

JOURNAL OF THE HOUSE

First Regular Session, 94th GENERAL ASSEMBLY

SEVENTY-FIFTH DAY, TUESDAY, MAY 15, 2007

The House met pursuant to adjournment.

Speaker Jetton in the Chair.

Prayer by Rod Jetton, Speaker of the Missouri House of Representatives.

Lord, thank You for this day. Give us wisdom to make the right decisions this last week of Session.

Help us stay calm and peaceful as we address the problems of our state.

Lord, give us all a safe trip home and an enjoyable time with our families we have missed so much these last few months.

We ask all this in Your name. Amen.

The Pledge of Allegiance to the flag was recited.

The Speaker appointed the following to act as Honorary Pages for the Day, to serve without compensation: Meghan Hosmer, Cameron Hosmer, Lara Hosmer, Katie Fischer, John Fischer, Caroline Fischer, Neil Fischer, Eric Norfleet, Nick Eischens, Janae Hammond, Erin McKeon, Meranda Hoemann, Samuel Rusu, Ross Bohle, Jaimielee Buenemann, So Jeong Yoo and Yeon Ju Jang.

The Journal of the seventy-fourth day was approved as corrected.

COMMITTEE REPORTS

Committee on Fiscal Review, Chairman Guest reporting:

Mr. Speaker: Your Committee on Fiscal Review, to which was referred **HCS SS SCS SB 85** (Fiscal Note), begs leave to report it has examined the same and recommends that it **Do Pass**.

Mr. Speaker: Your Committee on Fiscal Review, to which was referred **HCS SS SCS SB 429** (Fiscal Note), begs leave to report it has examined the same and recommends that it **Do Pass**.

Mr. Speaker: Your Committee on Fiscal Review, to which was referred **HCS SB 516** (Fiscal Note), begs leave to report it has examined the same and recommends that it **Do Pass**.

MESSAGE FROM THE SENATE

Mr. Speaker: I am instructed by the Senate to inform the House of Representatives that the President Pro Tem has appointed the following Conference Committee to act with a like Committee from the House on **HCS SS SCS SB 577, as amended**: Senators Shields, Purgason, Gibbons, Kennedy and Shoemyer.

APPOINTMENT OF CONFERENCE COMMITTEE

The Speaker appointed the following Conference Committee to act with a like Committee from the Senate on the following bill:

HCS SS SCS SB 577: Representatives Schaaf, Hunter, Sater, Page and Talboy

THIRD READING OF SENATE BILLS

SCS SB 91, relating to emergency vehicle dealers, was taken up by Representative St. Onge.

Representative Cooper (120) assumed the Chair.

On motion of Representative St. Onge, **SCS SB 91** was truly agreed to and finally passed by the following vote:

AYES: 140

Aull	Baker 25	Baker 123	Bearden	Bivins
Brandom	Bringer	Brown 30	Bruns	Burnett
Casey	Chappelle-Nadal	Cooper 120	Cooper 155	Cooper 158
Corcoran	Cox	Cunningham 86	Curls	Darrough
Daus	Davis	Day	Deeken	Dempsey
Denison	Dethrow	Dixon	Donnelly	Dougherty
Dusenberg	El-Amin	Emery	Ervin	Faith
Fallert	Fares	Fisher	Flook	Franz
Funderburk	George	Grill	Guest	Harris 23
Harris 110	Hobbs	Hodges	Holsman	Hoskins
Hubbard	Hunter	Icet	Johnson	Jones 89
Jones 117	Kelly	Kingery	Komo	Kraus
Kuessner	Lampe	Lembke	LeVota	Liese
Lipke	Loehner	Low 39	May	McClanahan
McGhee	Meadows	Meiners	Moore	Munzlinger
Muschany	Nance	Nasheed	Nieves	Nolte
Norr	Onder	Oxford	Parson	Pearce
Pollock	Portwood	Pratt	Quinn 7	Quinn 9
Richard	Robb	Robinson	Roorda	Rucker
Ruestman	Ruzicka	Salva	Sander	Sater
Scavuzzo	Schad	Scharnhorst	Schieffer	Schlottach
Schneider	Schoeller	Schoemehl	Self	Shively
Silvey	Smith 14	Smith 150	Spreng	Stevenson
St. Onge	Stream	Sutherland	Swinger	Thomson
Threlkeld	Tilley	Todd	Viebrock	Villa
Wallace	Walsh	Wasson	Wells	Weter
Wildberger	Wilson 119	Wilson 130	Witte	Wood
Wright 159	Yaeger	Young	Zimmerman	Mr Speaker

NOES: 005

Frame	Hughes	Lowe 44	Skaggs	Whorton
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PRESENT: 000

ABSENT WITH LEAVE: 018

Avery	Bland	Bowman	Brown 50	Cunningham 145
Grisamore	Haywood	Kratky	Marsh	Page
Schaaf	Storch	Talboy	Vogt	Walton
Wright-Jones	Yates	Zweifel		

Representative Cooper (120) declared the bill passed.

HCS SCS SB 384, as amended, with House Substitute Amendment No. 1 for House Amendment No. 2 and House Amendment No. 2, pending, relating to stolen license plate tabs, was taken up by Representative Daus.

House Substitute Amendment No. 1 for House Amendment No. 2 was withdrawn.

House Amendment No. 2 was withdrawn.

On motion of Representative Daus, **HCS SCS SB 384, as amended**, was adopted.

On motion of Representative Daus, **HCS SCS SB 384, as amended**, was read the third time and passed by the following vote:

AYES: 152

Aull	Baker 25	Baker 123	Bearden	Bivins
Brandom	Bringer	Brown 30	Bruns	Burnett
Casey	Chappelle-Nadal	Cooper 120	Cooper 155	Cooper 158
Corcoran	Cox	Cunningham 86	Curls	Darrough
Daus	Davis	Day	Deeken	Dempsey
Denison	Dethrow	Dixon	Donnelly	Dougherty
Dusenberg	El-Amin	Emery	Ervin	Faith
Fallert	Fares	Fisher	Flook	Frame
Franz	Funderburk	George	Grill	Grisamore
Guest	Harris 23	Harris 110	Hobbs	Hodges
Holsman	Hoskins	Hubbard	Hughes	Hunter
Ice	Johnson	Jones 89	Jones 117	Kelly
Kingery	Komo	Kratky	Kraus	Kuessner
Lampe	Lembke	LeVota	Liese	Lipke
Loehner	Low 39	Lowe 44	May	McClanahan
McGhee	Meadows	Meiners	Moore	Munzlinger
Muschany	Nance	Nasheed	Nieves	Nolte
Norr	Onder	Oxford	Page	Parson
Pearce	Pollock	Portwood	Pratt	Quinn 7
Quinn 9	Richard	Robb	Robinson	Roorda
Rucker	Ruestman	Ruzicka	Salva	Sander
Sater	Scavuzzo	Schaaf	Schad	Scharnhorst
Schieffer	Schlottach	Schneider	Schoeller	Schoemehl
Self	Shively	Silvey	Skaggs	Smith 14
Smith 150	Spreng	Stevenson	St. Onge	Stream
Sutherland	Swinger	Talboy	Thomson	Threlkeld
Tilley	Todd	Viebrock	Villa	Vogt

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Wallace	Walsh	Wasson	Wells	Weter
Whorton	Wildberger	Wilson 119	Wilson 130	Witte
Wood	Wright 159	Wright-Jones	Yaeger	Young
Zimmerman	Mr Speaker			

NOES: 000

PRESENT: 000

ABSENT WITH LEAVE: 011

Avery	Bland	Bowman	Brown 50	Cunningham 145
Haywood	Marsh	Storch	Walton	Yates
Zweifel				

Representative Cooper (120) declared the bill passed.

The emergency clause was adopted by the following vote:

AYES: 148

Aull	Baker 25	Baker 123	Bearden	Bivins
Brandom	Bringer	Brown 30	Bruns	Burnett
Casey	Chappelle-Nadal	Cooper 120	Cooper 155	Cooper 158
Corcoran	Cunningham 86	Curls	Darrough	Daus
Davis	Deeken	Dempsey	Denison	Dixon
Donnelly	Dougherty	Dusenberg	El-Amin	Emery
Ervin	Faith	Fallert	Fares	Fisher
Flook	Frame	Franz	Funderburk	George
Grill	Grisamore	Guest	Harris 23	Harris 110
Hobbs	Hodges	Holsman	Hoskins	Hubbard
Hughes	Hunter	Ice	Johnson	Jones 89
Jones 117	Kelly	Kingery	Komo	Kratky
Kraus	Kuessner	Lampe	Lembke	LeVota
Liese	Lipke	Loehner	Low 39	Lowe 44
May	McClanahan	McGhee	Meadows	Meiners
Moore	Munzlinger	Muschany	Nance	Nasheed
Nieves	Nolte	Norr	Onder	Oxford
Page	Parson	Pearce	Pollock	Portwood
Pratt	Quinn 7	Quinn 9	Richard	Robb
Robinson	Roorda	Rucker	Ruestman	Ruzicka
Salva	Sander	Sater	Scavuzzo	Schaaf
Schad	Scharnhorst	Schieffer	Schlottach	Schneider
Schoeller	Schoemehl	Self	Shively	Silvey
Skaggs	Smith 14	Smith 150	Spreng	Stevenson
St. Onge	Storch	Stream	Sutherland	Swinger
Thomson	Threlkeld	Tilley	Todd	Viebrock
Villa	Vogt	Wallace	Walsh	Wasson
Wells	Weter	Whorton	Wildberger	Wilson 119
Witte	Wood	Wright 159	Wright-Jones	Yaeger
Young	Zimmerman	Mr Speaker		

NOES: 003

Day	Dethrow	Talboy
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PRESENT: 000

ABSENT WITH LEAVE: 012

Avery	Bland	Bowman	Brown 50	Cox
Cunningham 145	Haywood	Marsh	Walton	Wilson 130
Yates	Zweifel			

HOUSE RESOLUTION

HR 1678, relating to House employees, was taken up by Representative Jones (117).

On motion of Representative Jones (117), **HR 1678** was adopted.

THIRD READING OF SENATE BILL

HCS SS SCS SB 429, relating to crime, was taken up by Representative Stream.

Representative Jetton offered **House Amendment No. 1**.

House Amendment No. 1

AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 429, Section 174.712, Page 10, Line 5, by inserting immediately after said line the following:

"188.015. Unless the language or context clearly indicates a different meaning is intended, the following words or phrases for the purposes of sections 188.010 to 188.130 shall be given the meaning ascribed to them:

(1) "Abortion", the intentional destruction of the life of an embryo or fetus in his or her mother's womb or the intentional termination of the pregnancy of a mother with an intention other than to increase the probability of a live birth or to remove a dead or dying unborn child;

(2) "Abortion facility", a clinic, physician's office, or any other place or facility in which abortions are performed other than a hospital;

(3) "Conception", the fertilization of the ovum of a female by a sperm of a male;

(4) "Gestational age", length of pregnancy as measured from the first day of the woman's last menstrual period;

(5) "**Partial-birth abortion**", an abortion in which the person performing the abortion:

(a) **Deliberately and intentionally vaginally delivers a living fetus until, in the case of a head first presentation, the entire fetal head is outside the body of the mother, or in the case of breech presentation, any part of the fetal trunk past the navel is outside the body of the mother, for the purpose of performing an overt act that the person knows will kill the partially delivered living fetus; and**

(b) **Performs the overt act, other than completion of delivery, that kills the partially delivered living fetus;**

(6) "Physician", any person licensed to practice medicine in this state by the state board of registration of the healing arts;

[(6)] (7) "Unborn child", the offspring of human beings from the moment of conception until birth and at every stage of its biological development, including the human conceptus, zygote, morula, blastocyst, embryo, and fetus;

[(7)] (8) "Viability", that stage of fetal development when the life of the unborn child may be continued indefinitely outside the womb by natural or artificial life-supportive systems."; and

188.021. 1. Any physician who knowingly performs a partial-birth abortion and thereby kills a human fetus shall be guilty of a class C felony.

2. Subsection 1 shall not apply to a partial-birth abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, physical illness, or physical injury, including a life endangering physical condition caused by or arising from the pregnancy itself.

3. The father, if married to the mother at the time she receives a partial-birth abortion procedure, and the maternal grandparents of the fetus, if the mother has not attained the age of eighteen years of age at the time

of the abortion, may have a civil cause of action against any person in violation of subsection 1 of this section to obtain appropriate relief, unless the pregnancy resulted from the plaintiff's criminal conduct or the plaintiff consented to the abortion. Such appropriate relief shall include money damages for all psychological and physical injuries that occurred as a result of a violation of this section and statutory damages equal to three times the cost of the partial-birth abortion.

4. A defendant accused of a violation of subsection 1 of this section may seek a hearing before the state board of registration for the healing arts on whether the physician's conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, physical illness, or physical injury, including a life endangering physical condition caused by or arising from the pregnancy itself. The findings on said issue are admissible at the trial of the defendant. Upon a motion of the defendant, the court shall delay the beginning of the trial for not more than thirty days to permit such a hearing to take place.

5. Any woman upon whom a partial-birth abortion is performed may not be prosecuted under this section or for a conspiracy to violate this section.

188.075. **Except as provided in section 188.021**, any person who contrary to the provisions of sections 188.010 to 188.085 knowingly performs or aids in the performance of any abortion or knowingly fails to perform any action required by sections 188.010 to 188.085 shall be guilty of a class A misdemeanor and, upon conviction, shall be punished as provided by law."; and

Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.

Speaker Pro Tem Bearden assumed the Chair.

Representative Skaggs raised a point of order that **House Amendment No. 1** goes beyond the scope of the bill.

The Chair ruled the point of order not timely.

Representative Onder offered **House Amendment No. 1 to House Amendment No. 1.**

House Amendment No. 1
to
House Amendment No. 1

AMEND House Amendment No. 1 to House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 429, Page 2, Section 188.021, Line 12, by deleting the letter "C" and substitute the letter "A".

On motion of Representative Onder, **House Amendment No. 1 to House Amendment No. 1** was adopted.

Representative Corcoran offered **House Amendment No. 2 to House Amendment No. 1.**

House Amendment No. 2
to
House Amendment No. 1

AMEND House Amendment No. 1 to House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 429, Page 2, Section 188.021, Line 12, by inserting after the word "felony" the following:

"In addition, any physician that performs abortion shall be required to receive a Certificate of Need from the Missouri Health Facilities Review Committee."

On motion of Representative Corcoran, **House Amendment No. 2 to House Amendment No. 1** was adopted.

On motion of Representative Jetton, **House Amendment No. 1, as amended**, was adopted by the following vote:

AYES: 146

Aull	Baker 25	Baker 123	Bearden	Bivins
Brandom	Bringer	Brown 30	Bruns	Burnett
Casey	Cooper 120	Cooper 155	Cooper 158	Corcoran
Cox	Cunningham 86	Curls	Darrough	Daus
Davis	Day	Deeken	Dempsey	Denison
Dethrow	Dixon	Donnelly	Dusenberg	El-Amin
Emery	Ervin	Faith	Fallert	Fisher
Flook	Frame	Franz	Funderburk	George
Grill	Grisamore	Guest	Harris 23	Harris 110
Haywood	Hobbs	Hodges	Holsman	Hoskins
Hubbard	Hunter	Icet	Johnson	Jones 89
Jones 117	Kelly	Kingery	Komo	Kratky
Kraus	Kuessner	Lampe	Lembke	LeVota
Liese	Lipke	Loehner	Marsh	May
McClanahan	McGhee	Meadows	Meiners	Moore
Munzlinger	Muschany	Nance	Nieves	Nolte
Norr	Onder	Page	Parson	Pearce
Pollock	Portwood	Pratt	Quinn 7	Quinn 9
Richard	Robb	Robinson	Roorda	Rucker
Ruestman	Ruzicka	Salva	Sander	Sater
Scavuzzo	Schaaf	Schad	Scharnhorst	Schieffer
Schlottach	Schneider	Schoeller	Schoemehl	Self
Shively	Silvey	Smith 14	Smith 150	Spreng
Stevenson	St. Onge	Storch	Stream	Sutherland
Swinger	Thomson	Threlkeld	Tilley	Todd
Viebrock	Villa	Vogt	Wallace	Walsh
Wasson	Wells	Weter	Whorton	Wildberger
Wilson 119	Wilson 130	Witte	Wood	Wright 159
Wright-Jones	Yaeger	Yates	Young	Zimmerman
Mr Speaker				

NOES: 008

Chappelle-Nadal	Hughes	Low 39	Lowe 44	Nasheed
Oxford	Skaggs	Talboy		

PRESENT: 001

Fares

ABSENT WITH LEAVE: 008

Avery	Bland	Bowman	Brown 50	Cunningham 145
Dougherty	Walton	Zweifel		

Representative Stream offered **House Amendment No. 2.**

House Amendment No. 2

AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 429, Section 43.050, Page 3, Line 26, by inserting immediately after said line the following:

"43.060. 1. Patrolmen and radio personnel shall not be less than twenty-one years of age. No person shall be appointed as superintendent or member of the patrol or as a member of the radio personnel who has been convicted of a felony or any crime involving moral turpitude, or against whom any indictment or information may then be pending charging the person with having committed a crime, nor shall any person be appointed who is not of good character or who is not a citizen of the United States and who at the time of appointment is not a citizen of the state of Missouri; or who [is not a graduate of an accredited four-year high school or in lieu thereof] **has not completed a high school program of education under chapter 167, RSMo, or who has not obtained a General Education Development (GED) certificate [of equivalency from the state department of elementary and secondary education or other source recognized by that department], and who has not obtained advanced education and experience as approved by the superintendent,** or who does not possess ordinary physical strength, and who is not able to pass the physical and mental examination that the superintendent prescribes.

