445,
5 375.720, 375.777, 375.780, 375.786, 375.881, 375.922, 375.940, 375.942, 375.946, 375.994,
6 375.1010, 375.1014, 375.1016, 375.1135, 375.1156, 375.1160, 375.1204, 375.1306, 375.1309,
7 376.309, 376.889, 376.1094, 379.361, 379.510, 379.790, 380.391, 380.571, 384.054, and
8 384.071, RSMo, are repealed and ninety-one new sections enacted in lieu thereof, to be known

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.

9 as sections 354.180, 354.210, 354.350, 354.400, 354.435, 354.444, 354.455, 354.460, 354.464,
10 354.475, 354.485, 354.500, 354.510, 354.530, 354.540, 354.545, 354.550, 354.600, 354.722,
11 374.051, 374.055, 374.185, 374.210, 374.215, 374.280, 374.285, 374.512, 374.707, 374.710,
12 374.715, 374.755, 374.760, 374.761, 374.773, 374.780, 374.787, 374.789, 375.012, 375.020,
13 375.143, 375.145, 375.152, 375.236, 375.306, 375.310, 375.445, 375.720, 375.777, 375.780,
14 375.786, 375.881, 375.922, 375.940, 375.942, 375.946, 375.994, 375.1010, 375.1014, 375.1016,
15 375.1135, 375.1156, 375.1160, 375.1161, 375.1204, 375.1306, 375.1309, 376.309, 376.889,
16 376.1094, 376.1500, 376.1502, 376.1504, 376.1506, 376.1508, 376.1510, 376.1512, 376.1514,
17 376.1516, 376.1518, 376.1520, 376.1522, 376.1524, 376.1526, 376.1528, 379.361, 379.510,
18 379.790, 380.391, 380.571, 384.054, and 384.071, to read as follows:

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 in, or has taken a substantial step toward engaging in an**

63 act, practice or course of business constituting a violation of sections 354.010 to 354.380 or
64 a rule adopted or order issued pursuant thereto, or a person has materially aided or is
65 materially aiding an act, practice, omission, or course of business constituting a violation
66 of sections 354.010 to 354.380 or a rule adopted or order issued pursuant thereto, the
67 director may issue such administrative orders as authorized under section 374.046, RSMo.
68 A violation of these sections is a level two violation under section 374.049, RSMo, except
69 for any violation of sections 354.320 and 354.350, which is a level three violation.

70 2. If the director believes that a person has engaged, is engaging in, or has taken
71 a substantial step toward engaging in an act, practice or course of business constituting a
72 violation of sections 354.010 to 354.380 or a rule adopted or order issued pursuant thereto,
73 or that a person has materially aided or is materially aiding an act, practice, omission, or
74 course of business constituting a violation of sections 354.010 to 354.380 or a rule adopted
75 or order issued pursuant thereto, the director may maintain a civil action for relief
76 authorized under section 374.048, RSMo. A violation of these sections is a level two
77 violation under section 374.049, RSMo, except for any violation of sections 354.320 and
78 354.350, 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 or 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 in, or has taken a substantial step toward engaging in an act, practice**
22 **or course of business constituting a violation of this section or a rule adopted or order**
23 **issued pursuant thereto or that a person has materially aided or is materially aiding an act,**
24 **practice, omission, or course of business constituting a violation of this section or a rule**
25 **adopted or order issued pursuant thereto, the director may issue such administrative**
26 **orders as authorized under section 374.046, RSMo. A violation of this section is a level**
27 **three violation under section 374.049, RSMo.** The director [of insurance] may also suspend
28 or revoke the license **or certificate of authority** of a corporation subject to the provisions of
29 sections 354.010 to 354.380 or enrollment representative for any such willful violation.

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

354.400. As used in sections 354.400 to [354.535] **354.636**, the following terms shall
2 mean:

- 3 (1) "Basic health care services", health care services which an enrolled population might
4 reasonably require in order to be maintained in good health, including, as a minimum, emergency
5 care, inpatient hospital and physician care, and outpatient medical services;
- 6 (2) "Community-based health maintenance organization", a health maintenance
7 organization which:
- 8 (a) Is wholly owned and operated by hospitals, hospital systems, physicians, or other
9 health care providers or a combination thereof who provide health care treatment services in the
10 service area described in the application for a certificate of authority from the [department of
11 insurance] **director**;
- 12 (b) Is operated to provide a means for such health care providers to market their services
13 directly to consumers in the service area of the health maintenance organization;
- 14 (c) Is governed by a board of directors that exercises fiduciary responsibility over the
15 operations of the health maintenance organization and of which a majority of the directors
16 consist of equal numbers of the following:
- 17 a. Physicians licensed pursuant to chapter 334, RSMo;
- 18 b. Purchasers of health care services who live in the health maintenance organization's
19 service area;
- 20 c. Enrollees of the health maintenance organization elected by the enrollees of such
21 organization; and
- 22 d. Hospital executives, if a hospital is involved in the corporate ownership of the health
23 maintenance organization;
- 24 (d) Provides for utilization review, as defined in section 374.500, RSMo, under the
25 auspices of a physician medical director who practices medicine in the service area of the health
26 maintenance organization, using review standards developed in consultation with physicians who
27 treat the health maintenance organization's enrollees;
- 28 (e) Is actively involved in attempting to improve performance on indicators of health
29 status in the community or communities in which the health maintenance organization is
30 operating, including the health status of those not enrolled in the health maintenance
31 organization;
- 32 (f) Is accountable to the public for the cost, quality and access of health care treatment
33 services and for the effect such services have on the health of the community or communities in
34 which the health maintenance organization is operating on a whole;
- 35 (g) Establishes an advisory group or groups comprised of enrollees and representatives
36 of community interests in the service area to make recommendations to the health maintenance
37 organization regarding the policies and procedures of the health maintenance organization;
- 38 (h) Enrolls fewer than fifty thousand covered lives;

39 (3) "Covered benefit" or "benefit", a health care service to which an enrollee is entitled
40 under the terms of a health benefit plan;

41 (4) "Director", the director of the department of insurance, **financial institutions and**
42 **professional registration**;

43 (5) "Emergency medical condition", the sudden and, at the time, unexpected onset of a
44 health condition that manifests itself by symptoms of sufficient severity that would lead a
45 prudent lay person, possessing an average knowledge of health and medicine, to believe that
46 immediate medical care is required, which may include, but shall not be limited to:

47 (a) Placing the person's health in significant jeopardy;

48 (b) Serious impairment to a bodily function;

49 (c) Serious dysfunction of any bodily organ or part;

50 (d) Inadequately controlled pain; or

51 (e) With respect to a pregnant woman who is having contractions:

52 a. That there is inadequate time to effect a safe transfer to another hospital before
53 delivery; or

54 b. That transfer to another hospital may pose a threat to the health or safety of the woman
55 or unborn child;

56 (6) "Emergency services", health care items and services furnished or required to screen
57 and stabilize an emergency medical condition, which may include, but shall not be limited to,
58 health care services that are provided in a licensed hospital's emergency facility by an appropriate
59 provider;

60 (7) "Enrollee", a policyholder, subscriber, covered person or other individual
61 participating in a health benefit plan;

62 (8) "Evidence of coverage", any certificate, agreement, or contract issued to an enrollee
63 setting out the coverage to which the enrollee is entitled;

64 (9) "Health care services", any services included in the furnishing to any individual of
65 medical or dental care or hospitalization, or incident to the furnishing of such care or
66 hospitalization, as well as the furnishing to any person of any and all other services for the
67 purpose of preventing, alleviating, curing, or healing human illness, injury, or physical disability;

68 (10) "Health maintenance organization", any person which undertakes to provide or
69 arrange for basic and supplemental health care services to enrollees on a prepaid basis, or which
70 meets the requirements of section 1301 of the United States Public Health Service Act;

71 (11) "Health maintenance organization plan", any arrangement whereby any person
72 undertakes to provide, arrange for, pay for, or reimburse any part of the cost of any health care
73 services and at least part of such arrangement consists of providing and assuring the availability
74 of basic health care services to enrollees, as distinguished from mere indemnification against the

75 cost of such services, on a prepaid basis through insurance or otherwise, and as distinguished
76 from the mere provision of service benefits under health service corporation programs;

77 (12) "Individual practice association", a partnership, corporation, association, or other
78 legal entity which delivers or arranges for the delivery of health care services and which has
79 entered into a services arrangement with persons who are licensed to practice medicine,
80 osteopathy, dentistry, chiropractic, pharmacy, podiatry, optometry, or any other health profession
81 and a majority of whom are licensed to practice medicine or osteopathy. Such an arrangement
82 shall provide:

83 (a) That such persons shall provide their professional services in accordance with a
84 compensation arrangement established by the entity; and

85 (b) To the extent feasible for the sharing by such persons of medical and other records,
86 equipment, and professional, technical, and administrative staff;

87 (13) "Medical group/staff model", a partnership, association, or other group:

88 (a) Which is composed of health professionals licensed to practice medicine or
89 osteopathy and of such other licensed health professionals (including dentists, chiropractors,
90 pharmacists, optometrists, and podiatrists) as are necessary for the provisions of health services
91 for which the group is responsible;

92 (b) A majority of the members of which are licensed to practice medicine or osteopathy;
93 and

94 (c) The members of which (i) as their principal professional activity over fifty percent
95 individually and as a group responsibility engaged in the coordinated practice of their profession
96 for a health maintenance organization; (ii) pool their income from practice as members of the
97 group and distribute it among themselves according to a prearranged salary or drawing account
98 or other plan, or are salaried employees of the health maintenance organization; (iii) share
99 medical and other records and substantial portions of major equipment and of professional,
100 technical, and administrative staff; (iv) establish an arrangement whereby an enrollee's
101 enrollment status is not known to the member of the group who provides health services to the
102 enrollee;

103 (14) "Person", any partnership, association, or corporation;

104 (15) "Provider", any physician, hospital, or other person which is licensed or otherwise
105 authorized in this state to furnish health care services;

106 (16) "Uncovered expenditures", the costs of health care services that are covered by a
107 health maintenance organization, but that are not guaranteed, insured, or assumed by a person
108 or organization other than the health maintenance organization, or those costs which a provider
109 has not agreed to forgive enrollees if the provider is not paid by the health maintenance
110 organization.

354.435. 1. Every health maintenance organization shall annually, on or before March first, file a report, verified by at least two principal officers, with the director, covering its preceding calendar year.

2. Such report shall be on forms prescribed by the director and shall include:

(1) A financial statement of the organization, including its balance sheet for the preceding calendar year;

(2) Any material changes in the information submitted pursuant to subsection 3 of section 354.405;

(3) The number of persons enrolled during the year, the number of enrollees, as of the end of the year, and the number of enrollments terminated during the year;

(4) A statement setting forth the amount of uncovered and covered expenses that are payable and are more than ninety days past due for the period of August first through December thirty-first of the preceding year;

(5) Such other information relating to the performance of the organization as is necessary to enable the director to carry out his duties under sections 354.400 to [354.550] **354.636**.