2. Except as provided in subsections 3 and 4 of this section, no member of the patrol shall hold any other commission or office, elective or appointive, while a member of the patrol, except that the superintendent may authorize specified members to accept federal commissions providing investigative and arrest authority to enforce federal statutes while working with or at the direction of a federal law enforcement agency. No member of the patrol shall accept any other employment, compensation, reward, or gift other than regular salary and expenses as herein provided except with the written permission of the superintendent. No member of the patrol shall perform any police duty connected with the conduct of any election, nor shall any member of the patrol at any time or in any manner electioneer for or against any party ticket, or any candidate for nomination or election to office on any party ticket, nor for or against any proposition of any kind or nature to be voted upon at any election.

3. Members of the patrol shall be permitted to be candidates for and members or directors of the school board in any school district where they meet the requirements for that position as set forth in chapter 162, RSMo. Members of the patrol who become school board directors or members within the state shall be permitted to receive benefits or compensation for their service to the school board as provided by chapter 162, RSMo.

4. The superintendent may, by general order, set forth the circumstances under which members of the patrol may, in addition to their duties as members of the patrol, be engaged in secondary employment."; and

Further amend said substitute, Section 589.683, Page 104, Line 10, by inserting immediately after said line the following:

"590.030. 1. The POST commission shall establish minimum standards for the basic training of peace officers. Such standards may vary for each class of license established pursuant to subsection 2 of section 590.020.

2. The director shall establish minimum age, citizenship, and general education requirements and may require a qualifying score on a certification examination as conditions of eligibility for a peace officer license. **Such general education requirements shall require completion of a high school program of education under chapter 167, RSMo, or obtainment of a general education development (GED) certificate.**

3. The director shall provide for the licensure, with or without additional basic training, of peace officers possessing credentials by other states or jurisdictions, including federal and military law enforcement officers.

4. The director shall establish a procedure for obtaining a peace officer license and shall issue the proper license when the requirements of this chapter have been met.

5. As conditions of licensure, all licensed peace officers shall:

(1) Obtain continuing law enforcement education pursuant to rules to be promulgated by the POST commission; and

(2) Maintain a current address of record on file with the director.

6. A peace officer license shall automatically expire if the licensee fails to hold a commission as a peace officer for a period of five consecutive years, provided that the POST commission shall provide for the relicensure of such persons and may require retraining as a condition of eligibility for relicensure, and provided that the director may provide for the continuing licensure, subject to restrictions, of persons who hold and exercise a law enforcement commission requiring a peace officer license but not meeting the definition of a peace officer pursuant to this chapter."; and

Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.

On motion of Representative Stream, **House Amendment No. 2** was adopted.

Representative Stream offered **House Amendment No. 3**.

House Amendment No. 3

AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 429, Section 595.031, Page 108, Line 12, by inserting immediately after said line the following:

"595.036. 1. **Any party aggrieved by a decision of the department on a claim under the provisions of sections 595.010 to 595.070 may, within thirty days following the date of notification of mailing of such decision, file a petition with the division of workers' compensation of the department of labor and industrial relations to have such decision heard de novo by an administrative law judge. The administrative law judge may affirm, reverse, or set aside the decision of the department of public safety on the basis of the evidence previously submitted in such case or may take additional evidence or may remand the matter to the department of public safety with directions. The division of workers' compensation shall promptly notify the parties of its decision and the reasons therefor.**

2. Any of the parties to a decision of **an administrative law judge** of the division of workers' compensation, **as provided by subsection 1 of this section**, on a claim heard under the provisions of sections 595.010 to 595.070 may, within thirty days following the date of notification or mailing of such decision, file a petition with the labor and industrial relations commission to have such decision reviewed by the commission. The commission may allow or deny a petition for review. If a petition is allowed, the commission may affirm, reverse, or set aside the decision of the division of workers' compensation on the basis of the evidence previously submitted in such case or may take additional evidence or may remand the matter to the division of workers' compensation with directions. The commission shall promptly notify the parties of its decision and the reasons therefor.

[2.] **3.** Any petition for review filed pursuant to subsection 1 of this section shall be deemed to be filed as of the date endorsed by the United States Postal Service on the envelope or container in which such petition is received.

[3.] **4.** Any party who is aggrieved by a final decision of the labor and industrial relations commission pursuant to the provisions of subsections [1 and] 2 **and 3** of this section [may seek judicial review thereof, as provided in sections 536.100 to 536.140, RSMo] **shall within thirty days from the date of the final decision, appeal the decision to the court of appeals. Such appeal may be taken by filing notice of appeal with the commission, whereupon the commission shall, under its certificate, return to the court all documents and papers on file in the matter, together with a transcript of the evidence, the findings and award, which shall thereupon become the record of the cause. Upon appeal no additional evidence shall be heard and, in the absence of fraud, the findings of fact made by the commission within its powers shall be conclusive and binding. The court, on appeal, shall review only questions of law and may modify, reverse, remand for rehearing, or set aside the award upon any of the following grounds and no other:**

- (1) That the commission acted without or in excess of its powers;**
- (2) That the award was procured by fraud;**
- (3) That the facts found by the commission do not support the award;**
- (4) That there was not sufficient competent evidence in the record to warrant the making of the award.";** and

Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.

On motion of Representative Stream, **House Amendment No. 3** was adopted.

Representative Tilley offered **House Amendment No. 4**.

House Amendment No. 4

AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 429, Line 10 of the Title, by inserting after "RSMo," the following:

"and Section 1 as truly agreed and finally passed in Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 327, Ninety-fourth General Assembly, First Regular Session,"; and

Further amend said bill, Page 2, Section A, Line 9, by inserting after "RSMo," the following:

"and Section 1 as truly agreed and finally passed in Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 327, Ninety-fourth General Assembly, First Regular Session,"; and

Further amend said bill, Page 118, Section 650.470, Line 50, by inserting after said line the following:

"[Section 1. No person, firm, limited liability company, or corporation shall purchase more than twenty tickets at one time, except that any ticket issuer may allow the purchaser of any amount of tickets through a group sales office.];" and

Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.

On motion of Representative Tilley, **House Amendment No. 4** was adopted.

Representative Tilley offered **House Amendment No. 5**.

House Amendment No. 5

AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 429, Page 118, Section 650.470, Line 50, by inserting after all of said section, the following:

"Section 1. Nothing in this section or in any law or ordinance of any city, county, or other political subdivision shall prohibit or be deemed to prohibit a person, firm, limited liability company, or corporation from reselling or offering to resell via the Internet an admission ticket, at any price, or charging any fee in connection with the resale or offering of an admission ticket to any athletic contest, dance, theater, concert, circus, or other amusement, if such Internet web site's operator guarantees a full refund or future credit of the amount paid for the ticket under each of the following conditions:

- (a) The ticketed event is cancelled;**
- (b) The purchaser is denied admission to the ticketed event, using the purchased ticket, unless such denial is due to the action or omission of the purchaser.**
- (2) The Internet web site's guarantee under this subsection shall be clearly posted and all prospective purchasers shall be directed to such guaranty before completion of the resale transaction.**
- (3) A refund issued under any of the conditions provided in this subsection shall include any service, handling, or processing fees unless such fees are declared nonrefundable under the terms of the guarantee.**
- (4) The provisions of this subsection do not apply to student or other discounted tickets issued by institutions of higher education or any other state or federal not-for-profit institutions.";** and

Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.

Representative Burnett raised a point of order that **House Amendment No. 5** is out of order pursuant to Rule 84.

The Chair ruled the point of order not well taken.

Representative Talboy offered **House Amendment No. 1 to House Amendment No. 5**.

House Amendment No. 1
to
House Amendment No. 5

AMEND House Amendment No. 5 to House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 429, Page 118, Section 650.410, Line 3, by inserting immediately after said line the following:

"578.395. 1. Any person, firm, **limited liability company**, or corporation who resells or offers to resell any ticket for admission, or any other evidence of the right of entry, to any public sporting event for a price in excess of the price printed on the ticket is guilty of the offense of ticket scalping. For purposes of this section, if a seller requires, as a precondition of the resale of a ticket, the purchase or rental of other goods or services at a price in excess of the fair market value of such goods or services, the excess amount shall be deemed to be part of the purchase price of the ticket.

2. Nothing in this section shall prohibit nor shall be deemed to prohibit a seller[, with consent of the sponsor of such sporting event,] from collecting a reasonable service charge from a ticket purchaser in return for services actually rendered.

3. Any person violating this section [upon conviction shall be] is guilty of a misdemeanor and, except as provided in subsection 4 of this section, shall be punished as follows:

(1) For the first offense, by a fine of not less than fifty dollars nor more than three hundred dollars or by imprisonment in the county jail for a term of not less than fifteen days;

(2) For the second offense, by a fine of not less than three hundred dollars nor more than five hundred dollars or by imprisonment in the county jail for a term of not less than sixty days nor more than six months;

(3) For the third and each subsequent offense, by a fine of not less than five hundred dollars nor more than one thousand dollars or imprisonment in the county jail for a term of not less than six months nor more than one year.

4. In lieu of any fine imposed under subsection 3 of this section, the court may invoke the provisions of subsection 2 of section 560.016, RSMo, against any person convicted of a second or subsequent offense of this section."; and

Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.

Representative Talboy moved that **House Amendment No. 1 to House Amendment No. 5** be adopted.

Which motion was defeated.

On motion of Representative Tilley, **House Amendment No. 5** was adopted.

Representative Cooper (120) offered **House Amendment No. 6**.

House Amendment No. 6

AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 429, Page 39, Section 195.017, Line 648, by inserting after all of said line the following:

"195.217. 1. A person commits the offense of distribution of a controlled substance near a park, as defined in section 253.010, RSMo, if such person violates section 195.211 by unlawfully distributing or delivering heroin, cocaine, LSD, amphetamine, or methamphetamine to a person in or on, or within one thousand feet of, the real property comprising a public park, state park, county park, or municipal park or a public or private park designed for public recreational purposes.

2. Distribution of a controlled substance near a park is a class A felony."; and

Further amend said title, enacting clause and intersectional references accordingly.

On motion of Representative Cooper (120), **House Amendment No. 6** was adopted.

Representative Lipke offered **House Amendment No. 7.**

House Amendment No. 7

AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 429, Section 455.003, Page 67, Line 16, by inserting immediately after said line the following:

"479.260. 1. Municipalities by ordinance may provide for fees in an amount per case to be set pursuant to sections 488.010 to 488.020, RSMo, for each municipal ordinance violation case filed before a municipal judge, and in the event a defendant pleads guilty or is found guilty, the judge may assess costs against the defendant except in those cases where the defendant is found by the judge to be indigent and unable to pay the costs. **In the event the case is dismissed before the defendant pleads guilty or is found guilty, the municipal judge may assess municipal court costs as determined by section 488.012, RSMo, against the defendant if the defendant consents to paying the costs except in those cases where the defendant is found by the judge to be unable to pay the costs.** The fees authorized in this subsection are in addition to service charges, witness fees and jail costs that may otherwise be authorized to be assessed, but are in lieu of other court costs. The fees provided by this subsection shall be collected by the municipal division clerk in municipalities electing or required to have violations of municipal ordinances tried before a municipal judge pursuant to section 479.020, or to employ judicial personnel pursuant to section 479.060, and disbursed as provided in subsection 1 of section 479.080. Any other court costs required in connection with such cases shall be collected and disbursed as provided in sections 488.010 to 488.020, RSMo; provided that, each municipal court may establish a judicial education fund in an account under the control of the municipal court to retain one dollar of the fees collected on each case and to use the fund only to pay for:

- (1) The continuing education and certification required of the municipal judges by law or supreme court rule; and
- (2) Judicial education and training for the court administrator and clerks of the municipal court.

Provided further, that no municipal court shall retain more than one thousand five hundred dollars in the fund for each judge, administrator or clerk of the municipal court. Any excess funds shall be transmitted quarterly to the general revenue fund of the county or municipal treasury.

2. In municipal ordinance violation cases which are filed in the associate circuit division of the circuit court, fees shall be assessed in each case in an amount to be set pursuant to sections 488.010 to 488.020, RSMo. In the event a defendant pleads guilty or is found guilty, the judge shall assess costs against the defendant except in those cases where the defendant is found by the judge to be indigent and unable to pay the costs. In the event a defendant is acquitted or the case is dismissed, the judge shall not assess costs against the municipality. The costs authorized in this subsection are in addition to service charges, witness fees and jail costs that may otherwise be authorized to be assessed, but are in lieu of other court costs. The costs provided by this subsection shall be collected by the municipal division clerk in municipalities electing or required to have violations of municipal ordinances tried before a municipal judge pursuant to section 479.020, or to employ judicial personnel pursuant to section 479.060, and disbursed as provided in subsection 2 of section 479.080. Any other court costs required in connection with such cases shall be collected and disbursed as provided in sections 488.010 to 488.020, RSMo.

3. A municipality, when filing cases before an associate circuit judge, shall not be required to pay fees.

4. No fees for a judge, city attorney or prosecutor shall be assessed as costs in a municipal ordinance violation case.

5. In municipal ordinance violation cases, when there is an application for a trial de novo, there shall be an additional fee in an amount to be set pursuant to sections 488.010 to 488.020, RSMo, which shall be assessed in the same manner as provided in subsection 2 of this section.

6. Municipalities by ordinance may provide for a schedule of costs to be paid in connection with pleas of guilty which are processed in a traffic violations bureau. If a municipality files its municipal ordinance violation cases before a municipal judge, such costs shall not exceed the court costs authorized by subsection 1 of this section. If a municipality files its municipal ordinance violations cases in the associate circuit division of the circuit court, such costs shall not exceed the court costs authorized by subsection 2 of this section."; and

Further amend said substitute, Section 488.5025, Page 68, Line 18, by inserting immediately after said line the following:

"488.5032. In the event a criminal case is dismissed in a circuit court in this state before the defendant pleads guilty or is found guilty, the circuit judge may assess costs as determined by section 488.012, RSMo, against any defendant if the defendant consents to paying the costs except in those cases where the defendant is found by the judge to be indigent and unable to pay the costs."; and

Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.

On motion of Representative Lipke, **House Amendment No. 7** was adopted.

Representative Jones (117) offered **House Amendment No. 8.**

House Amendment No. 8

AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 429, Section 595.209, Pages 108 through 112, by inserting after all of said section the following:

"610.021. Except to the extent disclosure is otherwise required by law, a public governmental body is authorized to close meetings, records and votes, to the extent they relate to the following:

(1) Legal actions, causes of action or litigation involving a public governmental body and any confidential or privileged communications between a public governmental body or its representatives and its attorneys. However, any minutes, vote or settlement agreement relating to legal actions, causes of action or litigation involving a public governmental body or any agent or entity representing its interests or acting on its behalf or with its authority, including any insurance company acting on behalf of a public government body as its insured, shall be made public upon final disposition of the matter voted upon or upon the signing by the parties of the settlement agreement, unless, prior to final disposition, the settlement agreement is ordered closed by a court after a written finding that the adverse impact to a plaintiff or plaintiffs to the action clearly outweighs the public policy considerations of section 610.011, however, the amount of any moneys paid by, or on behalf of, the public governmental body shall be disclosed; provided, however, in matters involving the exercise of the power of eminent domain, the vote shall be announced or become public immediately following the action on the motion to authorize institution of such a legal action. Legal work product shall be considered a closed record;

(2) Leasing, purchase or sale of real estate by a public governmental body where public knowledge of the transaction might adversely affect the legal consideration therefor. However, any minutes, vote or public record approving a contract relating to the leasing, purchase or sale of real estate by a public governmental body shall be made public upon execution of the lease, purchase or sale of the real estate;

(3) Hiring, firing, disciplining or promoting of particular employees by a public governmental body when personal information about the employee is discussed or recorded. However, any vote on a final decision, when taken by a public governmental body, to hire, fire, promote or discipline an employee of a public governmental body shall be made available with a record of how each member voted to the public within seventy-two hours of the close of the meeting where such action occurs; provided, however, that any employee so affected shall be entitled to prompt notice of such decision during the seventy-two-hour period before such decision is made available to the public. As used in this subdivision, the term "personal information" means information relating to the performance or merit of individual employees;

(4) The state militia or national guard or any part thereof;

(5) Nonjudicial mental or physical health proceedings involving identifiable persons, including medical, psychiatric, psychological, or alcoholism or drug dependency diagnosis or treatment;

(6) Scholastic probation, expulsion, or graduation of identifiable individuals, including records of individual test or examination scores; however, personally identifiable student records maintained by public educational institutions shall be open for inspection by the parents, guardian or other custodian of students under the age of eighteen years and by the parents, guardian or other custodian and the student if the student is over the age of eighteen years;

(7) Testing and examination materials, before the test or examination is given or, if it is to be given again, before so given again;

(8) Welfare cases of identifiable individuals;

(9) Preparation, including any discussions or work product, on behalf of a public governmental body or its representatives for negotiations with employee groups;

- (10) Software codes for electronic data processing and documentation thereof;
- (11) Specifications for competitive bidding, until either the specifications are officially approved by the public governmental body or the specifications are published for bid;
- (12) Sealed bids and related documents, until the bids are opened; and sealed proposals and related documents or any documents related to a negotiated contract until a contract is executed, or all proposals are rejected;
- (13) Individually identifiable personnel records, performance ratings or records pertaining to employees or applicants for employment, except that this exemption shall not apply to the names, positions, salaries and lengths of service of officers and employees of public agencies once they are employed as such, and the names of private sources donating or contributing money to the salary of a chancellor or president at all public colleges and universities in the state of Missouri and the amount of money contributed by the source;
- (14) Records which are protected from disclosure by law;
- (15) Meetings and public records relating to scientific and technological innovations in which the owner has a proprietary interest;
- (16) Records relating to municipal hotlines established for the reporting of abuse and wrongdoing;
- (17) Confidential or privileged communications between a public governmental body and its auditor, including all auditor work product; however, all final audit reports issued by the auditor are to be considered open records pursuant to this chapter;
- (18) Operational guidelines and policies developed, adopted, or maintained by any public agency responsible for law enforcement, public safety, first response, or public health for use in responding to or preventing any critical incident which is or appears to be terrorist in nature and which has the potential to endanger individual or public safety or health. Nothing in this exception shall be deemed to close information regarding expenditures, purchases, or contracts made by an agency in implementing these guidelines or policies. When seeking to close information pursuant to this exception, the agency shall affirmatively state in writing that disclosure would impair its ability to protect the safety or health of persons, and shall in the same writing state that the public interest in nondisclosure outweighs the public interest in disclosure of the records. This exception shall sunset on December 31, 2008;
- (19) Existing or proposed security systems and structural plans of real property owned or leased by a public governmental body, and information that is voluntarily submitted by a nonpublic entity owning or operating an infrastructure to any public governmental body for use by that body to devise plans for protection of that infrastructure, the public disclosure of which would threaten public safety:
 - (a) Records related to the procurement of or expenditures relating to security systems purchased with public funds shall be open;
 - (b) When seeking to close information pursuant to this exception, the public governmental body shall affirmatively state in writing that disclosure would impair the public governmental body's ability to protect the security or safety of persons or real property, and shall in the same writing state that the public interest in nondisclosure outweighs the public interest in disclosure of the records;
 - (c) Records that are voluntarily submitted by a nonpublic entity shall be reviewed by the receiving agency within ninety days of submission to determine if retention of the document is necessary in furtherance of a state security interest. If retention is not necessary, the documents shall be returned to the nonpublic governmental body or destroyed;
 - (d) This exception shall sunset on December 31, 2008;
- (20) Records that identify the configuration of components or the operation of a computer, computer system, computer network, or telecommunications network, and would allow unauthorized access to or unlawful disruption of a computer, computer system, computer network, or telecommunications network of a public governmental body. This exception shall not be used to limit or deny access to otherwise public records in a file, document, data file or database containing public records. Records related to the procurement of or expenditures relating to such computer, computer system, computer network, or telecommunications network, including the amount of moneys paid by, or on behalf of, a public governmental body for such computer, computer system, computer network, or telecommunications network shall be open; [and]
- (21) Credit card numbers, personal identification numbers, digital certificates, physical and virtual keys, access codes or authorization codes that are used to protect the security of electronic transactions between a public governmental body and a person or entity doing business with a public governmental body. Nothing in this section shall be deemed to close the record of a person or entity using a credit card held in the name of a public governmental body or any record of a transaction made by a person using a credit card or other method of payment for which reimbursement is made by a public governmental body; **and**

(22) Records and documents of and pertaining to internal investigations by a law enforcement agency into matters of fitness and conduct of a law enforcement officer employed by such investigating law enforcement agency used solely in connection with matters relating to the employment of such law enforcement officer, and records and documents pertaining to any determinations or actions relating to an officer's employment status taken in connection with or following such investigations. However, if such records and documents are used or shared by an agency in a criminal investigation involving an officer, provisions regarding incident reports, investigative reports or other documents covered under section 610.100 shall apply.

610.100. 1. As used in sections 610.100 to 610.150, the following words and phrases shall mean:

(1) "Arrest", an actual restraint of the person of the defendant, or by his or her submission to the custody of the officer, under authority of a warrant or otherwise for a criminal violation which results in the issuance of a summons or the person being booked;

(2) "Arrest report", a record of a law enforcement agency of an arrest and of any detention or confinement incident thereto together with the charge therefor;

(3) "Inactive", an investigation in which no further action will be taken by a law enforcement agency or officer for any of the following reasons:

(a) A decision by the law enforcement agency not to pursue the case;

(b) Expiration of the time to file criminal charges pursuant to the applicable statute of limitations, or ten years after the commission of the offense; whichever date earliest occurs;

(c) Finality of the convictions of all persons convicted on the basis of the information contained in the investigative report, by exhaustion of or expiration of all rights of appeal of such persons;

(4) "Incident report", a record of a law enforcement agency consisting of the date, time, specific location, name of the victim and immediate facts and circumstances surrounding the initial report of a crime or incident, including any logs of reported crimes, accidents and complaints maintained by that agency;

(5) "Investigative report", a record, other than an arrest or incident report, prepared by personnel of a law enforcement agency, inquiring into a crime or suspected crime, either in response to an incident report or in response to evidence developed by law enforcement officers in the course of their duties;

(6) Investigative reports and incident reports, or other law enforcement records covered under this section, shall not include any records or documents pertaining to internal investigations by law enforcement agencies into matters of fitness and conduct of law enforcement officers employed by such investigating law enforcement agencies and used solely in connection with such officers' employment, as described in subdivision (22) of section 610.021. However, if such records and documents are used or shared by an agency in a criminal investigation involving an officer, provisions regarding incident reports, investigative reports, or other documents covered under this section shall apply.

2. Each law enforcement agency of this state, of any county, and of any municipality shall maintain records of all incidents reported to the agency, investigations and arrests made by such law enforcement agency. All incident reports and arrest reports shall be open records. Notwithstanding any other provision of law other than the provisions of subsections 4, 5 and 6 of this section or section 320.083, RSMo, investigative reports of all law enforcement agencies are closed records until the investigation becomes inactive. If any person is arrested and not charged with an offense against the law within thirty days of the person's arrest, the arrest report shall thereafter be a closed record except that the disposition portion of the record may be accessed and except as provided in section 610.120.

3. Except as provided in subsections 4, 5, 6 and 7 of this section, if any portion of a record or document of a law enforcement officer or agency, other than an arrest report, which would otherwise be open, contains information that is reasonably likely to pose a clear and present danger to the safety of any victim, witness, undercover officer, or other person; or jeopardize a criminal investigation, including records which would disclose the identity of a source wishing to remain confidential or a suspect not in custody; or which would disclose techniques, procedures or guidelines for law enforcement investigations or prosecutions, that portion of the record shall be closed and shall be redacted from any record made available pursuant to this chapter.

4. Any person, including a family member of such person within the first degree of consanguinity if such person is deceased or incompetent, attorney for a person, or insurer of a person involved in any incident or whose property is involved in an incident, may obtain any records closed pursuant to this section or section 610.150 for purposes of investigation of any civil claim or defense, as provided by this subsection. Any individual, his or her family member within the first degree of consanguinity if such individual is deceased or incompetent, his or her attorney or insurer, involved in an incident or whose property is involved in an incident, upon written request, may obtain a complete

unaltered and unedited incident report concerning the incident, and may obtain access to other records closed by a law enforcement agency pursuant to this section. Within thirty days of such request, the agency shall provide the requested material or file a motion pursuant to this subsection with the circuit court having jurisdiction over the law enforcement agency stating that the safety of the victim, witness or other individual cannot be reasonably ensured, or that a criminal investigation is likely to be jeopardized. If, based on such motion, the court finds for the law enforcement agency, the court shall either order the record closed or order such portion of the record that should be closed to be redacted from any record made available pursuant to this subsection.

5. Any person may bring an action pursuant to this section in the circuit court having jurisdiction to authorize disclosure of the information contained in an investigative report of any law enforcement agency, which would otherwise be closed pursuant to this section. The court may order that all or part of the information contained in an investigative report be released to the person bringing the action. In making the determination as to whether information contained in an investigative report shall be disclosed, the court shall consider whether the benefit to the person bringing the action or to the public outweighs any harm to the public, to the law enforcement agency or any of its officers, or to any person identified in the investigative report in regard to the need for law enforcement agencies to effectively investigate and prosecute criminal activity. The investigative report in question may be examined by the court in camera. The court may find that the party seeking disclosure of the investigative report shall bear the reasonable and necessary costs and attorneys' fees of both parties, unless the court finds that the decision of the law enforcement agency not to open the investigative report was substantially unjustified under all relevant circumstances, and in that event, the court may assess such reasonable and necessary costs and attorneys' fees to the law enforcement agency.

6. Any person may apply pursuant to this subsection to the circuit court having jurisdiction for an order requiring a law enforcement agency to open incident reports and arrest reports being unlawfully closed pursuant to this section. If the court finds by a preponderance of the evidence that the law enforcement officer or agency has knowingly violated this section, the officer or agency shall be subject to a civil penalty in an amount up to one thousand dollars. If the court finds that there is a knowing violation of this section, the court may order payment by such officer or agency of all costs and attorneys' fees, as provided by section 610.027. If the court finds by a preponderance of the evidence that the law enforcement officer or agency has purposely violated this section, the officer or agency shall be subject to a civil penalty in an amount up to five thousand dollars and the court shall order payment by such officer or agency of all costs and attorney fees, as provided in section 610.027. The court shall determine the amount of the penalty by taking into account the size of the jurisdiction, the seriousness of the offense, and whether the law enforcement officer or agency has violated this section previously.

7. The victim of an offense as provided in chapter 566, RSMo, may request that his or her identity be kept confidential until a charge relating to such incident is filed."; and

Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.

On motion of Representative Jones (117), **House Amendment No. 8** was adopted.

Representative Roorda offered **House Amendment No. 9**.

House Amendment No. 9

AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 429, Section 650.470, Page 118, Line 50, by inserting immediately after said line the following:

"Section 1. The University of Missouri Geographic Resources Center shall identify, by using geographic information system technology, any sexual offender who is in violation of section 566.147 and shall publish an annual study that includes such information. Such annual study shall be provided to the state highway patrol for distribution to all law enforcement agencies in this state."; and

Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.

On motion of Representative Roorda, **House Amendment No. 9** was adopted by the following vote:

AYES: 139

Aull	Avery	Baker 25	Baker 123	Bearden
Bivins	Brandom	Bringer	Brown 30	Brown 50
Bruns	Casey	Cooper 120	Cooper 158	Corcoran
Cox	Cunningham 86	Curls	Darrough	Davis
Day	Deeken	Dempsey	Denison	Dethrow
Dixon	Donnelly	Dusenberg	Emery	Ervin
Faith	Fallert	Fares	Fisher	Frame
Franz	Funderburk	George	Grill	Grisamore
Guest	Harris 23	Harris 110	Haywood	Hobbs
Hodges	Holsman	Hunter	Ice	Jones 89
Jones 117	Kingery	Komo	Kratky	Kraus
Kuessner	Lampe	Lembke	LeVota	Liese
Lipke	Loehner	Marsh	May	McClanahan
McGhee	Meadows	Meiners	Moore	Munzlinger
Muschany	Nance	Nieves	Nolte	Norr
Onder	Page	Parson	Pearce	Pollock
Portwood	Pratt	Quinn 7	Quinn 9	Richard
Robb	Robinson	Roorda	Rucker	Ruestman
Ruzicka	Salva	Sander	Sater	Scavuzzo
Schaaf	Schad	Scharnhorst	Schieffer	Schlottach
Schoeller	Schoemehl	Self	Shively	Silvey
Skaggs	Smith 14	Smith 150	Spreng	Stevenson
St. Onge	Storch	Stream	Sutherland	Swinger
Thomson	Threlkeld	Tilley	Todd	Villa
Vogt	Wallace	Walsh	Walton	Wasson
Wells	Weter	Wildberger	Wilson 119	Wilson 130
Witte	Wood	Wright 159	Yaeger	Yates
Young	Zimmerman	Zweifel	Mr Speaker	

NOES: 016

Burnett	Chappelle-Nadal	Cooper 155	Daus	El-Amin
Hoskins	Hubbard	Hughes	Johnson	Low 39
Lowe 44	Nasheed	Oxford	Talboy	Whorton
Wright-Jones				

PRESENT: 000

ABSENT WITH LEAVE: 008

Bland	Bowman	Cunningham 145	Dougherty	Flook
Kelly	Schneider	Viebrock		

Representative Harris (23) offered **House Amendment No. 10.**

House Amendment No. 10

AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 429, Section 566.226, Page 81, Line 10, by inserting immediately after said line the following:

"568.045. 1. A person commits the crime of endangering the welfare of a child in the first degree if:

(1) The person knowingly acts in a manner that creates a substantial risk to the life, body, or health of a child less than seventeen years old; or

(2) The person knowingly engages in sexual conduct with a person under the age of seventeen years over whom the person is a parent, guardian, or otherwise charged with the care and custody;

(3) The person knowingly encourages, aids or causes a child less than seventeen years of age to engage in any conduct which violates the provisions of chapter 195, RSMo;

(4) Such person enlists the aid, either through payment or coercion, of a person less than seventeen years of age to unlawfully manufacture, compound, produce, prepare, sell, transport, test or analyze amphetamine or methamphetamine or any of their analogues, or to obtain any material used to manufacture, compound, produce, prepare, test or analyze amphetamine or methamphetamine or any of their analogues; or

(5) Such person, in the presence of a person less than seventeen years of age or in a residence where a person less than seventeen years of age resides, unlawfully manufactures, or attempts to manufacture compounds, produces, prepares, sells, transports, tests or analyzes amphetamine or methamphetamine or any of their analogues.

2. **Except as provided in subsection 3 of this section** endangering the welfare of a child in the first degree is a class C felony unless the offense is committed as part of a ritual or ceremony, or except on a second or subsequent offense, in which case the crime is a class B felony.