354.444. 1. [Notwithstanding any other provisions of chapter 354,] **If the director [may, after a hearing, order a forfeiture to the state of Missouri a sum not to exceed one hundred dollars for each violation by any person knowingly violating any provision] determines that a person has engaged, is engaged in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of sections 354.400 to 354.636 [for which no specific punishment is provided, or order a specific punishment in accordance with such sections. Such forfeiture may be recovered by a civil action brought by and in the name of the department of insurance. The civil action may be brought in the county which has venue for an action against the person or corporation] , or a rule adopted or order issued pursuant thereto or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of sections 354.400 to 354.636 or a rule adopted or order issued pursuant thereto, the director may issue such administrative orders as authorized under section 374.046, RSMo. A violation of any of these sections is a level one violation under section 374.049, RSMo.**

2. [Nothing contained in this section shall be construed to prohibit the director and the corporation or its enrollment representative from agreeing to a voluntary forfeiture of the sum mentioned herein without civil proceedings being instituted. Any payment under this section shall be paid into the school fund as provided by article IX, section 7 of the Missouri Constitution for fines and penalties] **If the director believes that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of sections 354.400 to 354.636, or a rule adopted or**

22 **order issued pursuant thereto or that a person has materially aided or is materially aiding**
23 **an act, practice, omission, or course of business constituting a violation of sections 354.400**
24 **to 354.636 or a rule adopted or order issued pursuant thereto, the director may maintain**
25 **a civil action for relief authorized under section 374.048, RSMo. A violation of any of these**
26 **sections is a level one violation under section 374.049, RSMo.**

354.455. Unless otherwise provided in sections 354.400 to [354.550] **354.636**, each
2 health maintenance organization shall deposit with the director, or with any organization or
3 trustee acceptable to him through which a custodial or controlled account is utilized, cash,
4 securities, or any combination of these or other measures acceptable to him, in the amount set
5 forth in section 354.410.

354.460. No health maintenance organization, or representative thereof, may cause or
2 knowingly permit the use of advertising which is untrue or misleading, solicitation which is
3 untrue or misleading, or any form of evidence of coverage which is deceptive. For purposes of
4 sections 354.400 to [354.550] **354.636**:

5 (1) A statement or item of information shall be deemed to be untrue if it does not
6 conform to fact in any respect which is or may be significant to an enrollee of, or person
7 considering enrollment with, a health maintenance organization;

8 (2) A statement or item of information shall be deemed to be misleading, whether or not
9 it may be literally untrue, if, in the total context in which such statement is made or such item
10 of information is communicated, such statement or item of information may be reasonably
11 understood by a reasonable person, not possessing special knowledge regarding health care
12 coverage, as indicating any benefit or advantage or the absence of any exclusion, limitation, or
13 disadvantage of possible significance to an enrollee of, or person considering enrollment in, a
14 health maintenance organization plan, if such benefit, advantage, or absence of limitation,
15 exclusion, or disadvantage does not, in fact, exist;

16 (3) An evidence of coverage shall be deemed to be deceptive if the evidence of coverage,
17 taken as a whole, is misleading.

354.464. No health maintenance organization, unless licensed as an insurer, may use in
2 its name, contracts, or literature any of the words "insurance", "casualty", "surety", "mutual", or
3 any other words descriptive of the insurance, casualty, or surety business or deceptively similar
4 to the name or description of any insurance or surety corporation doing business in this state
5 when such words are deceptive or misleading. No person, if not in possession of a valid
6 certificate of authority issued pursuant to sections 354.400 to [354.550] **354.636**, may use the
7 phrase "health maintenance organization" or "HMO" in the course of its operation.

354.475. 1. An insurance company licensed in this state, or a health services corporation
2 authorized to do business in this state, may directly or through a subsidiary or affiliate, organize

3 and operate a health maintenance organization under the provisions of sections 354.400 to
4 [354.550] **354.636** so long as they comply with the provisions of section 354.410 as applicable
5 thereto. Notwithstanding any other law to the contrary, any two or more such insurance
6 companies, health services corporations, or subsidiaries or affiliates thereof, may jointly organize
7 and operate a health maintenance organization.

8 2. Notwithstanding any other provision of law pertaining to insurance and health services
9 corporations to the contrary, an insurer or a health services corporation may contract with a
10 health maintenance organization to provide insurance or similar protection against the cost of
11 care provided through health maintenance organizations and to provide coverage in the event of
12 the failure of the health maintenance organization to meet its obligations. The enrollees of a
13 health maintenance organization shall be deemed to constitute a permissible group under such
14 laws. Among other things, under such contracts, the insurer or health services corporation may
15 make benefit payments to health maintenance organizations for health care services rendered by
16 providers.

354.485. The director may promulgate such reasonable rules and regulations in
2 accordance with chapter 536, RSMo, as are necessary or proper to carry out the provisions of
3 sections 354.400 to [354.550] **354.636**.

354.500. 1. If the director shall for any reason have cause to believe that any violation
2 of sections 354.400 to [354.550] **354.636** has occurred or is about to occur, the director may give
3 notice to the health maintenance organization and to the representatives, or other persons who
4 appear to be involved in such suspected violation, to arrange a conference with the alleged
5 violators, or potential violators, or their authorized representatives, for the purpose of attempting
6 to ascertain the facts relating to such suspected or potential violation, and, in the event it appears
7 that any violation has occurred or is about to occur, to arrive at an adequate and effective means
8 of correcting or preventing such violation. Proceedings under this subsection shall not be
9 governed by any formal procedural requirements, and may be conducted in such manner as the
10 director may deem appropriate under the circumstances.

11 2. The director may issue an order directing a health maintenance organization, or a
12 representative of a health maintenance organization, to cease and desist from engaging in any act
13 or practice in violation of the provisions of sections 354.400 to [354.550] **354.636**. Within
14 twenty days after service of the order to cease and desist, the respondent may request a hearing
15 on the question of whether acts or practices in violation of sections 354.400 to [354.550] **354.636**
16 have occurred. Such hearing shall be conducted, and judicial review shall be available, as
17 provided in chapter 536, RSMo.

18 3. In the case of noncompliance with a cease and desist order issued pursuant to
19 subsection 2 of this section, the director may institute a proceeding to obtain injunctive or other
20 appropriate relief, in the circuit court.

 354.510. **Unless otherwise provided**, all applications, filings, and reports required under
2 sections 354.400 to [354.550] **354.636** shall be treated as public documents.

 354.530. If any section, term, or provision of sections 354.400 to [354.550] **354.636** shall
2 be adjudged invalid for any reason, such judgment shall not affect, impair, or invalidate any other
3 section, term, or provision of sections 354.400 to [354.550] **354.636**, but the remaining sections,
4 terms, and provisions shall be and remain in full force and effect.

 354.540. A health maintenance organization approved and regulated under the laws of
2 another bordering state may be admitted to do business in this state by satisfying the director that
3 it is fully and legally organized under the laws of its state, and that it complies with all
4 requirements for health maintenance organizations organized within Missouri. The director may
5 waive or modify the provisions of sections 354.400 to [354.550] **354.636** if he determines that
6 the same are not appropriate or necessary to a particular health maintenance organization of
7 another state.

 354.545. The provisions of sections 354.400 to [354.550] **354.636** shall not apply to any
2 labor organization's health plan providing services established and maintained solely for its
3 members and their dependents, and facilities of not-for-profit corporations in existence on
4 October 1, 1980, subject either to the provisions and regulations of section 302 of the
5 Labor-Management Relations Act, 29 U.S.C. 186 or the Labor-Management Reporting and
6 Disclosure Act, 29 U.S.C. 401-538.

 354.550. The provisions of sections 354.400 to [354.550] **354.636** shall not apply to
2 community health corporations as defined by Public Law 94-63 so long as such corporations
3 limit their activities to those described in Public Law 94-63.

 354.600. For purposes of sections 354.600 to 354.636 the following terms shall mean:

- 2 (1) ["Covered benefit" or "benefit", a health care service to which an enrollee is entitled
3 under the terms of a health benefit plan;
- 4 (2) "Director", the director of the department of insurance;
- 5 (3) "Emergency medical condition", the sudden and, at the time, unexpected onset of a
6 health condition that manifests itself by symptoms of sufficient severity that would lead a
7 prudent lay person, possessing an average knowledge of medicine and health, to believe that
8 immediate medical care is required, which may include, but shall not be limited to:
 - 9 (a) Placing the person's health in significant jeopardy;
 - 10 (b) Serious impairment to a bodily function;
 - 11 (c) Serious dysfunction of any bodily organ or part;

- 12 (d) Inadequately controlled pain; or
- 13 (e) With respect to a pregnant woman who is having contractions:
- 14 a. That there is inadequate time to effect a safe transfer to another hospital before
- 15 delivery; or
- 16 b. That transfer to another hospital may pose a threat to the health or safety of the woman
- 17 or unborn child;
- 18 (4) "Emergency service", a health care item or service furnished or required to screen and
- 19 stabilize an emergency medical condition, which may include, but shall not be limited to, health
- 20 care services that are provided in a licensed hospital's emergency facility by an appropriate
- 21 provider;
- 22 (5) "Enrollee", a policyholder, subscriber, covered person or other individual
- 23 participating in a health benefit plan;
- 24 (6) "Facility", an institution providing health care services or a health care setting,
- 25 including but not limited to, hospitals and other licensed inpatient centers, ambulatory surgical
- 26 or treatment centers, skilled nursing facilities, residential treatment centers, diagnostic, laboratory
- 27 and imaging centers, and rehabilitation and other therapeutic health settings;
- 28 [(7)] (2) "Health benefit plan", a policy, contract, certificate or agreement entered into,
- 29 offered or issued by a health carrier to provide, deliver, arrange for, pay for or reimburse any of
- 30 the costs of health care services;
- 31 [(8)] (3) "Health care professional", a physician or other health care practitioner licensed,
- 32 accredited or certified by the state of Missouri to perform specified health services;
- 33 [(9)] (4) "Health care provider" or "provider", a health care professional or a facility;
- 34 [(10)] "Health care service", a service for the diagnosis, prevention, treatment, cure or
- 35 relief of a health condition, illness, injury or disease;
- 36 [(11)] (5) "Health carrier", a health maintenance organization established pursuant to
- 37 sections 354.400 to 354.636;
- 38 [(12)] (6) "Health indemnity plan", a health benefit plan that is not a managed care plan;
- 39 [(13)] (7) "Intermediary", a person authorized to negotiate and execute provider contracts
- 40 with health carriers on behalf of health care providers or on behalf of a network;
- 41 [(14)] (8) "Managed care plan", a health benefit plan that either requires an enrollee to
- 42 use, or creates incentives, including financial incentives, for an enrollee to use health care
- 43 providers managed, owned, under contract with or employed by the health carrier;
- 44 [(15)] (9) "Network", the group of participating providers providing services to a
- 45 managed care plan;
- 46 [(16)] (10) "Participating provider", a provider who, under a contract with the health
- 47 carrier or with its contractor or subcontractor, has agreed to provide health care services to

48 enrollees with an expectation of receiving payment, other than coinsurance, co-payments or
49 deductibles, directly or indirectly from the health carrier;

50 [(17) "Person", an individual, a corporation, a partnership, an association, a joint venture,
51 a joint stock company, a trust, an unincorporated organization, any similar entity or any
52 combination of the foregoing; and

53 (18)] (11) "Primary care professional" or "primary care provider", a participating health
54 care professional designated by the health carrier to supervise, coordinate or provide initial care
55 or continuing care to an enrollee, and who may be required by the health carrier to initiate a
56 referral for specialty care and maintain supervision of health care services rendered to the
57 enrollee.

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, deceptive
14 or unfair manner;

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

17 [(6)] (5) 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 in, or has taken**
28 **a substantial step toward engaging in an act, practice or course of business constituting a**
29 **violation of sections 354.700 to 354.723 or a rule adopted or order issued pursuant thereto**
30 **or that a person has materially aided or is materially aiding an act, practice, omission, or**
31 **course of business constituting a violation of sections 354.700 to 354.723 or a rule adopted**
32 **or order issued pursuant thereto, the director may issue such administrative orders as**
33 **authorized under section 374.046, RSMo. A violation of this section is a level two violation**
34 **under section 374.049, RSMo. The director may also suspend or revoke the certificate of**
35 **authority of a corporation for 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.

374.051. 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, RSMo, may file a petition with
3 the administrative hearing commission alleging that the director has refused the license.
4 The administrative hearing commission shall conduct hearings and make findings of fact
5 and conclusions of law in determining whether the applicant may be disqualified by
6 statute. Notwithstanding section 621.120, RSMo, the director shall retain discretion in
7 refusing a license or renewal and such discretion shall not transfer to the administrative
8 hearing commission.

9 **2.** If a proceeding is instituted to revoke or suspend a license of any person under
10 sections 374.755, 374.787, and 375.141, RSMo, 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, RSMo, and chapters 375 to 385, RSMo, or a rule adopted by the director, or
4 by any refusal or failure of the director to make an order pursuant to any of said
5 provisions, shall be entitled to a hearing before the director in accordance with the
6 provisions of chapter 536, RSMo. A final order issued by the director is subject to judicial
7 review in accordance with the provisions of chapter 536, RSMo. However, any findings
8 of fact or conclusions of law in any order regarding the actual costs of the investigation or
9 proceedings under section 374.046, or the classification of any violation under section
10 374.049, shall be subject 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.

374.185. 1. The director may cooperate, coordinate, and consult with other
2 members of the National Association of Insurance Commissioners, the commissioner of
3 securities, state securities regulators, the division of finance, the division of credit unions,
4 the attorney general, federal banking and securities regulators, the National Association
5 of Securities Dealers (NASD), the United States Department of Justice, the Commodity
6 Futures Trading Commission, and the Federal Trade Commission to effectuate greater
7 uniformity in insurance and financial services regulation among state and federal
8 governments, and self-regulatory organizations. The director may share records with any
9 aforesaid entity, except that any record that is confidential, privileged, or otherwise
10 protected from disclosure by law shall not be disclosed unless such entity agrees in writing
11 prior to receiving such record to provide it the same protection. No waiver of any
12 applicable privilege or claim of confidentiality regarding any record shall occur as the
13 result of any disclosure.

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

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

20 (2) Maximizing uniformity in regulatory standards; and

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

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

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

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

30 **(3) Developing and maintaining uniform forms;**

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

33 **(5) Holding joint administrative hearings;**

34 **(6) Instituting and prosecuting joint civil or administrative enforcement**
35 **proceedings;**

36 **(7) Sharing and exchanging personnel;**

37 **(8) Coordinating licensing under section 375.014, RSMo;**

38 **(9) Formulating rules, statements of policy, guidelines, forms, no action**
39 **determinations, and bulletins; and**

40 **(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 this chapter, chapter 354,**
4 **RSMo, and chapters 375 to 385, RSMo, 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 upon oath or affirmation**
14 **or in any record that is submitted to the director or used in any proceeding under this**
15 **chapter, chapter 354, RSMo, and chapters 375 to 385, RSMo; 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 [insurance] department, or used in the course of any examination, inquiry, or
19 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] **under this chapter, chapter 354,
23 RSMo, and chapters 375 to 385, RSMo.**

24 **2. If a person does not appear or refuses to testify, file a statement, produce**
25 **records, or otherwise does not obey a subpoena as required by the director, the director**
26 **may apply to the circuit court of any county of the state or any city not within a county, or**
27 **a court of another state to enforce compliance. The court may:**

28 (1) **Hold the person in contempt;**

29 (2) **Order the person to appear before the director;**

30 (3) **Order the person to testify about the matter under investigation or in question;**

31 (4) **Order the production of records;**

32 (5) **Grant injunctive relief;**

33 (6) **Impose a civil penalty of up to fifty thousand dollars for each violation; and**

34 (7) **Grant any other necessary or appropriate relief.**

35 **The director may also suspend, revoke or refuse any license or certificate of authority**
36 **issued by the director to any person who does not appear or refuses to testify, file a**
37 **statement, produce records, or does not obey a subpoena.**

38 **3. This section does not preclude a person from applying to the circuit court of any**
39 **county of the state or any city not within a county for relief from a request to appear,**
40 **testify, file a statement, produce records, or obey a subpoena.**

41 **4. A person is not excused from attending, testifying, filing a statement, producing**
42 **a record or other evidence, or obeying a subpoena of the director under an action or**
43 **proceeding instituted by the director on the grounds that the required testimony,**
44 **statement, record, or other evidence, directly or indirectly, may tend to incriminate the**
45 **individual or subject the individual to a criminal fine, penalty, or forfeiture. If the person**
46 **refuses to testify, file a statement, or produce a record or other evidence on the basis of the**
47 **individual's privilege against self-incrimination, the director may apply to the circuit court**
48 **of any county of the state or any city not within a county to compel the testimony, the filing**
49 **of the statement, the production of the record, or the giving of other evidence. The**
50 **testimony, record, or other evidence compelled under such an order may not be used as**

51 evidence against the person in a criminal case, except in a prosecution for perjury or
52 contempt or otherwise failing to comply with the order.

53 **5. If the director determines that a person has engaged, is engaging in, or has taken**
54 **a substantial step toward engaging in an act, practice or course of business constituting a**
55 **violation of this section, or a rule adopted or order issued pursuant thereto, or that a**
56 **person has materially aided or is materially aiding an act, practice, omission, or course of**
57 **business constituting a violation of this section or a rule adopted or order issued pursuant**
58 **thereto, the director may issue such administrative orders as authorized under section**
59 **374.046. A violation of subsection 1 of this section is a level four violation under section**
60 **374.049. The director may also suspend or revoke the license or certificate of authority of**
61 **such person for any willful violation.**

62 **6. If the director believes that a person has engaged, is engaging in, or has taken**
63 **a substantial step toward engaging in an act, practice or course of business constituting a**
64 **violation of this section or a rule adopted or order issued pursuant thereto, or that a person**
65 **has materially aided or is materially aiding an act, practice, omission, or course of business**
66 **constituting a violation of this section or a rule adopted or order issued pursuant thereto,**
67 **the director may maintain a civil action for relief authorized under section 374.048. A**
68 **violation of subsection 1 of this section is a level four violation under section 374.049.**

69 **7. Any person who knowingly engages in any act, practice, omission, or course of**
70 **business in violation of subsection 1 of this section is guilty of a class D felony. If the**
71 **offender holds a license or certificate of authority under the insurance laws of this state,**
72 **the court imposing sentence shall order the department to revoke such license or certificate**
73 **of authority.**

74 **8. The director may refer such evidence as is available concerning violations of this**
75 **section to the proper prosecuting attorney, who with or without a criminal reference, or**
76 **the attorney general under section 27.030, RSMo, may institute the appropriate criminal**
77 **proceedings.**

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

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

8 2. Any insurance company doing business in this state which knowingly or intentionally
9 files or which has filed on its behalf any materially false report or statement forfeits not more
10 than one thousand dollars.

11 3. Any forfeiture required or permitted by this section shall be considered a civil penalty
12 which the director of the department of insurance may order pursuant to the provisions of
13 sections 374.040 and 374.280] **of receiving notification. After the expiration of such fifteen**
14 **days, each day in which the company or entity fails to file such report or statement is a**
15 **separate violation of this section.**

16 **2. If the director determines that a person has engaged, is engaging in, or has taken**
17 **a substantial step toward engaging in an act, practice or course of business constituting a**
18 **violation of this section or a rule adopted or order issued pursuant thereto, or that a person**
19 **has materially aided or is materially aiding an act, practice, omission, or course of business**
20 **constituting a violation of this section or a rule adopted or order issued pursuant thereto,**
21 **the director may issue such administrative orders as authorized under section 374.046. A**
22 **violation of this section is a level two violation under section 374.049. The director may**
23 **also suspend or revoke the certificate of authority of such person for any willful violation.**

24 **3. If the director believes that a person has engaged, is engaging in, or has taken**
25 **a substantial step toward engaging in an act, practice or course of business constituting a**
26 **violation of this section or a rule adopted or order issued pursuant thereto, or that a person**
27 **has materially aided or is materially aiding an act, practice, omission, or course of business**
28 **constituting a violation of this section or a rule adopted or order issued pursuant thereto,**
29 **the director may maintain a civil action for relief authorized under section 374.048. A**
30 **violation of this section is a level two violation under section 374.049.**

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

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

 374.285. Except as provided in section 375.141, RSMo, all records of disciplinary
2 actions against an insurance [agent, broker, agency or] producer which resulted in a [voluntary]
3 forfeiture **or other monetary relief** of two hundred dollars or less **and places no other legal**
4 **duty upon the producer** shall be expunged after a period of five years from the date of the
5 execution of the [voluntary forfeiture] **order or settlement agreement** by the director [of the
6 department of insurance].