3. **Endangering the welfare of a child in the first degree when committed under subdivision (1) of subsection 1 of this section, and when the manner in which such person acts to create a substantial risk to the life, body, or health of a child is by shaking a child under the age of five by the arms, legs, chest, or shoulders, is a felony for which the authorized term of imprisonment is any term of years but not less than fifteen years."**; and

Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.

On motion of Representative Harris (23), **House Amendment No. 10** was adopted.

Representative Page offered **House Amendment No. 11**.

House Amendment No. 11

AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 429, Section 84.160, Page 9, Line 71, by inserting immediately after said line the following:

"172.755. The University of Missouri shall perform a check of the state sex offender registry for each applicant for student housing to determine whether the applicant has been adjudicated a sex offender, as defined in section 589.400, RSMo. The university shall require that each application for student housing be accompanied by the identifying information necessary to perform the check and a supplemental fee to cover the cost of performing the check. The university shall not grant student housing to any person required to be registered as a sex offender under sections 589.400 to 589.425, RSMo.

174.459. Each state college or university governed by this chapter shall perform a check of the state sex offender registry for each applicant for student housing to determine whether the applicant has been adjudicated a sex offender, as defined in section 589.400, RSMo. The college or university shall require that each application for student housing be accompanied by the identifying information necessary to perform the check and a supplemental fee to cover the cost of performing the check. The college or university shall not grant student housing to any person required to be registered as a sex offender under sections 589.400 to 589.425, RSMo."; and

Further amend said substitute, Section 174.712, Page 10, Line 5, by inserting immediately after said line the following:

"175.075. Lincoln University shall perform a check of the state sex offender registry for each applicant for student housing to determine whether the applicant has been adjudicated a sex offender, as defined in section 589.400, RSMo. The university shall require that each application for student housing be accompanied by the identifying information necessary to perform the check and a supplemental fee to cover the cost of performing

the check. The university shall not grant student housing to any person required to be registered as a sex offender under sections 589.400 to 589.425, RSMo.

178.645. Linn State Technical College shall perform a check of the state sex offender registry for each applicant for student housing to determine whether the applicant has been adjudicated a sex offender, as defined in section 589.400, RSMo. The college shall require that each application for student housing be accompanied by the identifying information necessary to perform the check and a supplemental fee to cover the cost of performing the check. The college shall not grant student housing to any person required to be registered as a sex offender under sections 589.400 to 589.425, RSMo.

178.965. Each community college or junior college governed by this chapter shall perform a check of the state sex offender registry for each applicant for student housing to determine whether the applicant has been adjudicated a sex offender, as defined in section 589.400, RSMo. The college shall require that each application for student housing be accompanied by the identifying information necessary to perform the check and a supplemental fee to cover the cost of performing the check. The college shall not grant student housing to any person required to be registered as a sex offender under sections 589.400 to 589.425, RSMo."; and

Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.

On motion of Representative Page, **House Amendment No. 11** was adopted.

Representative Zimmerman offered **House Amendment No. 12**.

House Amendment No. 12

AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 429, Section 311.326, Page 64, Line 17, by inserting immediately after said line the following:

"407.485. 1. It shall be an unfair business practice, in violation of section 407.020 for a for profit entity or natural person to collect donations of unwanted household items via a public receptacle and resell the donated items for profit unless the donation receptacle prominently displays a statement in bold letters at least two inches high and two inches wide stating: **"DONATIONS ARE NOT FOR CHARITABLE ORGANIZATIONS AND WILL BE RESOLD FOR PROFIT"**.

2. It shall be an unfair business practice, in violation of section 407.020 for a for profit entity or natural person to collect donations of unwanted household items via a public receptacle and resell the donated items where some or all of the proceeds from the sale are directly given to a not for profit entity unless the donation receptacle prominently displays a statement in bold letters at least two inches high and two inches wide stating: **"DONATIONS TO THE FOR PROFIT COMPANY: (name of the company) ARE SOLD FOR PROFIT AND (% of proceeds donated to the not for profit) % OF ALL PROCEEDS ARE DONATED TO (name of the non-profit beneficiary organization's name)."**

3. It shall be an unfair business practice, in violation of section 407.020 for a for profit entity or natural person to collect donations of unwanted household items via a public receptacle and resell the donated items, where such for profit entity is paid a flat fee, not contingent upon the proceeds generated by the sale of the collected goods, and 100% of the proceeds from the sale of the items are given directly to the not for profit, unless the donation receptacle prominently displays a statement in bold letters at least two inches high and two inches wide stating: **"THIS DONATION RECEPTACLE IS OPERATED BY THE FOR PROFIT ENTITY: (name of the for profit/individual) ON BEHALF of (name of the non-profit beneficiary organization's name)."**

4. Nothing in section 407.485 shall apply to paper, glass, or aluminum products that are donated for the purpose of being recycled in the manufacture of other products.

5. Any entity which, on or before June 1, 2007, has distributed one hundred or more separate public receptacles within the state of Missouri to which the provisions of subsections or 3 of this section would apply, shall be deemed in compliance with the signage requirements imposed by this section until February 28, 2008, provided such entity has made or is making good faith efforts to bring all signage in compliance with the provisions of this section and all such signage is in complete compliance no later than February 28, 2008."; and

Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.

On motion of Representative Zimmerman, **House Amendment No. 12** was adopted.

Representative Storch offered **House Amendment No. 13**.

House Amendment No. 13

AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 429, Section 210.1012, Page 48, Line 27, by inserting immediately after said line the following:

"217.145. The department of corrections shall establish and maintain on the department's Internet web site a listing of all victims' rights under chapter 595, RSMo, which involve the department."; and

Further amend said substitute, Section 595.209, Page 109, Lines 36-50, by deleting all of said lines and inserting in lieu thereof the following:

"(6) For victims, the right to be informed by appropriate juvenile authorities of probation revocation hearings initiated by the juvenile authority and the right to be heard at such hearings or to offer a written statement, video or audio tape, counsel or a representative designated by the victim in lieu of a personal appearance, the right to be informed by the board of probation and parole of probation revocation hearings initiated by the board and of parole hearings, the right to be present at each and every phase of parole hearings [and] , the right to be heard at probation revocation and parole hearings or to offer a written statement, video or audio tape, counsel or a representative designated by the victim in lieu of a personal appearance, the right to have upon written request of the victim, a partition set up in the probation or parole hearing room, set up in such a way that the victim is shielded from the view of the probationer or parolee, the right to be notified of the hearing, and the right to be notified, in writing, of each of these rights at the time of notice for probation revocation hearings and parole revocation hearings, and the right to be informed by the custodial mental health facility or agency thereof of any hearings for the release of a person committed pursuant to the provisions of chapter 552, RSMo, the right to be present at such hearings, the right to be heard at such hearings or to offer a written statement, video or audio tape, counsel or a representative designated by the victim in lieu of personal appearance. If a victim's request to have a partition set up in the hearing room cannot be accommodated at the time of the scheduled hearing, the hearing shall be delayed for not more than thirty days until such time as a partition is set up for the hearing;"; and

Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.

On motion of Representative Storch, **House Amendment No. 13** was adopted.

Representative Aull offered **House Amendment No. 14**.

House Amendment No. 14

AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 429, Section A, Pages 1 and 2, Line 22, by inserting after all of said section and line the following:

"41.970. 1. As used in this section the following terms shall mean:

(1) "Civil air patrol", the civilian auxiliary of the United States Air Force established by the United States Congress in 36 U.S.C. Section 40301 et seq. and 10 U.S.C. Section 9441 et seq. Civil air patrol missions include search and rescue, disaster relief, and aerial reconnaissance;

(2) "Office of air search and rescue", as established by section 41.960, within military division of the executive department, office of adjutant general, the wing commander of Missouri wing, civil air patrol; Missouri wing emergency service personnel; and others as necessary for duties assigned to the office.

2. The civil air patrol may be used to support national guard missions in support of civil authorities or in support of noncombatant national guard missions, and to support state agencies under memorandums of understanding (MOU) or agreements established between the agencies and the civil air patrol.

3. Requests for activation or support of the civil air patrol shall be made to the commander of the Missouri wing of the civil air patrol. Missions shall be in accordance with laws and regulations applicable to the United States Air Force and the civil air patrol. Prior to activation of the civil air patrol, the adjutant general or the Missouri civil air patrol wing commander shall apply to the Air Force Rescue Coordination Center, the Air Force National Security Emergency Preparedness agency, or the civil air patrol national operations center for federal mission status and funding.

4. If an operation or mission of the civil air patrol is granted funded federal mission status and assigned an accompanying federal mission number, the following shall apply:

- (1) The operation or mission shall be funded by the federal government;
- (2) When training or operating under a federal mission number, the members of the civil air patrol shall be considered federal employees for the purposes of tort claims and workers' compensation arising from the performance of the mission or any actions incident to the performance of the mission.

5. If an operation or mission of the civil air patrol is not granted federal mission status and is not assigned an accompanying federal mission number, the following shall apply:

(1) Except for missions and operations supporting the office of adjutant general, all requests for activation and authorization for any mission or operation of the civil air patrol on behalf of state agencies shall first be approved by the department director of the requesting agency, the adjutant general and the commissioner of administration;

(2) Operations and administration of the civil air patrol relating to missions within the state and for state agencies not qualifying for funded federal mission status shall be funded by the state from moneys appropriated to the requesting state agency for that purpose;

(3) When performing a mission within the state and for state agencies that does not qualify for funded federal mission status, members of the civil air patrol shall be considered state employees for purposes of the state legal expense fund as provided under section 105.711, RSMo, and for purposes of workers' compensation coverage, as provided under section 105.810, RSMo;

(4) The procedures in this section apply to any civil air patrol personnel and aircraft from any state that are flying or otherwise supporting missions for Missouri state agencies;

(5) Notwithstanding the provisions of this section to the contrary, emergency operations or missions as determined by the commander of the Missouri wing of the civil air patrol and approved by the adjutant general may be conducted pending funding authorization for federal, state, or other sources."; and

Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.

On motion of Representative Aull, **House Amendment No. 14** was adopted.

Representative Fallert offered **House Amendment No. 15**.

House Amendment No. 15

AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 429, Section 565.182, Page 80, Line 9, by inserting immediately after said line the following:

"566.147. 1. Any person who, since July 1, 1979, has been or hereafter has pleaded guilty or nolo contendere to, or been convicted of, or been found guilty of violating any of the provisions of this chapter or the provisions of subsection 2 of section 568.020, RSMo, incest; section 568.045, RSMo, endangering the welfare of a child in the first degree; subsection 2 of section 568.080, RSMo, use of a child in a sexual performance; section 568.090, RSMo, promoting a sexual performance by a child; section 573.023, RSMo, sexual exploitation of a minor; section 573.025, RSMo, promoting child pornography in the first degree; section 573.035, RSMo, promoting child pornography in the second degree; section 573.037, RSMo, possession of child pornography, or section 573.040, RSMo, furnishing pornographic material to minors, or any offense committed in another state, or any federal offense, or any military offense which, if committed in this state, would be a violation of any offense listed in this subsection; shall not reside

within one thousand feet of any public school as defined in section 160.011, RSMo, or any private school giving instruction in a grade or grades not higher than the twelfth grade, or child-care facility as defined in section 210.201, RSMo, which is in existence at the time the individual begins to reside at the location.

2. If such person has already established a residence and a public school, a private school, or child-care facility is subsequently built or placed within one thousand feet of such person's residence, then such person shall, within one week of the opening of such public school, private school, or child-care facility, notify the county sheriff where such public school, private school, or child-care facility is located that he or she is now residing within one thousand feet of such public school, private school, or child-care facility and shall provide verifiable proof to the sheriff that he or she resided there prior to the opening of such public school, private school, or child-care facility.

3. For purposes of this section, "resides" means sleeps in a residence, which may include more than one location and may be mobile or transitory.

4. Violation of the provisions of subsection 1 of this section is a class D felony except that the second or any subsequent violation is a class B felony. Violation of the provisions of subsection 2 of this section is a class A misdemeanor except that the second or subsequent violation is a class D felony."; and

Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.

On motion of Representative Fallert, **House Amendment No. 15** was adopted.

Representative Bringer offered **House Amendment No. 16**.

House Amendment No. 16

AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 429, Section 195.017, Page 39, Line 648, by inserting the following after all of said line:

"22. Logs of transactions required to be kept and maintained by this section and section 195.417, shall create a rebuttable presumption that the person whose name appears in the logs is the person whose transactions are recorded in the logs."; and

Further amend said substitute, Section 195.552, Page 47, Line 11, by inserting the following after all of said line:

"198.097. **1.** Any person who assumes the responsibility of managing the financial affairs of an elderly person who is a resident of a nursing home [shall be] **is** guilty of a class D felony if such person misappropriates the funds and fails to pay for the nursing home care of the elderly person.

2. It shall be evidence of misappropriating funds and failing to pay for the nursing home care of an elderly person if:

(1) The nursing home sends written notification of failure to pay nursing home expenses incurred by an elderly resident to the person who has assumed responsibility of managing the financial affairs of the elderly person;

(2) The nursing home does not receive payment within thirty days of such person receiving actual notice in writing for the first time and the nursing home sends a second written notification of failure to pay nursing home expenses;

(3) The nursing home does not receive payment within thirty days of such person receiving actual notice in writing for the second time and the nursing home sends a third and final written notification of failure to pay nursing home expenses; and

(4) The nursing home does not receive payment within thirty days of such person receiving actual notice in writing for the third and final time.

As used in this subsection, "actual notice in writing" means notice of the nonpayment which is actually received by the person who has assumed responsibility of managing the financial affairs of an elderly person. Such notice may include, but shall not be limited to, notice by certified mail, return receipt requested."; and

Further amend said substitute, Section 573.037, Page 82, Line 7, by inserting the following after all of said line:

"575.065. 1. A person commits the crime of obstruction of justice if such person, with the intent to prevent the apprehension or obstruct the prosecution or defense of any person, knowingly commits any of the following acts:

(1) Destroys, alters, conceals, or disguises physical evidence, plants false evidence, furnishes false information; or

(2) Induces a witness having knowledge material to the subject at issue to leave the state or conceal himself or herself; or

(3) Possessing knowledge material to the subject at issue he or she leaves the state or conceals himself or herself.

2. Obstruction of justice is a class A misdemeanor unless the actor obstructs prosecution or defense of a felony in which case it is a class D felony.

575.070. No person shall be convicted of a violation of sections 575.040, 575.050 [or] , 575.060, or **575.065** based upon the making of a false statement except upon proof of the falsity of the statement by:

(1) The direct evidence of two witnesses; or

(2) The direct evidence of one witness together with strongly corroborating circumstances; or

(3) Demonstrative evidence which conclusively proves the falsity of the statement; or

(4) A directly contradictory statement by the defendant under oath together with

(a) The direct evidence of one witness; or

(b) Strongly corroborating circumstances; or

(5) A judicial admission by the defendant that he **or she** made the statement knowing it was false. An admission, which is not a judicial admission, by the defendant that he **or she** made the statement knowing it was false may constitute strongly corroborating circumstances."; and

Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.

Representative Weter offered **House Amendment No. 1 to House Amendment No. 16.**

House Amendment No. 1

to

House Amendment No. 16

AMEND House Amendment No. 16 to House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 429, Page 1, Section 198.097, Lines 10-19, and Page 2, Lines 1-12, by deleting said lines and inserting in lieu thereof the following:

"198.097. 1. Any person who assumes the responsibility of managing the financial affairs of an elderly or disabled person who is a resident of [a nursing home] any facility licensed under chapter 198, shall be guilty of a class D felony if such person misappropriates the funds and fails to pay for the [nursing home] facility care of the elderly or disabled person. For the purposes of this section, a person assumes the responsibility of managing the financial affairs of an elderly or disabled person when he or she receives, has access to, handles or controls the elderly or disabled person's monetary funds, including but not limited to Social Security income, pension, cash or other resident income.

2. Evidence of misappropriating funds and failing to pay for the care of an elderly or disabled person may include, but shall not be limited to proof that the facility has sent, by certified mail with confirmation receipt requested, notification of failure to pay facility care expenses incurred by a resident to the person who has assumed responsibility of managing the financial affairs of the resident.

3. Nothing is subsection 2 of this section shall be construed as limiting the investigations or prosecutions of violations of subsection 1 of this section or the crime of financial exploitation of an elderly or disabled person as defined by section 570.145, RSMo."