 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 in, or has taken a substantial step toward engaging in an act,**
10 **practice or course of business constituting a violation of sections 374.500 to 374.515 or a**
11 **rule adopted or order issued pursuant thereto, or that a person has materially aided or is**
12 **materially aiding an act, practice, omission, or course of business constituting a violation**
13 **of sections 374.500 to 374.515 or a rule adopted or order issued pursuant thereto, the**
14 **director may issue such administrative orders as authorized under section 374.046. A**
15 **violation of any of these sections is a level two violation under section 374.049. The director**
16 **may also suspend or revoke the license or certificate of authority of such person for any**
17 **willful violation.**

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

23 (1) Payment of a monetary penalty of not more than ten thousand dollars for a violation
24 which occurred if the utilization review agent consciously disregarded sections 374.500 to
25 374.515 or which occurred with such frequency as to indicate a general business practice; or

26 (2) Suspension or revocation of the authority to do business in this state as a utilization
27 review agent if the utilization review agent knew that it was in violation of sections 374.500 to
28 374.515] **If the director believes that a person has engaged, is engaging in, or has taken a**
29 **substantial step toward engaging in an act, practice or course of business constituting a**
30 **violation of sections 374.500 to 374.515 or a rule adopted or order issued pursuant thereto,**
31 **or that a person has materially aided or is materially aiding an act, practice, omission, or**
32 **course of business constituting a violation of sections 374.500 to 374.515 or a rule adopted**
33 **or order issued pursuant thereto, the director may maintain a civil action for relief**
34 **authorized under section 374.048. A violation of any of these sections is a level two**
35 **violation under section 374.049.**

374.707. Upon notice of a forfeiture from the court, the director shall notify any
2 **general bail bond agent who is listed as having a forfeited bond. Such attempt by the**
3 **director to notify the general bail bond agent shall be made by facsimile or electronic mail**
4 **within forty-eight hours of the forfeiture being listed with the department, excluding**
5 **official holidays and weekends.**

374.710. 1. Except as otherwise provided in sections 374.695 to 374.775, no person or
2 other entity shall practice as a bail bond agent or general bail bond agent, as defined in section
3 374.700, in Missouri unless and until the department has issued to him or her a license, to be
4 renewed every two years as hereinafter provided, to practice as a bail bond agent or general bail
5 bond agent. **The department shall include the photograph of the bail bond agent or general**
6 **bail bond agent on the license.**

7 2. An applicant for a bail bond and general bail bond agent license shall submit with the
8 application proof that he or she has received twenty-four hours of initial basic training in areas
9 of instruction in subjects determined by the director deemed appropriate to professionals in the
10 bail bond profession. Bail bond agents and general bail bond agents who are licensed at the date
11 which this act becomes law shall be exempt from such twenty-four hours of initial basic training.

12 3. In addition to the twenty-four hours of initial basic training to become a bail bond
13 agent or general bail bond agent, there shall be eight hours of biennial continuing education for
14 all bail bond agents and general bail bond agents to maintain their state license. The director
15 shall determine said appropriate areas of instruction for said biennial continuing education. The
16 director shall determine which institutions, organizations, associations, and individuals shall be
17 eligible to provide the initial basic training and the biennial continuing education instruction.
18 The department may allow state institutions, organizations, associations, or individuals to
19 provide courses for the initial basic training and the biennial continuing education training. The
20 cost shall not exceed two hundred dollars for the initial basic training and one hundred fifty
21 dollars for biennial continuing education.

22 4. Upon completion of said basic training or biennial continuing education and the
23 licensee meeting the other requirements as provided under sections 374.695 to 374.789, the
24 director shall issue a two-year license for the bail bond agent or general bail bond agent for a fee
25 not to exceed one hundred fifty dollars.

26 5. **A licensee shall provide the name, address, and telephone number of each**
27 **employer for which he or she works or operates under as an independent contractor to the**
28 **department. A licensee shall have a continuing duty to provide notice to the department**
29 **should this information change. It is unlawful for an agent to begin writing bond as an**
30 **agent under a new appointment with a different general bail bond agent or insurance**
31 **company unless such information with the department has been updated.**

32 6. **For any new appointment of a bail bond agent, the bail bond agent shall file an**
33 **affidavit with the department and the appointing general bail bond agent stating that there**
34 **are no outstanding premiums owed. If outstanding premiums are owed and the bail bond**
35 **agent does not satisfy such premium obligations, the former general bail bond agent shall**
36 **file notice, along with supporting documents with the department, and provide such notice**
37 **to the bail bond agent and the newly appointing general bail bond agent, stating under**
38 **oath the fact that the bail bond agent has failed to satisfy their obligations. Upon receipt**
39 **of such notification and supporting documents, the appointing general bail bond agent**
40 **shall immediately cancel the newly appointed bail bond authority. Such authority shall**
41 **remain cancelled until all premiums are paid.**

42 7. Nothing in sections 374.695 to 374.775 shall be construed to prohibit any person from
43 posting or otherwise providing a bail bond in connection with any legal proceeding, provided
44 that such person receives no fee, remuneration or consideration therefor.

374.715. 1. Applications for examination and licensure as a bail bond agent or general
2 bail bond agent shall be in writing and on forms prescribed and furnished by the department, and
3 shall contain such information as the department requires. Each application shall be
4 accompanied by proof satisfactory to the department that the applicant is a citizen of the United
5 States, is at least twenty-one years of age, has a high school diploma or general education
6 development certificate (GED), is of good moral character, and meets the qualifications for
7 surety on bail bonds as provided by supreme court rule. Each application shall be accompanied
8 by the examination [and], application fee set by the department, **the results of a fingerprinting**
9 **performed and submitted in a manner approved by the highway patrol in accordance with**
10 **section 43.543, RSMo, and the results of a criminal history record information check**
11 **processed by the highway patrol under sections 43.500 to 43.543, RSMo.** Individuals
12 currently employed as bail bond agents and general bail bond agents shall not be required to meet
13 the education requirements needed for licensure pursuant to this section.

14 2. In addition, each applicant for licensure as a general bail bond agent shall furnish
15 proof satisfactory to the department that the applicant or, if the applicant is a corporation[,]
16 **writing surety on behalf of an insurance company** that each officer thereof, has completed at
17 least two years as a bail bond agent, and that the applicant possesses liquid assets of at least [ten]
18 **twenty** thousand dollars, along with a duly executed assignment of [ten] **twenty** thousand dollars
19 to the state of Missouri. The assignment shall become effective upon the applicant's violating
20 any provision of sections 374.695 to 374.789. The assignment required by this section shall be
21 in the form and executed in the manner prescribed by the department. The director may require
22 by regulation conditions by which additional assignments of assets of the general bail bond agent
23 may occur when the circumstances of the business of the general bail bond agent warrants
24 additional funds. However, such additional funds shall not exceed [twenty-five] **one hundred**
25 thousand dollars.

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, censure, or limit a license authorized under sections 374.695 to 374.775**, 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] **Has, within the past fifteen years, been found**
11 **guilty or pleaded** guilty or nolo contendere [within the past fifteen years in a criminal
12 prosecution under any state or federal law for a] **to any** felony or [a] crime involving moral
13 turpitude **under any state or federal law** whether or not a sentence is imposed[, prior to
14 issuance of license date];

15 (3) **Has been found guilty of or pleaded guilty or nolo contendere to any dangerous**
16 **felony, as defined by section 556.061, RSMo, any felony crime of assault, any felony crime**
17 **that results in the serious physical injury or death of another person, any felony crime**
18 **against the administration of justice, or any felony of which deceit or fraud is an element**
19 **of the offense, under any state or federal law, whether or not a sentence is imposed;**

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

22 [(4)] (5) Obtaining or attempting to obtain any compensation as a member of the
23 profession licensed by sections 374.695 to [374.775] **374.789** by means of fraud, deception or
24 misrepresentation;

25 [(5)] (6) Misappropriation of the premium, collateral, or other things of value given to
26 a bail bond agent or a general bail bond agent for the taking of bail, [incompetency]
27 **incompetence**, misconduct, gross negligence, fraud, or misrepresentation in the performance of
28 the functions or duties of the profession licensed or regulated by sections 374.695 to 374.775;

29 [(6)] (7) Violation of any provision of or any obligation imposed by the laws of this state,
30 department [of insurance] rules and regulations, or aiding or abetting other persons to violate
31 such laws, orders, rules or regulations, or subpoenas;

32 [(7)] (8) Transferring a license or permitting another person to use a license of the
33 licensee;

34 [(8)] (9) Disciplinary action against the holder of a license or other right to practice the
35 profession regulated by sections 374.695 to 374.789 granted by another state, territory, federal
36 agency or country upon grounds for which revocation or suspension is authorized in this state;

37 [(9)] (10) Being finally adjudged insane or incompetent by a court of competent
38 jurisdiction;

39 [(10)] (11) Assisting or enabling any person to practice or offer to practice the profession
40 licensed or regulated by sections 374.695 to 374.789 who is not currently licensed and eligible
41 to practice pursuant to sections 374.695 to 374.789;

42 [(11)] (12) Acting in the capacity of an attorney at a trial or hearing of a person for whom
43 the attorney is acting as surety;

44 [(12)] (13) Failing to provide a copy of the bail contract, [renumbered] **prenumbered**
45 written receipt for acceptance of money, or other collateral for the taking of bail to the principal,
46 if requested by any person who is a party to the bail contract, or any person providing funds or
47 collateral for bail on the principal's behalf; **or**

48 **(14) Failing to meet any of the qualifications for surety on bail bonds as provided**
49 **by supreme court rule.**

50 2. **If an action is initiated to suspend or revoke a license** after the filing of [such] a
51 complaint **under section 374.051**, the proceedings shall be conducted in accordance with the
52 provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that
53 one or more of the causes stated in subsection 1 of this section have been met, the director may
54 suspend or revoke the license or enter into an agreement for a [monetary or other penalty
55 pursuant to section 374.280] **consent order under section 374.280.**

56 3. In lieu of filing a complaint at the administrative hearing commission **for suspension**
57 **or revocation, after a hearing before the director, the director may order other authorized**
58 **discipline, or** the director and the bail bond agent or general bail bond agent may enter into an
59 agreement for a [monetary or other penalty pursuant to section 374.280] **consent order under**
60 **section 374.780.**

61 4. [In addition to any other remedies available, the director may issue a cease and desist
62 order or may seek an injunction in a court of competent jurisdiction pursuant to the provisions
63 of section 374.046 whenever it appears that any person is acting as a bail bond agent or general
64 bail bond agent without a license or violating any other provisions of sections 374.695 to
65 374.789] **Any bail bond agent or general bail bond agent who has his or her license revoked**
66 **by the director shall immediately return such license to the department.**

 374.760. 1. Each general bail bond agent shall file, between the first and tenth day of
2 each month, sworn affidavits with the department stating that there are no unsatisfied judgments
3 against him. Such affidavits shall be in the form and manner prescribed by the department.

4 2. **Each general bail bond agent shall file with the director and the state courts**
5 **administrator, no later than December first of each year, a sworn affidavit in a form and**
6 **manner prescribed by the state courts administrator attesting that the general agent has**
7 **net assets with a value in excess of any personal exemptions from execution, at least equal**
8 **to the aggregate amount of bonds that are subject to execution in this state. The state**
9 **courts administrator may establish and assess a filing fee. This filing shall be satisfactory**
10 **proof of compliance with the financial qualification under supreme court rule and no**
11 **municipal and circuit court in this state may place additional financial requirements upon**
12 **a general bail bond agent duly qualified with the state courts administrator.**

 374.761. 1. A duly licensed bail bond agent in good standing with the department
2 shall be qualified to write bail on behalf of a general bail bond agent in every municipal
3 or circuit court in this state in which the general bail bond agent who employs the agent
4 or directs the agent as an independent contractor is duly licensed and qualified to write
5 bail as provided by supreme court rule.

6 2. **It is unlawful for a bail bond agent writing on behalf of an individual general**
7 **bail bond agent to fail to clearly disclose to the court, to the defendant and in the bond, the**
8 **actual legal name of the individual general bail bond agent on behalf of whom the agent**
9 **is acting.**

 374.773. Any licensed general bail bond agent or bail bond agent who is arrested
2 for a felony shall notify the director within ten days of his or her arrest.

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

8 sections is a level one violation under section 374.049, except a violation of section
9 374.761(b) is a level two violation.

10 2. If the director believes that a person has engaged, is engaging in, or has taken
11 a substantial step toward engaging in an act, practice or course of business constituting a
12 violation of sections 374.695 to 374.789 or a rule adopted or order issued pursuant thereto,
13 or that a person has materially aided or is materially aiding an act, practice, omission, or
14 course of business constituting a violation of sections 374.695 to 374.789 or a rule adopted
15 or order issued pursuant thereto, the director may maintain a civil action for relief
16 authorized under section 374.048. A violation of any of these sections is a level one
17 violation under section 374.049, except a violation of section 374.761(b) is a level two
18 violation.

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, censure or limit** a surety recovery agent **license authorized under**
4 **sections 374.783 to 374.789, or bar** any person who has failed to renew or has surrendered his
5 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] **Has been found guilty of or pleaded** guilty or nolo
10 contendere [in a criminal prosecution] **to any felony or crime involving moral turpitude** under
11 state or federal law [for a felony or a crime involving moral turpitude,] whether or not a sentence
12 is imposed;

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

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

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

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

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

22 2. **If an action is initiated to suspend or revoke a license**, after the filing of [the] a
23 complaint **under section 374.051**, the proceedings shall be conducted in accordance with the
24 provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that
25 one or more of the causes stated in subsection 1 of this section have been met, the director may

26 suspend or revoke the license or enter into an agreement for a [monetary or other penalty
27 pursuant to section 374.280] **consent order under section 374.780.**

28 3. In lieu of filing a complaint with the administrative hearing commission **for**
29 **suspension or revocation, after hearing before the director, the director may order other**
30 **authorized discipline, or** the director and the surety recovery agent may enter into an agreement
31 for a [monetary or other penalty pursuant to section 374.280] **consent order under section**
32 **374.780 or after hearing order any other authorized discipline.**

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

374.789. 1. [A person is guilty of a class D felony if he or she does not hold a valid] **It**
2 **is unlawful for any person to engage in any of the following acts unless the person is**
3 **licensed by the director as a** surety recovery agent [license or] , a bail bond [license and
4 commits any of the 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 in, or has taken**
9 **a substantial step toward engaging in an act, practice or course of business constituting**
10 **violation of this section or a rule adopted or order issued pursuant thereto, or that a person**
11 **has materially aided or is materially aiding an act, practice, omission, or course of business**
12 **constituting a violation of this section or a rule adopted or order issued pursuant thereto,**
13 **the director may issue such administrative orders as authorized under section 374.046. A**
14 **violation of any of these sections is a level three violation under section 374.049.**

15 3. **If the director believes that a person has engaged, is engaging in, or has taken**
16 **a substantial step toward engaging in an act, practice or course of business constituting a**
17 **violation of this section or a rule adopted or order issued pursuant thereto, or that a person**
18 **has materially aided or is materially aiding an act, practice, omission, or course of business**
19 **constituting a violation of this section or a rule adopted or order issued pursuant thereto,**
20 **the director may maintain a civil action for relief authorized under section 374.048. A**
21 **violation of any of these sections is a level three 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 director to revoke such license or certificate of authority.**

26 **5. The director may refer such evidence as is available concerning violations of this**
27 **chapter 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.**

32 **7. Any person who engages in fugitive recovery in this state and wrongfully causes**
33 **damage to any person or property, including, but not limited to, unlawful apprehension, unlawful**
34 **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, **financial institutions and**
7 **professional registration;**

8 (3) "Home state", the District of Columbia and any state or territory of the United States
9 in which the insurance producer maintains his or her principal place of residence or principal
10 place of business and is licensed to act as an insurance producer;

11 (4) "Insurance", any line of authority, including life, accident and health or sickness,
12 property, casualty, variable life and variable annuity products, personal, credit and any other line
13 of authority permitted by state law or regulation;

14 (5) "Insurance company" or "insurer", any person, reciprocal exchange, interinsurer,
15 Lloyds insurer, fraternal benefit society, and any other legal entity engaged in the business of
16 insurance, including health services corporations, health maintenance organizations, prepaid
17 limited health care service plans, dental, optometric and other similar health service plans, unless
18 their exclusion from this definition can be clearly ascertained from the context of the particular
19 statutory section under consideration. Insurer shall also include all companies organized,
20 incorporated or doing business pursuant to the provisions of chapters 375, 376, 377, 378, 379,
21 381 and 384, RSMo. Trusteed pension plans and profit-sharing plans qualified pursuant to the
22 United States Internal Revenue Code as now or hereafter amended shall not be considered to be
23 insurance companies or insurers within the definition of this section;

24 (6) "Insurance producer" or "producer", a person required to be licensed pursuant to the
25 laws of this state to sell, solicit or negotiate insurance;

26 (7) "License", a document issued by the director authorizing a person to act as an
27 insurance producer for the lines of authority specified in the document. The license itself shall

28 not create any authority, actual, apparent or inherent, in the holder to represent or commit an
29 insurance company;

30 (8) "Limited line credit insurance", credit life, credit disability, credit property, credit
31 unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage
32 disability, guaranteed automobile protection (GAP) insurance, and any other form of insurance
33 offered in connection with an extension of credit that is limited to partially or wholly
34 extinguishing that credit obligation that the director determines should be designated a form of
35 limited line credit insurance;

36 (9) "Limited line credit insurance producer", a person who sells, solicits or negotiates
37 one or more forms of limited line credit insurance coverage through a master, corporate, group
38 or individual policy;

39 (10) "Limited lines insurance", insurance involved in credit transactions, insurance
40 contracts issued primarily for covering the risk of travel or any other line of insurance that the
41 director deems necessary to recognize for the purposes of complying with subsection 5 of section
42 375.017;

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

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

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

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

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

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

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

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

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

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

375.020. 1. Beginning January 1, [1990] **2008**, 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 hours of
7 instruction for a property or casualty license or both a property and a casualty license. Sixteen
8 hours of training will suffice for those with a life, health, accident, property and casualty license].
9 Of the [sixteen hours'] training required [above] **in this subsection**, the hours need not be
10 divided equally **among the lines of authority in which the producer has qualified**. The
11 courses or programs **attended by the producer during each two-year period** shall include
12 instruction on Missouri law, **products offered in any line of authority in which the producer**
13 **is qualified, producers' duties and obligations to the department, and business ethics,**
14 **including sales suitability**. Course credit shall be given to members of the general assembly
15 as determined by the department.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 (3) **If the director determines that a person has engaged, is engaging in, or has**
10 **taken a substantial step toward engaging in an act, practice or course of business**
11 **constituting 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 or is materially aiding an act,**
13 **practice, omission, or course of business constituting a violation of sections 375.147 to**
14 **375.153 or a rule adopted or order issued pursuant thereto, the director may issue such**
15 **administrative orders as authorized under section 374.046, RSMo. A violation of any of**
16 **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 in, or has taken**
18 **a substantial step toward engaging in an act, practice or course of business constituting a**
19 **violation of sections 375.147 to 375.153 or a rule adopted or order issued pursuant thereto,**
20 **or that a person has materially aided or is materially aiding an act, practice, omission, or**
21 **course of business constituting a violation of sections 375.147 to 375.153 or a rule adopted**
22 **or order issued pursuant thereto, the director may maintain a civil action for relief**
23 **authorized under section 374.048, RSMo. A violation under any of these sections is a level**
24 **two violation under section 374.049, RSMo. In addition to the relief available in this**
25 **section, the director may also order** the managing general agent to reimburse the insurer, the
26 rehabilitator or liquidator of the insurer, for any losses incurred by the insurer caused by a
27 violation of sections 375.147 to 375.153 committed by the managing general agent.

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

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

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

375.236. Other provisions of law notwithstanding, the director may suspend or revoke,
2 after a hearing, the certificate of authority or license of any insurance company including a

3 reciprocal or interinsurance exchange for the same reasons and upon the same grounds as set
4 forth in section [375.560] **374.047, RSMo.**

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

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

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

20 4. [Any insurance company or agent thereof violating the provisions of this section shall
21 be liable to a fine of not less than fifty dollars nor more than five hundred dollars] **If the director**
22 **determines that a person has engaged, is engaging in, or has taken a substantial step**
23 **toward engaging in an act, practice or course of business constituting a violation of this**
24 **section or a rule adopted or order issued pursuant thereto, or that a person has materially**
25 **aided or is materially aiding an act, practice, omission, or course of business constituting**
26 **a violation of this section or a rule adopted or order issued pursuant thereto, the director**
27 **may issue such administrative orders as authorized under section 374.046, RSMo. A**
28 **violation of this section is a level two violation under section 374.049, RSMo.**

29 5. **If the director believes that a person has engaged, is engaging in, or has taken**
30 **a substantial step toward engaging in an act, practice or course of business constituting a**
31 **violation of this section or a rule adopted or order issued pursuant thereto, or that a person**
32 **has materially aided or is materially aiding an act, practice, omission, or course of business**
33 **constituting a violation of this section or a rule adopted or order issued pursuant thereto,**

34 **the director may maintain a civil action for relief authorized under section 374.048, RSMo.**
35 **A violation of this section is a level two violation 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 in, or has taken**
24 **a substantial step toward engaging in an act, practice or course of business constituting a**
25 **violation of this section or a rule adopted or order issued pursuant thereto, or that a person**
26 **has materially aided or is materially aiding an act, practice, omission, or course of business**
27 **constituting a violation of this section or a rule adopted or order issued pursuant thereto,**
28 **the director may issue such administrative orders as authorized under section 374.046,**
29 **RSMo. A violation of this section is a level four violation under section 374.049, RSMo.**

30 **3. If the director believes that a person has engaged, is engaging in, or has taken**
31 **a substantial step toward engaging in an act, practice or course of business constituting a**
32 **violation of this section or a rule adopted or order issued pursuant thereto, or that a person**
33 **has materially aided or is materially aiding an act, practice, omission, or course of business**
34 **constituting a violation of this section or a rule adopted or order issued pursuant thereto,**

35 the director may maintain a civil action for relief authorized under section 374.048, RSMo.
36 A violation of this section is a level four violation under section 374.049, RSMo.