On motion of Representative Weter, **House Amendment No. 1 to House Amendment No. 16** was adopted.

On motion of Representative Bringer, **House Amendment No. 16, as amended**, was adopted.

Representative Corcoran offered **House Amendment No. 17**.

Representative Pratt raised a point of order that **House Amendment No. 17** goes beyond the scope of the bill.

The Chair ruled the point of order well taken.

Representative Roorda offered **House Amendment No. 18**.

House Amendment No. 18

AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 429, Section 455.003, Page 67, Line 16, by inserting immediately after said line the following:

"488.028. As provided by section 590.806, RSMo, there shall be assessed and collected a surcharge of seven dollars in each criminal case involving violations of any county ordinance or a violation of any criminal or traffic laws of the state, including infractions, or violations of municipal ordinances, provided that no such fee shall be collected in any proceeding in any court when the proceeding or defendant has been dismissed by the court or when costs are to be paid by the state, county, or municipality or against any person who has pled guilty and paid their fine under subsection 4 of section 476.385, RSMo. For purposes of this section, the term "county ordinance" shall include any ordinance of any city not within a county. The clerk responsible for collecting court costs in criminal cases shall collect and disburse such amounts as provided by sections 488.010 to 488.020. Such funds shall be payable to the law enforcement safety fund created under section 590.803, RSMo."; and

Further amend said substitute, Section 590.190, Page 106, Line 9, by inserting immediately after said line the following:

"590.800. As used in sections 590.800 to 590.830, unless the context clearly indicates that a different meaning is intended, the following terms shall mean:

- (1) "Board of directors" or "board", the board of directors established in sections 590.800 to 590.830;**
- (2) "Creditable membership service", service as a police chief or a police officer of an eligible municipality or as a deputy sheriff after becoming a member that is creditable in determining the amount of the member's benefits under this system;**
- (3) "Defined contribution system" or "system", the law enforcement safety fund system authorized by sections 590.800 to 590.830;**
- (4) "Employee", any full-time police chief or police officer of a municipal police department in this state, including the Kansas City police department, the St. Louis police department, and the St. Louis County police department, and any full-time deputy sheriffs;**
- (5) "Member" and "eligible members", any active marshal, police chief, police officer, sheriff, or deputy sheriff of the system; any former police chief, police officer, sheriff, or deputy sheriff receiving benefits from the system; any former police chief, police officer, sheriff, or deputy sheriff that is vested in the system but not receiving benefits; any marshal, police chief, police officer, sheriff, or deputy sheriff on disability leave; and for the purposes of section 590.812, any marshal, police chief or police officer who is employed full-time by an eligible municipality or any sheriff or deputy sheriff who is employed full-time by a county;**
- (6) "Municipality" or "eligible municipality", each municipal police department, including the Kansas City police department, the St. Louis police department, and the St. Louis County police department;**
- (7) "Prior service", the total years of full-time licensed and commissioned law enforcement service.**

590.803. There is hereby established a "Law Enforcement Safety Fund" which shall be under the management of a board of directors described in section 590.809. The board of directors shall be responsible for the administration and the investment of the moneys of such fund. Neither the general assembly nor the governing body of a county shall appropriate moneys for deposit in the fund. If insufficient funds are generated to provide the benefits payable under the provisions of sections 590.800 to 590.830, the board shall proportion the benefits according to the funds available.

590.806. 1. Beginning August 28, 2007, the following surcharge for police chiefs, police officers, and deputy sheriffs shall be collected and paid as follows:

(1) There shall be assessed and collected a surcharge of seven dollars in each criminal case involving violations of any county ordinance or a violation of any criminal or traffic laws of the state, including infractions, or violations of municipal ordinances, provided that no such fee shall be collected in any proceeding in any court when the proceeding or defendant has been dismissed by the court or when costs are to be paid by the state, county, or municipality or against any person who has pled guilty and paid their fine under subsection 4 of section 476.385, RSMo. For purposes of this section, the term "county ordinance" shall include any ordinance of any city not within a county;

(2) The clerk responsible for collecting court costs in criminal cases shall collect and disburse such amounts as provided by sections 488.010 to 488.020, RSMo. Such funds shall be payable to the law enforcement safety fund created under section 590.803, and shall be used only for the purposes provided for in sections 590.800 to 590.830. This fee shall be collected in all criminal cases, including violations of any county or municipal ordinances or any violations of criminal or traffic laws, including cases where a collection agency is being used.

2. The board may accept gifts, donations, grants, and bequests from public or private sources to the law enforcement safety fund.

590.809. 1. The general administration and the responsibility for the proper operation of the fund and the investment of the fund are vested in a board of directors of seven persons. Two of the directors shall be chiefs of police who are members of the Missouri Police Chiefs' Association, two of the directors shall be full-time police officers or deputy sheriffs who are members of a state fraternal order of police, one of the directors shall be a sheriff, one of the directors shall be a member of the general assembly from the joint committee on public employee retirement, and one of the directors shall be a member at-large. The directors of the first board shall be appointed by the governor by and with the consent of the senate, and shall serve terms of four years from the first day of January, 2008. For subsequent boards, the two police chief directors shall be elected by a secret ballot vote of the members of the Missouri Police Chiefs' Association. The two police officers or deputy sheriff directors shall be elected by a secret ballot vote of the members of the Missouri fraternal order of police. The sheriff director shall be elected by a secret ballot vote of the members of the Missouri Sheriffs' Association. The director from the general assembly shall be appointed by the governor with the advice and consent of the senate. The member-at-large shall be appointed by the other board members. It shall be the responsibility of the initial board to establish procedures for the conduct of future elections of directors and such procedures shall be approved by a majority vote by secret ballot of the police chiefs, officers, and deputy sheriffs. The board shall have all powers and duties that are necessary and proper to enable it, its officers, employees, and agents to fully and effectively carry out all the purposes of sections 590.800 to 590.830.

2. The board of directors shall elect one of their members as chair and one of their members as vice chair and may employ an administrator who shall serve as secretary to the board. The board shall hold regular meetings at least once each quarter. Other meetings may be called as necessary by the chair. Notice of such meetings shall be given in accordance with chapter 610, RSMo.

3. The board of directors shall retain an investment counsel to be an investment advisor to the board, and the board of directors shall arrange for annual audits by a certified public accountant.

4. The board of directors shall serve without compensation for their services as such, except that each director shall be paid for any necessary expenses incurred in the performance of duties authorized by the board.

5. The board of directors shall be allowed administrative costs for the operation of the system.

6. The board shall keep a record of its proceedings which shall be open to public inspection and shall annually prepare a report showing the financial condition of the system. The report shall contain, but not be limited to, an auditor's opinion, financial statements prepared in accordance with generally accepted accounting principles, an actuary's certification along with actuarial assumptions, and financial solvency tests.

7. Notwithstanding any other provisions of law, after the expiration of the terms of the initial board of directors, the directors elected as successors to those initial directors shall be elected to staggered terms of four years each in the following manner: three directors shall be elected for a two-year term with their successors being elected to four-year terms, and four directors shall be elected for a four-year term. The procedures for such elections and the designation of which terms will initially be two-year terms and which will be four-year terms shall be established solely by the board of directors of the law enforcement safety fund system. Beginning with the election of directors under the provisions of this subsection, at least one, but not more than two of the directors, may be a member of the law enforcement safety fund system, except that any vacancies occurring on the board after all members have been duly elected shall be filled by the board and such appointed members shall serve until the next regularly scheduled election for such filled position.

8. Notwithstanding any provision of law, any board member who was elected to the board as an active member representative and becomes a retired member of the system after such election shall, with the approval of the board, continue to serve on the board as an active member representative until the next regularly scheduled election for that position.

590.812. On or after the effective date of the establishment of the system, as an incident to his or her employment or continued employment, each person employed full-time as an elected marshal, chief of police, police officer of a municipality, or sheriff or deputy sheriff of a county, including sheriffs from any county with a charter form of government with more than one million inhabitants, and any home rule city with more than four thousand inhabitants and located in more than one county, but excluding sheriffs from any city not within a county, may become a member of the system upon their enrollment as a member of the system and their first monthly contribution payment of a minimum of twenty dollars. Such membership shall continue as long as the member continues to be an employee in a municipal police department or in a sheriff's office, and continues to make at least the minimum monthly contribution to the system, or is eligible to receive grants from the fund under the provisions of sections 590.800 to 590.830.

590.815. 1. Any member who is a marshal, chief of police, police officer of a municipality, or a sheriff or deputy sheriff of a county shall receive the funds the member personally contributes, at any time, plus any interest or dividends accrued, minus any maintenance fees.

2. In addition to the funds the member personally contributes, any member who has ten years or more of creditable membership service and a minimum of ten years of prior service in a position that would have been covered by the system if it had been established, or who has five years or more of creditable membership service and a minimum of fifteen years of prior service in a position that would have been covered by the system if it had been established may also receive the moneys payable from surcharges collected as set forth in section 488.028, RSMo, and section 590.806, if the member is eligible to receive such funds and has met the retirement requirements. Such funds granted shall be equally divided among the eligible members who participate in the defined contribution system and shall be available beginning on the first of January next succeeding the expiration of five calendar years from the effective date of the establishment of the system. The money amount granted shall continue to be paid to any survivor determined and officially documented by each member upon enrollment and may be revised by official notification. In no case shall any member receive benefits from the program prior to the age of fifty-five.

590.818. For the purpose of calculating benefits of a member, creditable membership service years of service as a member of the program and twelfths of a year are to be used.

590.821. Any eligible marshal, chief of police, police officer, sheriff, or deputy sheriff who becomes a member of the system on the effective date of the establishment of the system shall be given credit for up to fifteen years of eligible prior service in any of these positions. All such prior service shall be established to the satisfaction of the board.

590.824. Any member may receive grants from the fund at any time after the end of the month during which the member becomes eligible under the provisions of section 590.815 and upon the member's submission of a written application to the board setting forth at what time, not less than thirty days nor more than ninety days subsequent to the execution and filing of the application, the member desires to receive such grants.

590.827. 1. A former member who has forfeited creditable service may have the creditable service restored by again becoming an employee and completing the creditable membership service, as set forth in section 590.812.

2. Absences for sickness or injury of less than twelve months shall be counted as membership service.

590.830. The benefits under sections 590.800 to 590.830 shall in no way affect any person's eligibility for benefits under any other retirement plan."; and

Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.

Representative Roorda moved that **House Amendment No. 18** be adopted.

Which motion was defeated.

Representative Harris (23) offered **House Amendment No. 19.**

House Amendment No. 19

AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 429, Section 577.023, Page 90, Line 124, by inserting immediately after said line the following:

"577.024. When a person is convicted of an intoxication-related traffic offense the following penalties apply when the person's blood, breath, or urine was sixteen-hundredths of one percent or more based on the definition of blood, breath, saliva, or urine units in section 577.012:

(1) A person who is convicted of an intoxication-related traffic offense a first time, in addition to any other penalty that may be imposed, is subject to a mandatory minimum of one hundred hours of community service and a minimum fine of five hundred dollars;

(2) A person who is convicted of an intoxication-related traffic offense a second time within a ten-year period, in addition to any other penalty that may be imposed, is subject to a mandatory minimum of two days of imprisonment and a minimum fine of one thousand two hundred fifty dollars;

(3) A person who is convicted of an intoxication-related traffic offense a third time within a twenty-year period is guilty of a Class B felony and, in addition to any other penalty that may be imposed, is subject to a mandatory minimum of ninety days of imprisonment and a minimum fine of two thousand five hundred dollars;

(4) A person who is convicted of an intoxication-related traffic offense a fourth or subsequent time, in addition to any other penalty that may be imposed, is not eligible for a sentence of probation or condition discharge and is subject to a minimum fine of two thousand five hundred dollars."; and

Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.

On motion of Representative Harris (23), **House Amendment No. 19** was adopted by the following vote:

AYES: 148

Aull	Avery	Baker 25	Baker 123	Bearden
Bivins	Bland	Brandom	Bringer	Brown 30
Brown 50	Bruns	Burnett	Casey	Chappelle-Nadal
Cooper 120	Cooper 155	Cooper 158	Corcoran	Cox
Cunningham 86	Curls	Darrough	Daus	Davis
Day	Deeken	Dempsey	Denison	Dethrow
Dixon	Donnelly	Dusenberg	Emery	Ervin
Faith	Fallert	Fares	Fisher	Flook
Frame	Franz	Funderburk	George	Grill
Grisamore	Guest	Harris 23	Harris 110	Haywood
Hobbs	Hodges	Hubbard	Hughes	Hunter

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Icet	Johnson	Jones 89	Jones 117	Kelly
Kingery	Komo	Kratky	Kraus	Kuessner
Lampe	LeVota	Liese	Lipke	Loehner
Low 39	Marsh	May	McClanahan	McGhee
Meadows	Meiners	Moore	Munzlinger	Muschany
Nance	Nieves	Nolte	Norr	Onder
Oxford	Page	Parson	Pearce	Pollock
Portwood	Pratt	Quinn 7	Quinn 9	Richard
Robb	Robinson	Roorda	Rucker	Ruestman
Ruzicka	Salva	Sander	Sater	Scavuzzo
Schad	Scharnhorst	Schieffer	Schlottach	Schneider
Schoeller	Schoemehl	Self	Shively	Silvey
Skaggs	Smith 14	Smith 150	Stevenson	St. Onge
Storch	Stream	Sutherland	Swinger	Thomson
Threlkeld	Tilley	Todd	Viebrock	Vogt
Wallace	Walsh	Wasson	Wells	Weter
Wildberger	Wilson 119	Wilson 130	Witte	Wood
Wright 159	Wright-Jones	Yaeger	Yates	Young
Zimmerman	Zweifel	Mr Speaker		

NOES: 007

El-Amin	Holsman	Hoskins	Talboy	Villa
Walton	Whorton			

PRESENT: 000

ABSENT WITH LEAVE: 008

Bowman	Cunningham 145	Dougherty	Lembke	Lowe 44
Nasheed	Schaaf	Spreng		

Representative Kraus offered **House Amendment No. 20.**

House Amendment No. 20

AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 429, Section 311.326, Page 64, Line 17, by inserting after all of said line the following:

"407.300. 1. Every **purchaser or** collector of, or dealer in junk, **scrap metal**, or any secondhand property shall keep a register [which shall contain the name and address of the person from whom] **containing a written or electronic record for each purchase or trade in which each type of metal subject to the provisions of this section is obtained for value. There shall be a separate record for each transaction involving** any copper, **aluminum** wire or cable [is purchased], whatever may be the condition or length of such [copper wire or cable] **metal. The record shall contain the following data: A copy of the operator's license or other state-issued or federally issued form of identification of the person from whom the material is obtained;** [the residence or place of business and driver's license number of such person:] **the date, time, and place of and** a full description of each **such purchase or trade** including the quantity by weight thereof]; and shall permit any peace officer to inspect the register at any reasonable time].

2. **The records required under this section shall be maintained for a minimum of twenty-four months from when such material is obtained and shall be available for inspection by any law enforcement agent.**

3. Anyone convicted of violating this section shall be [fined not less than twenty-five dollars nor more than five hundred dollars, or imprisoned for not less than thirty days nor more than six months, or both] **guilty of a class A misdemeanor.**

4. **This section shall not apply to any of the following transactions:**

(1) **Any transaction for which the total amount paid for all regulated scrap metal purchased or sold does not exceed fifty dollars or fifty pounds, whichever is greater;**

(2) Any transaction in which the seller is an established scrap metal dealer that operates a business with a fixed location that can be reasonably identified as a scrap metal dealer;

(3) Any transaction for which the seller has an existing business relationship with the scrap metal dealer and is known to the scrap metal dealer making the purchase to be an established business or political subdivision that operates a business with a fixed location that can be reasonably expected to generate regulated scrap metal and can be reasonably identified as such a business; or

(4) Any transaction for which the type of metal subject to subsection 1 of this section is a minor part of a larger item, except for equipment used in the generation and transmission of electrical power."; and

Further amend said bill, Section 570.040, Page 82, Line 16, by inserting after all of said line the following:

"570.055. Any person who steals or appropriates, without consent of the owner, any energized or live wire, electrical transformer, or any other device that at the time of the theft is conducting electricity shall be guilty of a class D felony."; and

Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.

On motion of Representative Kraus, **House Amendment No. 20** was adopted.

Representative Munzlinger offered **House Amendment No. 21**.

House Amendment No. 21

AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 429, Section 304.230, Page 57, Line 54, by inserting after all of said line the following:

"Commercial vehicle officers selected and designated as peace officers by the superintendent of the Missouri state highway patrol are hereby declared to be peace officers of the state of Missouri, with full power and authority to make arrests solely for violations under the powers granted in subdivisions (1) to (3) of this subsection."; and

Further amend said section, Page 57, Line 57, by inserting after the word "patrol" on said line the following:

"and have completed the mandatory standards for the basic training and licensure of peace officers established by the peace officers standards and training commission under subsection 1 of section 590.030, RSMo. Commercial vehicle officers who are employed and performing their duties on August 28, 2007, shall have until July 1, 2011, to comply with the mandatory standards regarding police officer basic training and licensure."; and

Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.

On motion of Representative Munzlinger, **House Amendment No. 21** was adopted.

Representative Kraus offered **House Amendment No. 22**.

House Amendment No. 22

AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 429, Page 81, Section 566.148, Line 19, by inserting after all of said section the following:

"566.150 1. Any person who has pleaded guilty to, or been convicted of, or been found guilty of violating any of the provisions of this chapter or the provisions of subsection 2 of section 568.020, RSMo, incest; section 568.045, RSMo, endangering the welfare of a child in the first degree; subsection 2 of section 568.080, RSMo, use of a child in a sexual performance; section 568.090, RSMo, promoting a sexual performance by a child; section 573.023, RSMo, sexual exploitation of a minor; section 573.025, RSMo, promoting child pornography; or section

573.040, RSMo, furnishing pornographic material to minors; shall not serve as an athletic coach, manager, or athletic trainer for any sports team in which a child less than seventeen years of age is a member.

2. The first violation of the provisions of this section shall be a class A misdemeanor.

3. Any second or subsequent violation of this section shall be a class D felony."; and

Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.

On motion of Representative Kraus, **House Amendment No. 22** was adopted.

Representative Yates offered **House Amendment No. 23.**

House Amendment No. 23

AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 429, Section 409.6-604, Page 66, Line 60, by inserting immediately after said line the following:

"427.225. 1. Deceptive use of a financial institution's name in notification or solicitation occurs when a business, or a person acting on its behalf, engages in the following activity:

(1) Through advertisement, solicitation, or other notification, either verbally or through any other means, informs a consumer of the availability of any type of goods or services that are not free;

(2) The name of an unrelated and unaffiliated financial institution is mentioned in any manner;

(3) The goods or services mentioned are not actually provided by the unrelated and unaffiliated financial institution whose name is mentioned;

(4) The business on whose behalf the notification or solicitation is made does not have a consensual right to mention the name of the unrelated and unaffiliated financial institution; and

(5) Neither the actual name nor trade name of the business on whose behalf the notification or solicitation is being made is stated, nor the actual name or trade name of any actual provider of the goods or services is stated, so as to clearly identify for the consumer a name that is distinguishable and separate from the name of the unrelated and unaffiliated financial institution whose name is mentioned in any manner in the notification or solicitation, and thereby a misleading implication or ambiguity is created, such that a consumer who is the recipient of the advertisement, solicitation or notification may reasonably but erroneously believe:

(a) That the goods or services whose availability is mentioned are made available by or through the unrelated and unaffiliated financial institution whose name is mentioned; or

(b) That the unrelated and unaffiliated financial institution whose name is mentioned is the one communicating with the consumer.

2. Deceptive use of another's name in notification or solicitation occurs when a business, or a person acting on its behalf, engages in the following activity:

(1) Falsely states or implies that any person, product or service is recommended or endorsed by a named third-person financial institution; or

(2) Falsely states that information about the consumer including but not limited to the name, address, or phone number of the consumer has been provided by a third-person financial institution, whether that person is named or unnamed.

3. [Only] The financial institution whose name is deceptively used, as provided in this section, may bring a private civil action and recover a minimum amount of ten thousand dollars, court costs, and attorney fees plus any damages such financial institution may prove at trial.

4. For the purposes of this section, a financial institution includes a commercial bank, savings and loan association, savings bank, credit union, mortgage banker, or consumer finance company, or an institution chartered pursuant to the provisions of an act of the United States known as the Farm Credit Act of 1971.

5. Nothing contained in this section shall bar the attorney general from enforcing the provisions of sections 407.010 to 407.145, RSMo."; and

Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.

On motion of Representative Yates, **House Amendment No. 23** was adopted.

Representative Portwood offered **House Amendment No. 24**.

Representative Darrough raised a point of order that **House Amendment No. 24** was not distributed in a timely manner.

The Chair ruled the point of order well taken.

Representative Harris (23) offered **House Amendment No. 25**.

House Amendment No. 25

AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 429, Section 544.157, Page 69, Line 43, by inserting immediately after said line the following:

"544.560. **1. Except as provided in subsection 2 of this section**, when any sheriff or other officer shall arrest a party by virtue of a warrant upon an indictment, or shall have a person in custody under a warrant of commitment on account of failing to find conditions for release as provided in section 544.455, and the conditions for release required are specified on the warrant, or if the case is a misdemeanor, such officer may set the conditions for release, and discharge the person so held from actual custody.

2. Subject to the provisions of section 544.170, no peace officer may release any person arrested for manufacturing or attempting to manufacture a controlled substance pursuant to section 195.211, RSMo, or violating subsection 8 of section 195.222, RSMo, or violating subsection 9 of section 195.223, RSMo, from custody until the person appears before a judge.

3. In determining bond and other conditions of release, the judge shall consider any evidence that the person is in any manner dependent upon a controlled dangerous substance or has a pattern of regular, illegal use of any controlled dangerous substance. A rebuttable presumption that no conditions of release on bond would assure the safety of the community or any person therein shall arise if the state shows by a preponderance of the evidence that:

(1) The person was arrested for manufacturing or attempting to manufacture a controlled substance pursuant to section 195.211, RSMo, or violating subsection 8 of section 195.222, RSMo, or violating subsection 9 of section 195.223, RSMo; and

(2) The person is in any manner dependent upon a controlled dangerous substance or has a pattern of regular, illegal use of a controlled substance, and the person violating either statute referred to in subdivision (1) of this subsection committed or attempted to commit the violation to maintain or facilitate the person's dependence or pattern of illegal use."; and

Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.

On motion of Representative Harris (23), **House Amendment No. 25** was adopted by the following vote:

AYES: 154

Aull	Avery	Baker 25	Baker 123	Bearden
Bivins	Bland	Brandom	Bringer	Brown 30
Brown 50	Bruns	Burnett	Casey	Chappelle-Nadal
Cooper 120	Cooper 158	Corcoran	Cox	Cunningham 86
Curls	Darrough	Daus	Davis	Day
Deeken	Dempsey	Denison	Dethrow	Dixon
Donnelly	Dusenberg	El-Amin	Emery	Ervin
Faith	Fallert	Fares	Fisher	Flook
Frame	Franz	Funderburk	George	Grill
Grisamore	Guest	Harris 23	Harris 110	Haywood
Hobbs	Hodges	Holsman	Hoskins	Hubbard
Hughes	Hunter	Johnson	Jones 89	Jones 117

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Kelly	Kingery	Komo	Kratky	Kraus
Kuessner	Lampe	Lembke	LeVota	Liese
Lipke	Loehner	Low 39	Lowe 44	Marsh
May	McClanahan	McGhee	Meadows	Meiners
Moore	Munzlinger	Muschany	Nance	Nasheed
Nieves	Nolte	Norr	Onder	Oxford
Page	Parson	Pearce	Pollock	Portwood
Pratt	Quinn 7	Quinn 9	Richard	Robb
Robinson	Roorda	Rucker	Ruzicka	Salva
Sander	Sater	Scavuzzo	Schad	Scharnhorst
Schieffer	Schlottach	Schneider	Schoeller	Schoemehl
Self	Shively	Silvey	Skaggs	Smith 14
Smith 150	Stevenson	St. Onge	Storch	Stream
Sutherland	Swinger	Talboy	Thomson	Threlkeld
Tilley	Todd	Viebrock	Villa	Vogt
Wallace	Walsh	Walton	Wasson	Wells
Weter	Wildberger	Wilson 119	Wilson 130	Witte
Wood	Wright 159	Wright-Jones	Yaeger	Yates
Young	Zimmerman	Zweifel	Mr Speaker	

NOES: 000

PRESENT: 001

Whorton

ABSENT WITH LEAVE: 008

Bowman	Cooper 155	Cunningham 145	Dougherty	Icet
Ruestman	Schaaf	Spreng		

Representative Roorda offered **House Amendment No. 26.**

Representative Pratt raised a point of order that **House Amendment No. 26** goes beyond the scope of the bill.

The Chair ruled the point of order well taken.

Representative Donnelly offered **House Amendment No. 27.**

House Amendment No. 27

AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 429, Section 577.029, Page 92, Line 2, by inserting after the word "his" the following:

"or her"; and

Further amend said substitute, said section, said page, Line 4, by inserting immediately after the word "his" the following:

"or her"; and

Further amend said substitute, said section, said page, Line 12, by inserting immediately after the word "him" the following:

"or her"; and

Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.

On motion of Representative Donnelly, **House Amendment No. 27** was adopted.

Representative Harris (23) offered **House Amendment No. 28**.

House Amendment No. 28

AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 429, Section 221.040, Page 49, Line 21, by inserting immediately after said line the following:

"221.515. **1. Any person designated a jailer under the provisions of this chapter shall have the power to serve [an arrest warrant] civil process and arrest warrants on any person who surrenders himself or herself to the facility under an arrest warrant or** is already an inmate in the custody of the facility in or at which such jailer is employed.

2. Under the rules and regulations of the sheriff, employees designated as jailers may carry firearms when necessary for the proper discharge of their duties as jailers in this state under the provisions of this chapter.

3. Such persons authorized to act by the sheriff as jailers under the rules and regulations of the sheriff shall have the same power as granted any other law enforcement officers in this state to arrest escaped prisoners and apprehend all persons who may be aiding and abetting such escape while in the custody of the sheriff in accordance with state law."; and

Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.

On motion of Representative Harris (23), **House Amendment No. 28** was adopted.

Representative Portwood offered **House Amendment No 29**.

House Amendment No. 29

AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 429, Page 10, Section 174.712, Line 5, by inserting after all of said line the following:

"188.080. **1. Notwithstanding any other provision of law to the contrary that may allow a non-physician to provide services related to pregnancy (including prenatal, delivery, and post partum services),** any person who is not a physician who performs or induces or attempts to perform or induce an abortion on another is guilty of a class B felony, and, upon conviction, shall be punished as provided by law.

2. Any physician performing or inducing an abortion who does not have clinical privileges at a hospital which offers obstetrical or gynecological care located within thirty miles of the location at which the abortion is performed or induced shall be guilty of a class A misdemeanor, and, upon conviction shall be punished as provided by law."; and

Further amend the title and enacting clause accordingly.

On motion of Representative Portwood, **House Amendment No. 29** was adopted.

Representative Avery offered **House Amendment No. 30**.

House Amendment No. 30

AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 429, Page 50, Section 287.067, Line 46, by inserting after all of said line the following:

"**287.243. 1. Sections 287.243 and 287.245 shall be known and may be cited as the "Line of Duty Compensation Act".**

2. As used in sections 287.243 and 287.245, unless otherwise provided, the following words shall mean:

(1) "Aviation medical crew member", a person serving as a flight paramedic, a flight nurse, or as a pilot in command;

(2) "Department of corrections employee" or "juvenile justice employee", supervisors, wardens, superintendents and their assistants, guards and keepers, correctional officers, youth supervisors, parole agents, school teachers, correctional counselors, or any employee having daily contact with inmates in any facility of either the department of corrections or within the juvenile justice system;

(3) "Emergency medical technician", a person licensed in emergency medical care in accordance with standards prescribed by sections 190.001 to 190.245, RSMo, and by rules adopted by the department of health and senior services under sections 190.001 to 190.245, RSMo;

(4) "Firefighter", any person, including a volunteer firefighter, employed by the state or a local governmental entity as, or otherwise serving as, a member or officer of a fire department either for the purpose of the prevention or control of fire or the underwater recovery of drowning victims;

(5) "Killed in the line of duty", when any individual defined in this section loses one's life as a result of injury received in the active performance of duties in his or her respective profession, if the death occurs within three hundred weeks from the date the injury was received and if that injury arose from violence of another or accidental cause subject to the provisions of paragraph (a) and (b) of this subdivision. The term excludes death resulting from the willful misconduct or intoxication of the officer, emergency medical technician, paramedic, firefighter, aviation medical crew member, juvenile justice employee, or department of corrections employee. The division of workers' compensation shall have the burden of proving such willful misconduct or intoxication;

(a) For juvenile justice employees and department of corrections employees, the death shall be caused by the direct or indirect willful act of an inmate, work releasee, parolee, parole violator, person under conditional release, or any person sentenced or committed, or otherwise subject to confinement by the department of corrections or juvenile justice employees while the individual is within the facilities under the control of the department of corrections or the juvenile justice system, the individual is in the act of transporting inmates from one location to another, or the individual is performing any other official duty;

(b) For firefighters, law enforcement officers, emergency medical technicians, aviation medical crew members, and paramedics, the death shall be caused by accident or as a result of a willful act of violence committed by a person other than the officer, firefighter, emergency medical technician, aviation medical crew member, or paramedic, and a relationship exists between the commission of such act and the individual's performance of his or her duties as a law enforcement officer, firefighter, emergency medical technician, aviation medical crew member, or paramedic, regardless of whether the injury is received while the individual is on duty; the injury is received by a law enforcement officer while he or she is attempting to prevent the commission of a criminal act of another person or attempting to apprehend an individual suspected of committing a crime, regardless of whether the injury is received while the individual is on duty as a law enforcement officer; or the injury is received by the individual while traveling to or from his or her employment or during any meal break, or other break, which takes place during the period in which the law enforcement officer, firefighter, emergency medical technician, aviation medical crew member, or paramedic is on duty;

(6) "Law enforcement officer" or "officer", any person employed by the state or a local governmental entity as a policeman, peace officer, auxiliary policeman or in some like position involving the enforcement of the law and protection of the public interest at the risk of that person's life;

(7) "Local governmental entity", includes counties, municipalities, fire protection districts, and municipal corporations;

(8) "Paramedic", an emergency medical technician paramedic certified by the department of health and senior services of the state;

(9) "State", the state of Missouri and its departments, divisions, boards, bureaus, commissions, authorities, and colleges and universities;

(10) "Volunteer firefighter", a person having principal employment other than as a firefighter, but who is carried on the rolls of a regularly constituted fire department either for the purpose of the prevention or control of fire or the underwater recovery of drowning victims, the members of which are under the jurisdiction of the corporate authorities of a city, village, incorporated town, or fire protection district. Volunteer firefighter shall not mean an individual who volunteers assistance without being regularly enrolled as a firefighter.

3. (1) A claim for compensation under this section shall be filed with the division of workers' compensation not later than one year from the date of death of a law enforcement officer, emergency medical technician, paramedic, aviation medical crew member, firefighter, juvenile justice employee, or department of

corrections employee killed in the line of duty. A claim may be filed by a person who, at the time of injury, is a dependent or spouse of the deceased, or if such person is an incapacitated or disabled person, or a minor, by the person's parent, conservator, or guardian on behalf of the eligible claimant. If a claim is made within one year of the date of death of a law enforcement officer, emergency medical technician, paramedic, aviation medical crew member, firefighter, juvenile justice employee, or department of corrections employee killed in the line of duty, compensation shall be paid if the claim is found to be compensable under sections 287.243 and 287.245, by the division of workers' compensation from the line of duty compensation fund established in section 287.245 to the claimant.

(2) The amount of compensation paid to the spouse or dependent shall be one hundred thousand dollars, subject to appropriations, paid from the line of duty compensation fund established in section 287.245 for death occurring on or after January 1, 2009.

4. A burial benefit of up to a maximum of ten thousand dollars, subject to appropriations paid from the line of duty compensation fund established under section 287.245, shall be payable to the surviving spouse, dependent, or estate of a law enforcement officer, firefighter, emergency medical technician, paramedic, aviation medical crew member, juvenile justice employee, or department of corrections employee, who is killed in the line of duty on or after the effective date of this section.