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

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

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

375.445. 1. [When upon investigation the director finds that] **It is unlawful for** any
2 **insurance** company transacting business [in] **under the laws of** this state [has conducted] **to:**
3 (1) **Conduct** its business fraudulently[, is not carrying] ;
4 (2) **Fail to carry** out its contracts in good faith[, or is] ; **or**
5 (3) Habitually and as a matter of business practice compelling claimants under policies
6 or liability judgment creditors of the insured to either accept less than the amount due under the
7 terms of the policy or resort to litigation against the company to secure payment of the amount
8 due[, and that a proceeding in respect thereto would be in the interest of the public, he shall issue
9 and serve upon the company a statement of the charges in that respect and a notice of a hearing
10 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 in, or has taken a**
20 **substantial step toward engaging in an act, practice or course of business constituting a**
21 **violation of this section or a rule adopted or order issued pursuant thereto, or that a person**
22 **has materially aided or is materially aiding an act, practice, omission, or course of business**
23 **constituting a violation of this section or a rule adopted or order issued pursuant thereto,**
24 **the director may issue such administrative orders as authorized under section 374.046,**
25 **RSMo. A violation of this section is a level three violation under section 374.049, RSMo.**

26 The director [of insurance] may also suspend or revoke the license [of an insurer or agent] or
27 certificate of authority of such person for any [such] willful violation.

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

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

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

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

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

27 **5. The director may refer such evidence as is available concerning violations of this**
28 **section 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.**

375.777. 1. The director shall:

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

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

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

11 2. The director may[:

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

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

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

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

26 **4. If the director determines that a person has engaged, is engaging in, or has taken**
27 **a substantial step toward engaging in an act, practice or course of business constituting a**
28 **violation of this section or a rule adopted or order issued pursuant thereto, or that a person**
29 **has materially aided or is materially aiding an act, practice, omission, or course of business**
30 **constituting a violation of this section or a rule adopted or order issued pursuant thereto,**

31 **the director may issue such administrative orders as authorized under section 374.046,**
32 **RSMo. A violation of this section is a level two violation under section 374.049, RSMo.**
33 **The director may also suspend or revoke the license or certificate of authority of such**
34 **person for any willful violation.**

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

375.780. [Every violation of] **1. A person commits a crime if he or she willfully**
2 **violates** any of the provisions of [sections 375.010 to 375.920] **this chapter. If** not otherwise
3 specifically provided for [shall be deemed a misdemeanor, and shall subject the individual,
4 association of individuals or corporation violating the same to a penalty of not less than fifty nor
5 more than five hundred dollars for each offense; such penalty may be recovered and sued for
6 against corporations or associations in the manner provided and by any of the officers designated
7 in section 375.310, and against individuals by civil action, by information or by indictment, and
8 an 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 in, or has taken**
96 **a substantial step toward engaging in an act, practice or course of business constituting a**
97 **violation of this section or a rule adopted or order issued pursuant thereto, or that a person**
98 **has materially aided or is materially aiding an act, practice, omission, or course of business**
99 **constituting a violation of this section or a rule adopted or order issued pursuant thereto,**
100 **the director may issue such administrative orders as authorized under section 374.046,**
101 **RSMo. A violation of this section is a level four violation under section 374.049, RSMo.**

102 **5. If the director believes that a person has engaged, is engaging in, or has taken**
103 **a substantial step toward engaging in an act, practice or course of business constituting a**
104 **violation of this section or a rule adopted or order issued pursuant thereto, or that a person**
105 **has materially aided or is materially aiding an act, practice, omission, or course of business**
106 **constituting a violation of this section or a rule adopted or order issued pursuant thereto,**
107 **the director may maintain a civil action for relief authorized under section 374.048, RSMo.**
108 **A violation of this section is a level four violation 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.]

375.922. The director [of the department of insurance] **may, after consultation with**
2 **interested members of the public, adopt rules under section 374.045, RSMo, to prescribe**
3 **uniform disclosure of material information, but** shall have no **other** power to promulgate
4 rules or regulations to implement sections 375.920 to 375.923.

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 975.948, 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 has taken a substantial step toward engaging in an act, practice, or course of business
31 constituting a violation of sections 375.930 to 375.948 or a rule adopted or order issued
32 pursuant thereto, or that a person has materially aided or is materially aiding a practice
33 constituting a violation of sections 375.930 to 375.948 or a rule adopted or order issued
34 pursuant thereto, the director may issue such administrative orders as authorized under
35 section 374.046, RSMo. Each practice in violation of section 375.934 is a level two violation
36 under section 374.049, RSMo. Each act as part of a trade practice does not constitute a
37 separate violation under section 374.049, RSMo. The director may also suspend or revoke
38 the license or certificate of authority of an insurer for any willful violation.**

39 2. **If the director believes that an insurer has engaged, is engaging in, or has taken
40 a substantial step toward engaging in an act, practice or course of business constituting a
41 violation of sections 375.930 to 375.948 or a rule adopted or order issued pursuant thereto,
42 or that a person has materially aided or is materially aiding an act, practice, omission, or
43 course of business conduct constituting a violation of sections 375.930 to 375.948 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, RSMo. Each practice in violation of section 375.934 is
46 a level two violation under section 374.049, RSMo. Each act as part of a trade practice
47 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
8 created by section 374.150, RSMo.

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

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

26 6. Nothing in this section shall be construed as prohibiting the department of insurance
27 from regulating unfair or fraudulent trade practices as provided for in sections 375.930 to
28 375.948.

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

31 matter of business practice abused its rights under said sections, such conduct shall [be
32 considered] **constitute** either an unfair trade practice under the provisions of sections 375.930
33 to 375.948 or an unfair claims settlement practice under the provisions of sections 375.1000 to
34 375.1018. [The director shall have the power and authority, pursuant to the unfair trade practices
35 act and the unfair claims settlement practices act to subject such persons to the monetary penalty
36 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 a person has engaged, is engaging in, or has**
36 **taken a substantial step toward engaging in an act, practice or course of business**
37 **constituting a violation of sections 375.1000 to 375.1018 or a rule adopted or order issued**
38 **pursuant thereto, or that a person has materially aided or is materially aiding an act,**
39 **practice, omission, or course of business constituting a violation of sections 375.1000 to**
40 **375.1018 or a rule adopted or order issued pursuant thereto, the director may issue such**
41 **administrative orders as authorized under section 374.046, RSMo. Each practice in**
42 **violation of section 375.1005 is a level two violation under section 374.049, RSMo. Each**
43 **act as part of a claims settlement practice does not constitute a separate violation under**
44 **section 374.049, RSMo. The director may also suspend or revoke the license or certificate**
45 **of authority of an insurer for any willful violation.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 (3)] **If the director determines that a reinsurance intermediary, insurer, or reinsurer**
8 **has engaged, is engaging in, or has taken a substantial step toward engaging in an act,**
9 **practice or course of business constituting a violation of sections 375.1110 to 375.1140 or**
10 **a rule adopted or order issued pursuant thereto, or that a person has materially aided or**

11 **is materially aiding an act, practice, omission, or course of business constituting a violation**
12 **of sections 375.1110 to 375.1140 or a rule adopted or order issued pursuant thereto, the**
13 **director may issue such administrative orders as authorized under section 374.046, RSMo.**
14 **A violation of any of these sections is a level two violation under section 374.049, RSMo.**
15 **The director may also suspend or revoke the license or certificate of authority of a**
16 **reinsurance intermediary, 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 in, or has taken a substantial step toward engaging in an act, practice**
19 **or course of business constituting a violation of sections 375.1110 to 375.1140 or a rule**
20 **adopted or order issued pursuant thereto, or that a person has materially aided or is**
21 **materially aiding an act, practice, omission, or course of business constituting a violation**
22 **of sections 375.1110 to 375.1140 or a rule adopted or order issued pursuant thereto, the**
23 **director may maintain a civil action for relief authorized under section 374.048, RSMo.**
24 **A violation of any of these sections is a level two violation 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 person shall] **It is unlawful for any person included in subsection 1 of this**
13 **section to** obstruct or interfere with the director in the conduct of any delinquency proceeding
14 or any 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.] In any proceeding under sections 375.1150 to 375.1246, the director and his deputies
28 shall be responsible on their official bonds for the faithful performance of their duties. If the
29 court deems it desirable for the protection of the assets, it may at any time require an additional
30 bond from the director or his deputies, and such bonds shall be paid for out of the assets of the
31 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 in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of sections 375.1150 to 375.1246 or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of sections 375.1150 to 375.1246 or a rule adopted or order issued pursuant thereto, the director may issue such administrative orders as authorized under section 374.046, RSMo. A violation of any of these sections is a level four violation under section 374.049, RSMo. The director may also suspend or revoke the license or certificate of authority of such person for any willful violation.

2. If the director believes that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of sections 375.1150 to 375.1246 or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of sections 375.1150 to 375.1246 or a rule adopted or order issued pursuant thereto, the director may maintain a civil action for relief authorized under section 374.048, RSMo. A violation of any of these sections is a level four violation under section 374.049, RSMo.

375.1204. 1. [An agent, broker,] **A producer**, premium finance company, or any other
2 person, other than the insured, responsible for the payment of a premium, shall be obligated to
3 pay any unpaid earned premium due the insurer at the time of the declaration of insolvency as
4 shown on the records of the insurer. The liquidator shall also have the right to recover from such
5 person any part of an unearned premium that represents commission of such person. Credits or

6 setoffs or both shall not be allowed to [an agent, broker,] **a producer** or premium finance
7 company for any amounts advanced to the insurer by the [agent, broker,] **producer** or premium
8 finance company on behalf of, but in the absence of a payment by the insured. An insured shall
9 be obligated to pay any unpaid earned premium due the insurer at the time of the declaration of
10 insolvency, as shown on the records of the insurer.

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

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

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

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

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

36 **3. If the director believes that a person has engaged, is engaging in, or has taken**
37 **a substantial step toward engaging in an act, practice or course of business constituting a**
38 **violation of this section or a rule adopted or order issued pursuant thereto, or that a person**
39 **has materially aided or is materially aiding an act, practice, omission, or course of business**
40 **constituting a violation of this section or a rule adopted or order issued pursuant thereto,**

41 **the director may maintain a civil action for relief authorized under section 374.048, RSMo.**
42 **A violation of this section is a level one violation 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 in, or has taken a substantial step toward engaging in an act,**
16 **practice or course of business constituting a violation of this section or a rule adopted or**
17 **order issued pursuant thereto, or that a person has materially aided or is materially aiding**
18 **an act, practice, omission, or course of business constituting a violation of this section or**
19 **a rule adopted or order issued pursuant thereto, the director may issue such administrative**
20 **orders as authorized under section 374.046, RSMo. A violation of any of these sections is**
21 **a level two violation under section 374.049, RSMo.**

22 3. **If the director believes that a person has engaged, is engaging in, or has taken**
23 **a substantial step toward engaging in an act, practice or course of business constituting a**
24 **violation of this section or a rule adopted or order issued pursuant thereto, or that a person**
25 **has materially aided or is materially aiding an act, practice, omission, or course of business**
26 **constituting a violation of this section or a rule adopted or order issued pursuant thereto,**
27 **the director may maintain a civil action for relief authorized under section 374.048, RSMo.**
28 **A violation of any of these sections is a level two 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 in,
16 or has taken a substantial step toward engaging in an act, practice or course of business
17 constituting a violation of this section or a rule adopted or order issued pursuant thereto,
18 or that a person has materially aided or is materially aiding an act, practice, omission, or
19 course of business constituting a violation of this section or a rule adopted or order issued
20 pursuant thereto, the director may issue such administrative orders as authorized under
21 section 374.046, RSMo. A violation of any of these sections is a level two violation under
22 section 374.049, RSMo.**

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

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

11 2. Any domestic life insurance company may, after adoption of a resolution by its board
12 of directors, establish one or more separate accounts, and may allocate to such account or
13 accounts any amounts paid to or held by it which are to be applied under the terms of an

14 individual or group contract to provide benefits payable in fixed or in variable dollar amounts
15 or in both.

16 3. To the extent it deems necessary to comply with any applicable federal or state act,
17 the company may, with respect to any separate account or any portion thereof, provide for the
18 benefit of persons having beneficial interests therein special voting and other rights and special
19 procedures for the conduct of the business and affairs of such separate account or portion thereof,
20 including, without limitation, special rights and procedures relating to investment policy,
21 investment advisory services, selection of public accountants, and selection of a committee, the
22 members of which need not be otherwise affiliated with the company, to manage the business
23 and affairs of such separate account or portion thereof; and the corporate charter of such
24 company shall be deemed amended to authorize the company to do so. The provisions of this
25 section shall not affect existing laws pertaining to the voting rights of such company's
26 policyholders.

27 4. The amounts allocated to any separate account and the accumulations thereon may be
28 invested and reinvested without regard to any requirements or limitations prescribed by the laws
29 of this state governing the investments of life insurance companies, and the investments in such
30 separate account or accounts shall not be taken into account in applying the investment
31 limitations, including but not limited to quantitative restrictions, otherwise applicable to the
32 investments of the company, except that to the extent that the company's reserve liability with
33 regard to benefits guaranteed as to principal amount and duration, and funds guaranteed as to
34 principal amount or stated rate of interest, is maintained in any separate account, a portion of the
35 assets of such separate account at least equal to such reserve liability shall be, except as the
36 director [of insurance] might otherwise approve, invested in accordance with the laws of this
37 state 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
49 the extent the assets of a separate account so transferred have been paid to or are being held by

50 the company in connection with a pension, retirement or profit-sharing plan subject to the
51 provisions of the Internal Revenue Code, as amended, and the Employee Retirement Income
52 Security Act of 1974, as amended. The director [of insurance] may withdraw such deemed
53 approval by providing written notice to the company that its financial condition or past practices
54 require such withdrawal. The director [of insurance] may approve other transfers among such
55 accounts if the 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 authority to regulate the
64 issuance and **authority to regulate the** sale of contracts under which amounts are to be allocated
65 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 in, or has
7 taken a substantial step toward engaging in an act, practice or course of business
8 constituting a violation of sections 376.850 to 376.890 or a rule adopted or order issued
9 pursuant thereto, or that a person has materially aided or is materially aiding an act,
10 practice, omission, or course of business constituting a violation of sections 376.850 to
11 376.890 or a rule adopted or order issued pursuant thereto, the director may issue such
12 administrative orders as authorized under section 374.046, RSMo. A violation of any of
13 these sections is a level two violation under section 374.049, RSMo.**

14 **2. If the director believes that a person has engaged, is engaging in, or has taken
15 a substantial step toward engaging in an act, practice or course of business constituting a
16 violation of sections 376.850 to 376.890 or a rule adopted or order issued pursuant thereto,
17 or that a person has materially aided or is materially aiding an act, practice, omission, or
18 course of business constituting a violation of sections 376.850 to 376.890 or a rule adopted**

19 **or order issued pursuant thereto, the director may maintain a civil action for relief**
20 **authorized under section 374.048, RSMo. A violation of any of these sections is a level two**
21 **violation under section 374.049, RSMo.**

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

3 (1) Is in an unsound financial condition;

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

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

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

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

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

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

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

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

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

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

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

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

38 (1) The administrator is insolvent or impaired;

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

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

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

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

376.1500. As used in sections 376.1500 to 376.1528, the following terms mean:

2 (1) **"Direct contact", a contractual arrangement tying the ultimate seller
3 purporting to offer discounts through the discount card to the health care provider, which
4 expressly states the intent of such agreement to be used for the purpose of offering
5 discounts on health-related purchases to uninsured or noncovered persons;**

- 6 (2) **"Director"**, the director of the department of insurance, financial institutions
7 **and professional registration;**
- 8 (3) **"Discount card"**, a card or any other purchasing mechanism or device, which
9 **is not insurance, that purports to offer discounts or access to discounts in health-related**
10 **purchases from health care providers;**
- 11 (4) **"Discount medical plan"**, a business arrangement or contract in which a person,
12 **in exchange for fees, dues, charges, or other consideration, provides access for plan**
13 **members to providers of medical services and the right to receive medical services from**
14 **such providers at a discount. Discount medical plan does not include any product**
15 **regulated as an insurance product, group health service product, or health maintenance**
16 **organization (HMO) product in the state of Missouri or discounts provided by an insurer,**
17 **group health service, or health maintenance organizations (HMOs) where those discounts**
18 **are provided at no cost to the insured or member and are offered due to coverage with a**
19 **licensed insurer, group health service, or HMO;**
- 20 (5) **"Discount medical plan organization"**, a person or an entity that operates a
21 **discount medical plan;**
- 22 (6) **"Health care provider"**, any person or entity licensed by this state to provide
23 **health care services, including but not limited to physicians, hospitals, home health**
24 **agencies, pharmacies, and dentists;**
- 25 (7) **"Health care provider network"**, an entity which directly contracts with
26 **physicians and hospitals and has contractual rights to negotiate on behalf of those health**
27 **care providers with a discount medical plan organization to provide medical services to**
28 **members of the discount medical plan organization;**
- 29 (8) **"Marketer"**, a person or entity who markets, promotes, sells, or distributes a
30 **discount medical plan, including a private label entity that places its name on and markets**
31 **or distributes a discount medical plan but does not operate a discount medical plan;**
- 32 (9) **"Medical services"**, any care, service, or treatment of illness or dysfunction of
33 **or injury to the human body, including but not limited to physician care, inpatient care,**
34 **hospital surgical services, emergency services, ambulance services, dental care services,**
35 **vision care services, mental health services, substance abuse services, chiropractic services,**
36 **podiatric care services, laboratory services, and medical equipment and supplies. Medical**
37 **services does not include pharmaceutical supplies or prescriptions;**
- 38 (10) **"Member"**, any person who pays fees, dues, charges, or other consideration
39 **for the right to receive the purported benefits of a discount medical plan;**

40 (11) "Person", an individual, corporation, business trust, estate, trust, partnership,
41 association, joint venture, limited liability company, or any other government or
42 commercial entity.

376.1502. 1. No entity shall transact business in this state as a discount medical
2 plan organization unless the organization is:

3 (1) A corporation, limited liability corporation, partnership, limited liability
4 partnership, or other legal entity organized under the laws of this state or, if a foreign
5 entity, authorized to transact business in this state; and

6 (2) Registered as a discount medical plan organization with the director or
7 authorized by the director as an insurance company, licensed HMO, licensed group health
8 service organization, or third-party administrator.

9 2. To register as a discount medical plan organization, an applicant shall:

10 (1) File with the director an application of the form required by the director; and

11 (2) Pay to the director an application fee of two hundred fifty dollars.

12 3. A registration shall be valid for one year. A registration expires one year
13 following the registration unless it is renewed as provided in this section. Before it expires,
14 a registrant may renew the registration for an additional one-year term if the registrant:

15 (1) Otherwise is qualified to receive a registration;

16 (2) Files with the director a renewal application on the form required by the
17 director; and

18 (3) Pays to the director a renewal fee of two hundred fifty dollars.

19 4. All amounts collected as registration or renewal fees shall be deposited into the
20 insurance dedicated fund.

21 5. Nothing in this section shall require a provider who provides discounts to his or
22 her own patients to obtain and maintain a registration as a discount medical plan
23 organization.

376.1504. 1. The director may examine or investigate the business and affairs of
2 any discount medical plan organization. The director may require any discount medical
3 plan organization or applicant to produce any records, books, files, advertising and
4 solicitation materials, or other information and may take statements under oath to
5 determine whether the discount medical plan organization or applicant is in violation of
6 the law or is acting contrary to the public interest. The expenses incurred in conducting
7 any examination or investigation shall be paid by the discount medical plan organization
8 or applicant. Examinations and investigations shall be conducted in accordance with
9 chapters 374 and 375, RSMo.