5. Notwithstanding subsection 3 of this section, no compensation is payable under this section unless a claim is filed within the time specified under this section setting forth:

(1) The name, address, and title or designation of the position in which the officer, emergency medical technician, paramedic, aviation medical crew member, firefighter, juvenile justice employee, or department of corrections employee was serving at the time of his or her death;

(2) The names and addresses of the dependents or spouse making a claim to receive the compensation;

(3) A full, factual account of the circumstances resulting in or the course of events causing the death at issue; and

(4) Such other information that is reasonably required by the division.

When a claim is filed, the division of workers' compensation shall make an investigation for substantiation of matters set forth in the application.

6. The compensation provided for under this section is in addition to, and not exclusive of, any pension rights, death benefits, or other compensation the claimant may otherwise be entitled to by law.

7. Any person seeking compensation under the provisions of sections 287.243 and 287.245, who is aggrieved by the decision of the division of workers' compensation regarding his or her compensation claim, may make application for a hearing as provided in section 287.450. The procedures applicable to the processing of such hearings and determinations shall be those established by this chapter. Decisions of the administrative law judge under this section shall be binding, subject to review by either party under the provisions of section 287.480.

8. Under section 23.253, RSMo, of the Missouri Sunset Act:

(1) The provisions of the new program authorized under this section shall automatically sunset six years after the effective date of this section unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.

287.245. 1. There is hereby established in the state treasury, the "Line of Duty Compensation Fund". Funds transferred to the line of duty compensation fund shall be made from general revenue and appropriated solely for the purpose set out in section 287.243. The state treasurer shall be custodian of the fund and may approve disbursements from the fund in accordance with sections 30.170 and 30.180, RSMo. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

2. The division of workers' compensation shall annually submit to the governor and members of the general assembly by February first of each year, a report containing a full and complete account of compensation payments made from the line of duty compensation fund.

3. All compensation paid under sections 287.243 and 287.245 and all appropriations for administration of sections 287.243 and 287.245 shall be made from the line of duty compensation fund. Any unexpended balance

remaining in the line of duty compensation fund at the end of each year, apart from any balance remaining in the subaccount retained in subsection 4 of this section shall, notwithstanding the provisions of section 33.080, RSMo, be transferred to the general revenue fund. In the event that there are insufficient funds in the line of duty compensation fund to pay all claims in full, all claims shall be paid on a pro rata basis. If there are no funds in the line of duty compensation fund, then no claim shall be paid until funds have again accumulated in the line of duty compensation fund. When sufficient funds become available from the fund, compensation which has not been paid shall be paid in chronological order with the oldest paid first. In the event compensation was to be paid in installments and some remaining installments have not been paid due to a lack of funds, then when funds do become available, that compensation shall be paid in full. All such compensation on which installments remain due shall be paid in full in chronological order before any other postdated compensation shall be paid. Any compensation pursuant to this subsection is specifically not a claim against the state if it cannot be paid due to a lack of funds in the line of duty compensation fund.

4. Any gifts, contributions, grants, or federal funds specifically given to the division of workers' compensation for the benefit of claimants under sections 287.243 and 287.245 shall be credited to and retained in a subaccount of the line of duty compensation fund. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any unexpended balance remaining in this subaccount at the end of the biennium shall not revert to the general revenue fund."; and

Further amend said title, enacting clause and intersectional references accordingly.

Representative Burnett raised a point of order that **House Amendment No. 30** goes beyond the scope of the bill.

The Chair ruled the point of order not well taken.

On motion of Representative Avery, **House Amendment No. 30** was adopted.

Representative Deeken offered **House Amendment No. 31**.

House Amendment No. 31

AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 429, Section 217.670, Page 49, Line 26, by inserting immediately after said line the following:

"217.692. 1. Notwithstanding any other provision of law to the contrary, any offender incarcerated in a correctional institution serving any sentence of life with no parole for fifty years or life without parole, and who:

(1) Pleaded guilty to or was found guilty of a homicide of a spouse or domestic partner;

(2) Has no prior felony convictions;

(3) No longer has a cognizable legal claim or legal recourse; and

(4) Has a history of being a victim of continual and substantial physical or sexual domestic violence that was not fully presented at trial or sentencing and such history can be corroborated with evidence of physical or sexual abuse of the offender, including but not limited to witness statements, hospital records, social service records, and law enforcement records;

shall be eligible for parole after having served fifteen years of such sentence when the board determines, by using the guidelines established by this section, that there is a strong and reasonable probability that the person will not thereafter violate the law.

2. The board of probation and parole shall give a thorough review of the case history and prison record of any offender described in subsection 1 of this section. At the end of the board's review, the board shall provide the offender with a copy of a statement of reasons for its parole decision.

3. Any offender released under the provisions of this section shall be under the supervision of the parole board for an amount of time to be determined by the board.

4. The parole board shall consider, but not be limited to the following criteria when making its parole decision:

(1) Length of time served;

- (2) Prison record and self-rehabilitation efforts;
 - (3) Whether the history of the case included corroborative material of physical, sexual, mental, or emotional abuse of the offender, including but not limited to witness statements, hospital records, social service records, and law enforcement records;
 - (4) If an offer of a plea bargain was made and if so, why the offender rejected or accepted the offer;
 - (5) Any victim information as outlined in subsection 7 of section 217.690 and section 595.209, RSMo;
 - (6) The offender's continued claim of innocence;
 - (7) The age and maturity of the offender at the time of the board's decision;
 - (8) The age and maturity of the offender at the time of the crime and any contributing influence affecting the offender's judgment;
 - (9) The presence of a workable parole plan; and
 - (10) Community and family support.
5. Nothing in this section shall limit the review of any offender's case who is eligible for parole prior to fifteen years, nor shall it limit in any way the parole board's power to grant parole prior to fifteen years.
6. Nothing in this section shall limit the review of any offender's case who has applied for executive clemency, nor shall it limit in any way the governor's power to grant clemency.
7. Offenders, who pleaded guilty to or were found guilty of homicide of a spouse or domestic partner and had a history being a victim of domestic violence by the spouse or domestic partner presented in court, shall not be eligible for parole under this section.
8. It shall be the responsibility of the offender to petition the board for a hearing under this section.
9. A person commits the crime of perjury under section 575.040, RSMo, if he or she, with the purpose to deceive, knowingly makes a false witness statement to the board."; and

Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.

Representative Deeken moved that **House Amendment No. 31** be adopted.

Which motion was defeated by following vote:

AYES: 050

Aull	Baker 25	Bland	Bringer	Burnett
Chappelle-Nadal	Corcoran	Curls	Daus	Deeken
Donnelly	Dougherty	El-Amin	Fallert	George
Harris 23	Hodges	Holsman	Hoskins	Kuessner
Lampe	LeVota	Low 39	Lowe 44	McClanahan
Meadows	Meiners	Nasheed	Norr	Oxford
Page	Quinn 9	Rucker	Salva	Scavuzzo
Schoemehl	Skaggs	Spreng	Storch	Talboy
Todd	Villa	Walsh	Walton	Whorton
Wildberger	Wright-Jones	Yaeger	Young	Zweifel

NOES: 104

Avery	Baker 123	Bearden	Bivins	Brandom
Brown 30	Brown 50	Bruns	Casey	Cooper 120
Cooper 155	Cooper 158	Cox	Cunningham 86	Darrough
Davis	Day	Dempsey	Denison	Dethrow
Dixon	Dusenberg	Emery	Ervin	Faith
Fares	Fisher	Flook	Frame	Franz
Funderburk	Grisamore	Guest	Harris 110	Haywood
Hobbs	Hunter	Ice	Johnson	Jones 89
Jones 117	Kelly	Kingery	Komo	Kraus
Lembke	Liese	Lipke	Loehner	Marsh
May	McGhee	Moore	Munzlinger	Muschany
Nance	Nieves	Nolte	Onder	Parson

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Pearce	Pollock	Portwood	Pratt	Richard
Robb	Robinson	Roorda	Ruestman	Ruzicka
Sander	Sater	Schaaf	Schad	Scharnhorst
Schieffer	Schlottach	Schneider	Schoeller	Self
Shively	Silvey	Smith 14	Smith 150	Stevenson
St. Onge	Stream	Sutherland	Swinger	Thomson
Threlkeld	Tilley	Vogt	Wallace	Wasson
Wells	Weter	Wilson 119	Wilson 130	Witte
Wood	Wright 159	Yates	Mr Speaker	

PRESENT: 002

Grill Zimmerman

ABSENT WITH LEAVE: 007

Bowman	Cunningham 145	Hubbard	Hughes	Kratky
Quinn 7	Viebrock			

Representative Dethrow offered **House Amendment No. 32.**

Representative Darrough raised a point of order that **House Amendment No. 32** was not distributed in a timely manner.

The Chair ruled the point of order well taken.

Representative Bruns offered **House Amendment No. 33.**

House Amendment No. 33

AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 429, Section 488.5025, Page 68, Line 18, by inserting immediately after said line the following:

"516.190. **1.** Whenever a cause of action has been fully barred by the laws of the state, territory or country in which it originated, said bar shall be a complete defense to any action thereon, brought in any of the courts of this state.

2. Notwithstanding any other provision of law, whenever a judgment has been fully barred by the laws of the state, territory or county in which it originated, said bar shall be a complete defense to any action to enforce or revive a judgment registered thereon in this state pursuant to section 577.760, RSMo or any other applicable law, or to any action to enforce to revive any judgment obtained pursuant to an action to enforce that original judgment, and no execution, order, or process shall issue thereon, nor shall any suit be brought, had or maintained thereon for any purposes whatsoever. Said bar shall be a complete defense to the enforcement of any lien resulting from any such judgment and shall cause said lien to expire and not be subject to revival.

3. The provisions of subsection 2 shall not apply to any judgment, order or decree awarding child support or maintenance which mandates the making of payments over a period of time."; and

Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.

On motion of Representative Bruns, **House Amendment No. 33** was adopted.

On motion of Representative Stream, **HCS SS SCS SB 429, as amended**, was adopted.

On motion of Representative Stream, **HCS SS SCS SB 429, as amended**, was read the third time and passed by the following vote:

AYES: 150

Aull	Avery	Baker 25	Baker 123	Bearden
Bivins	Bland	Brandom	Bringer	Brown 30
Brown 50	Bruns	Burnett	Casey	Chappelle-Nadal
Cooper 120	Cooper 155	Cooper 158	Corcoran	Cox
Cunningham 86	Curls	Darrough	Daus	Davis
Day	Deeken	Dempsey	Denison	Dethrow
Dixon	Donnelly	Dougherty	Dusenberg	Emery
Ervin	Faith	Fallert	Fares	Fisher
Flook	Frame	Franz	Funderburk	George
Grill	Grisamore	Guest	Harris 23	Harris 110
Hobbs	Hodges	Holsman	Hubbard	Hunter
Icet	Jones 89	Jones 117	Kingery	Komo
Kratky	Kraus	Kuessner	Lampe	Lembke
LeVota	Liese	Lipke	Loehner	Marsh
May	McClanahan	McGhee	Meadows	Meiners
Moore	Munzlinger	Muschany	Nance	Nasheed
Nieves	Nolte	Norr	Onder	Page
Parson	Pearce	Pollock	Portwood	Pratt
Quinn 7	Quinn 9	Richard	Robb	Robinson
Roorda	Rucker	Ruestman	Ruzicka	Salva
Sander	Sater	Scavuzzo	Schaaf	Schad
Scharnhorst	Schieffer	Schlottach	Schneider	Schoeller
Schoemehl	Self	Shively	Silvey	Skaggs
Smith 14	Smith 150	Spreng	Stevenson	St. Onge
Storch	Stream	Sutherland	Swinger	Thomson
Threlkeld	Tilley	Todd	Viebrock	Villa
Vogt	Wallace	Walsh	Walton	Wasson
Wells	Weter	Wildberger	Wilson 119	Wilson 130
Witte	Wood	Wright 159	Wright-Jones	Yaeger
Yates	Young	Zimmerman	Zweifel	Mr Speaker

NOES: 010

El-Amin	Haywood	Hoskins	Hughes	Johnson
Low 39	Lowe 44	Oxford	Talboy	Whorton

PRESENT: 000

ABSENT WITH LEAVE: 003

Bowman	Cunningham 145	Kelly
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Speaker Pro Tem Bearden declared the bill passed.

On motion of Representative Dempsey, the House recessed until 2:30 p.m.

AFTERNOON SESSION

The hour of recess having expired, the House was called to order by Speaker Pro Tem Bearden.

The Speaker appointed the following to act as Honorary Pages for the Day, to serve without compensation: Jamielee Buenemann and Miranda Hoemann.

HOUSE COURTESY RESOLUTIONS OFFERED AND ISSUED

House Resolution No. 3654 through House Resolution No. 3730

SUPPLEMENTAL CALENDAR

MAY 15, 2007

SENATE BILL FOR THIRD READING

SS SCS SB 225 - Munzlinger

THIRD READING OF SENATE BILL

SCS SB 66, relating to insurance company investments, was taken up by Representative Yates.

Representative Yates offered **House Amendment No. 1**.

House Amendment No. 1

AMEND Senate Committee Substitute for Senate Bill No. 66, Page 1, Line 6 of the Title, by inserting after the word, "investments" the following words, "and examinations"; and

Further amend said bill, Page 58, Section 381.068, by removing all of said section from the bill and inserting in lieu thereof the following:

"381.011. 1. Sections 381.011 to 381.412 shall be known and may be cited as the "Missouri Title Insurance Act".

2. The purpose of sections 381.011 to 381.405 is to provide the state of Missouri with a comprehensive body of law for the effective regulation and supervision of title insurance business transacted within this state in response to the McCarran-Ferguson Act, Sections 1011-1015, Title 15, United States Code.

3. Except as otherwise expressly provided in this chapter and except where the context otherwise requires, all provisions of the laws of this state relating to insurance and insurance companies generally shall apply to title insurance, title insurers, and title agents.

381.015. 1. As used in sections 381.011 to 381.412, the term "title insurance commitment" or "commitment" means a preliminary report, commitment, or binder issued prior to the issuance of a title insurance policy containing the terms, conditions, exceptions, and other matters incorporated by reference under which the title insurer is willing to issue its title insurance policy. A title insurance commitment is not an abstract of title.

2. A title insurer, title agency, or title agent issuing a lender's title insurance policy in conjunction with a mortgage loan made simultaneously with the purchase of all or part of the real estate securing the loan, where no owner's title insurance policy has been requested, shall give written notice, on a form prescribed or approved by the director, to the purchaser-mortgagor at the time the commitment is prepared. The notice shall explain that a lender's title insurance policy is to be issued protecting the mortgage-lender, and that the policy does not provide

title insurance protection to the purchaser-mortgagor as the owner of the property being purchased. The notice shall explain that the purchaser-mortgagor may obtain an owner's title insurance policy protecting the property owner, within sixty days of closing and at a specified cost or approximate cost, if the proposed coverages are or amount of insurance is not then known. A copy of the notice, signed by the purchaser-mortgagor, shall be retained in the relevant underwriting file at least fifteen years after the effective date of the policy.

3. A violation of any provision under this section is a level one violation under section 374.049, RSMo.

381.018. 1. The title insurer shall not allow the issuance of its commitments or policies by a title agency or title agent not affiliated with a title agency unless there is in force a written contract between the parties.

2. The title insurer shall maintain an inventory of all policy numbers allocated to each title agency or title agent not affiliated with a title agency.

3. The title insurer shall have on file proof that the title agency or title agent is licensed by this state at the time a written contract is entered into or before it becomes effective.

4. The title insurer shall establish the underwriting guidelines and, where applicable, limitations on title claims settlement authority to be incorporated into contracts with its title agencies and title agents not affiliated with a title agency.

5. If a title insurer terminates its contract with a title agency licensed under this chapter, the insurer shall, within seven days of the termination, notify the director of the reasons for termination, including any information that is required to be reported under subsection 5 of section 375.022, RSMo.

6. A violation of any provision under this section is a level two violation under section 374.049, RSMo.

381.019. 1. A title insurer, title agency or title agent participating in a settlement or closing of a residential real estate transaction shall provide clear, conspicuous, and distinct disclosure of premiums and charges. The director shall adopt rules not in conflict with provisions of the federal Real Estate Settlement Procedures Act, as amended, under section 381.042 to implement disclosure of the following:

- (1) Premium;
- (2) Abstract or title search and examination fee and any other associated charges or fees; and
- (3) Settlement, escrow, or closing fees.