10 **2. Failure by the discount medical plan organization to pay the expenses incurred**
11 **under subsection 1 of this section shall be grounds for denial or revocation of the discount**
12 **medical plan organization's registration.**

376.1506. 1. A discount medical plan organization may charge a reasonable one-
2 **time processing fee and a periodic charge as long as the fee is disclosed to the applicant.**

3 **2. If the member cancels the membership within the first thirty days after receipt**
4 **of the discount card and other membership materials, the member shall receive a**
5 **reimbursement of all periodic charges paid. The return of all periodic charges shall be**
6 **made within thirty days of the date of cancellation. If all of the periodic charges have not**
7 **been paid within thirty days, interest shall be assessed and paid on the proceeds at a rate**
8 **of the treasury bill rate of the preceding calendar year, plus two percentage points.**

9 **3. The right of cancellation shall be set out in the contract on the first page in ten-**
10 **point type or larger.**

11 **4. If a discount medical plan charges for a time period in excess of one month, the**
12 **plan shall, in the event of cancellation of the membership by either party, make a pro rata**
13 **reimbursement of all periodic charges to the member.**

376.1508. A discount medical plan organization shall not:

2 **(1) Use in its advertisements, marketing materials, brochures, and discount cards**
3 **the terms "insurance", "health plan", "coverage", "copay", "copayments", "preexisting**
4 **conditions", "guaranteed issue", "premium", "PPO", "preferred provider organization",**
5 **or other terms in a manner that could reasonably mislead a person to believe that the**
6 **discount medical plan is health insurance;**

7 **(2) Except for hospital services, have restrictions on free access to plan providers,**
8 **including waiting periods and notification periods;**

9 **(3) Pay providers any fees for medical services; or**

10 **(4) Collect or accept money from a member for payment to a provider for specific**
11 **medical services furnished or to be furnished to the member, unless the organization is**
12 **licensed by the director to act as an administrator.**

376.1510. 1. The following disclosures shall be printed in not less than twelve-point
2 **type, shall be made in writing to any prospective member, and shall appear on the first**
3 **page of any advertisements, marketing materials, or brochures relating to a discount**
4 **medical plan:**

5 **(1) That the plan is not insurance;**

6 **(2) That the plan provides discounts with certain health care providers for medical**
7 **services;**

8 (3) That the plan does not make payments directly to the providers of medical
9 services;

10 (4) That the plan member is obligated to pay for all health care services but will
11 receive a discount from those health care providers who have contracted with the discount
12 medical plan organization; and

13 (5) The name and location of the registered discount medical plan organization,
14 including the current telephone number of the registered discount medical plan
15 organization or other entity responsible for customer service for the plan, if different from
16 the registered discount medical plan organization.

17 2. If the discount medical plan is sold, marketed, or solicited by telephone, the
18 disclosures required by this section shall be made orally and provided in the initial written
19 materials that describe the benefits under the discount medical plan provided to the
20 prospective or new member.

 376.1512. 1. All providers offering medical services to members under a discount
2 medical plan shall provide such services under a written agreement. The agreement may
3 be entered into directly by the health care provider or by a health care provider network
4 to which the provider belongs if the provider network has contracts with the health care
5 provider that allow the provider network to contract on behalf of the health care provider.

6 2. A health care provider agreement shall provide the following:

7 (1) A description of the services and products to be provided at a discount;

8 (2) The amount or amounts of the discounts or, alternatively, a fee schedule which
9 reflects the health care provider's discounted rates; and

10 (3) A provision that the health care provider will not charge members more than
11 the discounted rates.

12 3. A health care provider agreement with a health care provider network shall
13 require that the health care provider network have written agreements with its health care
14 providers that:

15 (1) Contain the terms described in subsection 2 of this section;

16 (2) Authorize the health care provider network to contract with the discount
17 medical plan organization on behalf of the provider; and

18 (3) Require the network to maintain an up-to-date list of its contracted health care
19 providers and to provide that list on a quarterly basis to the discounted medical plan
20 organization.

21 4. The discount medical plan organization shall maintain a copy of each active
22 health care provider agreement into which it has entered.

376.1514. 1. There shall be a written agreement between the discount medical plan organization and the member specifying the benefits under the discount medical plan and complying with the disclosure requirements of sections 376.1500 to 376.1528.

2. All forms used, including the written agreement under subsection 1 of this section, shall first be filed with the director. Every form filed shall be identified by a unique form number placed in the lower left corner of each form. A filing fee of twenty-five dollars per form shall be payable to the director for deposit into the insurance dedicated fund.

376.1516. 1. Each discount medical plan organization registered under sections 376.1500 to 376.1528, except an affiliate, shall at all times maintain a net worth of at least one hundred fifty thousand dollars.

2. The director shall not allow a registration unless the discount medical plan organization has a net worth of at least one hundred fifty thousand dollars.

376.1518. Each discount medical plan organization required to be registered under sections 376.1500 to 376.1528 shall provide the director with at least thirty days' advance notice of any change in the discount medical plan organization's name, address, principal business address, or mailing address.

376.1520. Each discount medical plan organization shall maintain an up-to-date list of the names and addresses of the providers with which it has contracted on an Internet web site page, the address of which shall be prominently displayed on all its advertisements, marketing materials, brochures, and discount cards. This section applies to those providers with whom the discount medical plan organization has contracted directly, as well as those who are members of a provider network with which the discount medical plan organization has contracted.

376.1522. 1. All advertisements, marketing materials, brochures, and discount cards used by marketers shall be approved in writing for such use by the discount medical plan organization.

2. The discount medical plan organization shall have an executed written agreement with a marketer prior to the marketer's marketing, promoting, selling, or distributing the discount medical plan.

376.1524. The director may promulgate rules to implement and administer sections 376.1500 to 376.1528. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, 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, 2007, shall be invalid and void.

376.1526. 1. A discount medical plan organization required to be registered under
2 sections 376.1500 to 376.1528, except an affiliate, shall maintain a surety bond with the
3 director, having at all times a value of not less than thirty-five thousand dollars, for use by
4 the director in protecting plan members.

5 2. No judgment creditor or other claimant of a discount medical plan organization,
6 other than the director, shall have the right to levy upon the surety bond held under
7 subsection 1 of this section.

376.1528. 1. The director may deny a registration to an applicant or refuse to
2 renew, suspend, or revoke the registration of a registrant if the applicant or registrant, or
3 an officer, director, or employee of the applicant or registrant:

4 (1) Makes a material misstatement or misrepresentation in an application for
5 registration;

6 (2) Fraudulently or deceptively obtains or attempts to obtain a registration for the
7 applicant or registrant or for another;

8 (3) Has advertised, merchandised, or attempted to merchandise its services in such
9 a manner as to misrepresent its services or capacity for service or has engaged in deceptive,
10 misleading, or unfair practices with respect to advertising or merchandising;

11 (4) In connection with the advertisement, offer, sale, or administration of a health
12 care discount program, make any untrue statement of material fact, conceals any material
13 fact, uses any deception or commits fraud, or engages in any dishonest activity;

14 (5) Is not fulfilling its obligations as a discount medical plan organization;

15 (6) Does not have the minimum net worth required by sections 376.1500 to
16 376.1528;

17 (7) Violates any provision of sections 376.1500 to 376.1528, or any law or rule of
18 this state relating to insurance or the provision of medical care; or

19 (8) Continued operation of the organization would be hazardous to its members.

20 2. If the director has cause to believe that grounds for the suspension or revocation
21 of a registration exist, the director shall notify the discount medical plan organization in
22 writing, specifically stating the grounds for suspension or revocation, and shall provide
23 opportunity for a hearing on the matter in accordance with section 374.047, RSMo.

24 3. If the director determines that a person has engaged, is engaging, or has taken
25 a substantial step toward engaging in a violation of sections 376.1500 to 376.1528, or a rule
26 promulgated thereunder, or that a person has materially aided or is materially aiding an

27 **act, practice, omission, or course of business constituting a violation of sections 376.1500**
28 **to 376.1528 or a rule promulgated thereunder, the director may issue such administrative**
29 **orders as authorized under section 374.046, RSMo. A violation of sections 376.1500 to**
30 **376.1528 is a level two violation under section 374.049, RSMo. The director may also**
31 **suspend or revoke the license or certificate of authority of such person for any willful**
32 **violation.**

33 **4. If the director believes that a person has engaged, is engaging, or has taken a**
34 **substantial step toward engaging in a violation of sections 376.1500 to 376.1528 or a rule**
35 **promulgated or order issued thereunder, or that a person has materially aided or is**
36 **materially aiding an act, practice, omission, or course of business constituting a violation**
37 **of sections 376.1500 to 376.1528 or a rule promulgated or order issued thereunder, the**
38 **director may maintain a civil action for relief authorized under section 374.048, RSMo.**

39 **5. When the registration of a discount medical plan organization is surrendered or**
40 **revoked, such organization shall proceed immediately following the effective date of the**
41 **order of revocation to wind up its affairs transacted under the registration. The**
42 **organization shall not engage in any further advertising, solicitation, collecting of fees, or**
43 **renewal of contracts.**

44 **6. The director shall, in its order suspending the authority of a discount medical**
45 **plan organization to enroll new members, specify the period during which the suspension**
46 **is to be in effect and the conditions, if any, which shall be met by the discount medical plan**
47 **organization prior to reinstatement of its registration to enroll new members. The order**
48 **of suspension is subject to rescission or modification by further order of the director prior**
49 **to the expiration of the suspension period. Reinstatement shall not be made unless**
50 **requested by the discount medical plan organization; however, the director shall not grant**
51 **reinstatement if the director finds that the circumstances for which the suspension**
52 **occurred still exist or are likely to reoccur.**

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 in, or**
18 **has taken a substantial step toward engaging in an act, practice or course of business**
19 **constituting a violation of section 379.017 and sections 379.316 to 379.361 or a rule adopted**
20 **or order issued pursuant thereto, or that a person has materially aided or is materially**
21 **aiding an act, practice, omission, or course of business constituting a violation of section**
22 **379.017 and sections 379.316 to 379.361 or a rule adopted or order issued pursuant thereto,**
23 **the director may issue such administrative orders as authorized under section 374.046,**
24 **RSMo. A violation of any of these sections is a level two violation under section 374.049,**
25 **RSMo. The practice of using a rate not in effect under section 379.321, if caused by a**
26 **single act or omission by the insurer or filing organization, is a level two violation under**
27 **section 374.049, RSMo. Each act as part of a rating violation does not constitute a separate**
28 **violation under section 374.049, RSMo. The director may also suspend or revoke the**
29 **license or certificate of authority of an insurer or filing company for any willful violation.**

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

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

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

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

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

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

 380.571. 1. [The director may issue cease and desist orders whenever it appears to him
2 upon competent and substantial evidence that any company operating under the provisions of
3 sections 380.201 to 380.591 is acting in violation of those laws or any other applicable laws or
4 any rule or regulation promulgated by the director 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 in, or has taken a substantial step**
37 **toward engaging in an act, practice or course of business constituting a violation of sections**
38 **380.201 to 380.611 or a rule adopted or order issued pursuant thereto, or that a person has**
39 **materially aided or is materially aiding an act, practice, omission, or course of business**
40 **constituting a violation of sections 380.201 to 380.611 or a rule adopted or order issued**
41 **pursuant thereto, the director may issue such administrative orders as authorized under**
42 **section 374.046, RSMo. A violation of any of these sections is a level two violation under**
43 **section 374.049, RSMo, except a violation of section 380.391 is a level four violation under**
44 **section 374.049, RSMo. The director may also suspend or revoke the certificate of**
45 **authority of such person for any willful violation.**

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

 384.054. Any tax imposed by sections 384.011 to 384.071 which is delinquent in
2 payment shall be subject to a penalty of **one percent of the tax per diem up to** ten percent of
3 the tax. Any delinquent tax shall bear interest at the rate determined under section 32.065,
4 RSMo, from the time such tax is due.

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

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

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

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

25 3.] **4.** The above penalties are not exclusive remedies. [Penalties may also be assessed
26 under sections 375.930 to 375.948, RSMo.]

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