2. A violation of any provision under this section is a level two violation under section 374.049, RSMo.

381.022. 1. As used in sections 381.011 to 381.412, the following terms mean:

(1) "Escrow", written instruments, money or other items deposited by one party with a depository, escrow agent, or escrowee for delivery to another party upon the performance of a specified condition or the happening of a certain event;

(2) "Qualified depository institution", an institution that is:

(a) Organized or, in the case of a United States branch or agency office of a foreign banking organization, licensed under the laws of the United States or any state and has been granted authority to operate with fiduciary powers;

(b) Regulated, supervised, and examined by federal or state authorities having regulatory authority over banks and trust companies;

(c) Insured by the appropriate federal entity; and

(d) Qualified under any additional rules established by the director;

(3) "Security" or "security deposit", funds or other property received by the title insurer as collateral to secure an indemnitor's obligation under an indemnity agreement under which the insurer is granted a perfected security interest in the collateral in exchange for agreeing to provide coverage in a title insurance policy for a specific title exception to coverage.

2. A title insurer, title agency, or title agent not affiliated with a title agency may operate as an escrow, security, settlement, or closing agent, provided that all funds deposited with the title insurer, title agency, or title agent not affiliated with a title agency, pursuant to written instructions in connection with any escrow, settlement, closing, or security deposit shall be submitted for collection to or deposited in a separate fiduciary trust account or accounts in a qualified depository institution no later than the close of the second business day after receipt, in accordance with the following requirements:

(1) The funds regulated under this section shall be the property of the person or persons entitled to them under the provisions of the escrow, settlement, security deposit, or closing agreement and shall be segregated for

each depository by escrow, settlement, security deposit, or closing in the records of the title insurer, title agency, or title agent not affiliated with a title agency, in a manner that permits the funds to be identified on an individual basis and in accordance with the terms of the individual written instructions or agreements under which the funds were accepted; and

(2) The funds shall be applied only in accordance with the terms of the individual written instructions or agreements under which the funds were accepted.

3. It is unlawful for any person to:

(1) Commingle personal or any other moneys with escrow funds regulated under this section;

(2) Use such escrow funds to pay or indemnify against debts of the title insurance agent or of any other person;

(3) Use such escrow funds for any purpose other than to fulfill the terms of the individual written escrow instructions after the necessary conditions of the written escrow instructions have been met;

(4) Disburse any funds held in an escrow account unless the disbursement is made under a written instruction or agreement specifying under what conditions and to whom such funds may be disbursed or under an order of a court of competent jurisdiction; or

(5) Disburse any funds held in a security deposit account unless the disbursement is made under a written agreement specifying:

(a) What actions the indemnitor shall take to satisfy his or her obligation under the agreement;

(b) The duties of the title insurer, title agency, or title agent not affiliated with a title agency with respect to disposition of the funds held, including a requirement to maintain evidence of the disposition of the title exception before any balance may be paid over to the depositing party or his or her designee; and

(c) Any other provisions the director may require by rule or order.

4. Notwithstanding the provisions of subsection 3 of this section, any bank credits, bank services, interest, or similar consideration received on funds deposited in connection with any escrow, settlement, security deposit, or closing may be retained by the title insurer, title agency, or title agent not affiliated with a title agency as compensation for administration of the escrow or security deposit, unless the specific written instructions for the funds or a governing statute provides otherwise.

5. Notwithstanding the provisions of subsection 2 of this section, a title insurer, title agency, or title agent is not authorized to provide such services as an escrow, security, settlement, or closing agent in a residential real estate transaction unless as part of the same transaction the title insurer, title agency, or title agent issues a commitment, binder, or title insurance policy and closing protection letters have been issued protecting the buyer's and the seller's interests, or the title agency or agent has given written notice to the affected person in a title insurance commitment or on a form approved by rule promulgated by the director that the person's interest in the closing or settlement is not protected by the title insurer, title agency, or title agent.

6. It is unlawful for any title agency or agent to engage in the handling of an escrow, settlement or closing, of a residential real estate transaction unless the escrow handling, settlement or closing is conducted or performed in contemplation of and in conjunction with the issuance of a title insurance policy or a closing protection letter, or prior to the receipt of any funds, the title agency or agent clearly discloses to the seller, buyer or lender involved in such escrow, settlement or closing, that no title insurer is providing any protection for closing or settlement funds received by the title agency or agent.

7. A violation of any provision under this section is a level three violation under section 374.049, RSMo.

381.023. 1. A title insurer shall, at least annually, conduct an onsite review of the underwriting, claims, and escrow practices of the title agency or agent with which it has a contract. If the title agency or agent does not maintain separate fiduciary trust accounts for each title insurer it represents, the title insurer shall verify that the funds held on its behalf are reasonably ascertainable from the books of account and records of the title agency or agent.

2. Each title insurer authorized to do business in Missouri shall adopt and utilize the following standards and procedures for the onsite review of title agencies and agents. Onsite review documentation, work papers, summaries, and reports shall be maintained by each title insurer for a period of at least four years and shall be made available to the director for examination upon request. A report shall be prepared by the title insurer at the completion of the onsite review setting forth the title insurer's findings. Onsite review findings shall include, but not be limited to, the following:

(1) A review of contracts between the title insurer and the title agency or agent;

(2) A confirmation that the title agency or agent has prepared an annual statement of financial condition of the title agency or agent, certified by the title insurance agent or designated agent of the title agency under oath or by affirmation as being a true and accurate representation of financial condition;

(3) A review of policies and practices related to conflicts of interest affiliated business arrangements, and regulatory compliance;

(4) Reconciliation of orders with commitments, title searches, title policies, and collection of premiums;

(5) A review of the agent's procedures for tracking issued commitments;

(6) A review of the practices to cancel commitments on transactions that do not close;

(7) A review of the procedures for follow-up after closing to track status of outstanding conditions required for timely issuance of policies;

(8) A review of the procedures for voiding policies;

(9) A review of the tracking of open escrow, security, settlement or closing files;

(10) A review of issued policy reports to the title insurer by the title agency or agent;

(11) A review of any files awaiting policy issuance that includes a determination of the average length of time between closing and the issuance of the title policy; and

(12) A review of a three-way reconciliation of bank balance, book balance and escrow trial balance for each individual escrow bank account.

3. If the title agency or agent is an agency or agent for two or more title insurers, the title insurers may cooperate in complying with the requirements of this section and shall be exempt from liability for sharing findings with other title insurers represented by the agency or agent.

4. The title insurer shall provide a copy of the report of each such review it performs to the director. The director shall promulgate rules setting forth the minimum threshold level at which a review would be required, the standards thereof and the form of report required.

5. A violation of any provision under this section is a level two violation under section 374.049, RSMo.

381.024. 1. It is unlawful for any title agency or title agent not affiliated with an agency to unreasonably deny access or fail to cooperate with its underwriters in the title insurers' reviews of the agency's or agent's escrow, settlement, closing and security deposit accounts.

2. It is unlawful for any title agency or title agent not affiliated with an agency, appointed by two or more title insurers, to deny any of the title insurers access to the fiduciary trust accounts in connection with providing escrow or closing settlement services, and any or all of the supporting account information in order to ascertain the safety and security of the funds held by the title agency or title agent.

3. A violation of any provision under this section is a level two violation under section 374.049, RSMo.

381.025. 1. As used in this section, the term "county" or "counties" includes any city not within a county.

2. Nothing in sections 381.011 to 381.412 shall be construed as prohibiting the division of premiums and charges between or among a title insurer and its title agent or agency, two or more title insurers, one or more title insurers and one or more title agents or agencies, or two or more title agents or agencies, provided such division of premiums and charges does not constitute a violation of the Real Estate Settlement Procedures Act, 12 U.S.C. Section 2601, et. seq., as amended.

3. A violation of any provision under section 381.141 is a level three violation under section 374.049, RSMo.

4. If the director fails to initiate a proceeding to enforce section 381.141 within forty-five days following receipt of written notice of such violation, any title insurer, title agency, or title agent doing business in the same county may maintain an action for injunctive relief against a title insurer, title agency, or title agent violating any provision of this section. In any action under this subsection, the court may award to the successful party the court costs of the action together with reasonable attorney fees.

381.026. 1. The settlement agent shall present for recording all deeds and security instruments for real estate closings handled by it within five business days after completion of all conditions precedent thereto unless otherwise instructed by all of the parties to the transaction.

2. Nothing in this chapter shall be deemed to prohibit the recording of documents prior to the time funds are available for disbursement with respect to a transaction in which a title insurer, title agency, or title agent not

affiliated with a title agency is the settlement agent, provided all parties to whom payment will become due upon such recording consent thereto in writing.

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

- (1) "Affiliate", a specific person that directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified;
- (2) "Affiliated business", any portion of a title insurance agency's business written in this state that was referred to it by a producer of title insurance business or by an associate of the producer, where the producer or associate, or both, have a financial interest in the title agency;
- (3) "Associate", any:
 - (a) Business organized for profit in which a producer of title business is a director, officer, partner, employee, or an owner of a financial interest;
 - (b) Employee of a producer of title business;
 - (c) Franchisor or franchisee of a producer of title business;
 - (d) Spouse, parent, or child of a producer of title insurance business who is a natural person;
 - (e) Person, other than a natural person, that controls, is controlled by, or is under common control with, a producer of title business;
 - (f) Person with whom a producer of title insurance business or any associate of the producer has an agreement, arrangement, or understanding, or pursues a course of conduct, the purpose or effect of which is to provide financial benefits to that producer or associate for the referral of business;
- (4) "Control", including the terms "controlling", "controlled by", and "under common control with", the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position or corporate office held by the person. Control shall be presumed to exist if a person, directly or indirectly, owns, holds with the power to vote, or holds proxies representing ten percent or more of the voting securities of another person. This presumption may be rebutted by showing that control does not exist in fact. The director may determine, after furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support the determination, that control exists in fact, notwithstanding the absence of a presumption to that effect;
- (5) "Referral", the directing or the exercising of any power or influence over the direction of title insurance business, whether or not the consent or approval of any other person is sought or obtained with respect to the referral.

2. Whenever the business to be written constitutes affiliated business, prior to commencing the transaction, the title insurer, title agency, or title agent shall ensure that its customer has been provided with disclosure of the existence of the affiliated business arrangement and a written estimate of the charge or range of charges generally made for the title services provided by the title insurer, title agency, or agent.

3. The director shall establish rules for use by all title agencies in the recording and reporting of the agency's owners and of the agency's ownership interests in other persons or businesses and of material transactions between the parties.

4. The director shall require each title insurer, agency, and agent to file on forms prescribed by the director reports setting forth the names and addresses of those persons, if any, that have a financial interest in the insurer, agency, or agent and who the insurer, agency, or agent knows or has reason to believe are producers of title insurance business or associates of producers, except the duty to report shall not include shareholders of record of any publicly traded insurer.

5. Nothing in this chapter shall be construed as prohibiting affiliated business arrangements in the provision of title insurance business so long as:

- (1) The title insurer, title agency, title agent, or party making a referral constituting affiliated business, at or prior to the time of the referral, discloses the arrangement and, in connection with the referral, provides the person being referred with a written estimate of the charge or range of charges likely to be assessed and otherwise complies with the disclosure obligations of this section;
- (2) The person being referred is not required to use a specified title insurer, agency, or agent; and
- (3) The only thing of value that is received by the title insurer, agency, agent, or party making the referral, other than payments otherwise permitted, is a return on an ownership interest. For purposes of this

subsection, the terms "required use" and "return on an ownership interest" shall have the meaning accorded to them under the Real Estate Settlement Procedures Act (RESPA), as amended.

6. A violation of any provision under this section is a level two violation under section 374.049, RSMo.

381.038. 1. For the purposes of this section, the term "direct operations" means that portion of a title insurer's operations which are attributable to business written by a bona fide employee.

2. Records relating to escrow and security deposits shall be preserved and retained by a title insurer engaged in direct operations, title agency, and title agent for as long as appropriate to the circumstances but, in no event less than seven years after the escrow or security deposit account has been closed.

3. A title agent and a title agency shall remit premiums to the title insurer under the term of its agency contract, but in no event later than within sixty days of receiving an invoice from the title insurer. A title insurer, title agency, or title agent shall promptly issue each title insurance policy within forty-five days after compliance with the requirements of the commitment for insurance, unless special circumstances as defined by rule delay the issuance.

4. This section shall not apply to a title insurer acting as coinsurer if one of the other coinsurers has complied with this section, and shall not apply to a reinsurer.

5. A violation of any provision under this section is a level two violation under section 374.049, RSMo.

381.042. 1. The director under the authority in section 374.045, RSMo, may issue rules, regulations, and orders necessary to carry out the provisions of this chapter.

2. 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 chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after January 1, 2008, shall be invalid and void.

381.045. 1. If the director determines that a person has engaged, is engaging, or has taken a substantial step toward engaging in an act, practice, omission or course of business constituting a violation in this chapter or a rule adopted or order issued pursuant thereto, or a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation in this chapter or a rule adopted or order issued pursuant thereto, the director may issue such administrative orders as authorized under section 374.046, RSMo. The director may also suspend or revoke the license of a producer under section 375.141, RSMo, or the certificate of authority of any title insurer as authorized under section 374.047, RSMo, for any such willful violation.

2. If the director believes that a person has engaged, is engaging, or has taken a substantial step toward engaging in an act, practice, omission or course of business constituting a violation in this chapter 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 in this chapter or a rule adopted or order issued pursuant thereto, the director may maintain a civil action for relief authorized under section 374.048, RSMo.

3. Nothing contained in this section shall affect the right of the director to impose any other penalties provided for in the laws relating to the business of insurance.

4. Nothing contained in this chapter is intended to or shall in any other manner limit or restrict the rights of policyholders, claimants, and creditors.

381.048. 1. The director may bring an action against any title insurer, title agency, title agent, or any director, officer, agent, employee, trustee, or affiliate of a title insurer, title agency, or title agent in a court of competent jurisdiction to enjoin violations of the Real Estate Settlement Procedures Act, 12 U.S.C. Section 2607, as amended.

2. A violation of any provision under the federal Real Estate Settlement Procedures Act, as amended, is a level two violation under section 374.049, RSMo.

381.052. No person other than a domestic, foreign, or non-United States title insurer organized on the stock plan and duly licensed by the director shall transact title insurance business as an insurer in this state.

381.055. Subject to the exceptions and restrictions contained in this chapter, a title insurer shall have the power to:

- (1) Do only title insurance business; and
- (2) Reinsure title insurance policies.

381.058. 1. No insurer that transacts any class, type, or kind of business other than title insurance shall be eligible for the issuance or renewal of a license to transact the business of title insurance in this state nor shall title insurance be transacted, underwritten, or issued by any insurer transacting or licensed to transact any other class, type, or kind of business.

2. A title insurer shall not engage in the business of guaranteeing payment of the principal or the interest of bonds or mortgages.

3. (1) Notwithstanding subsection 1 of this section or anything else to the contrary in sections 381.011 to 381.405, a title insurer is expressly authorized to issue closing or settlement protection letters (and to collect a fee for such issuance) in all transactions where its title insurance policies are issued and where its issuing agent or agency is performing settlement services and shall do so in favor of and upon request by the applicable buyer, lender, or seller in such transaction. Such closing or settlement protection letter form shall be filed with the director under section 381.085 and shall conform to the terms of coverage and form of instrument as required by rule of the director and shall indemnify a buyer, lender, or seller solely against losses not to exceed the amount of the settlement funds only because of the following acts of the title insurer's named issuing title agency or title agent:

- (a) Acts of theft of settlement funds or fraud with regard to settlement funds; and
- (b) Failure to comply with written closing instructions by the proposed insured when agreed to by the title agency or title agent relating to title insurance coverage.

(2) The rate for issuance of a closing or settlement protection letter in a residential real estate transaction indemnifying a lessee or purchaser of an interest in land, a borrower, or a lender secured by a mortgage, including any other security instrument, of an interest in land shall be filed as a rate with the director.

(3) The rate for issuance of a closing or settlement protection letter in a residential real estate transaction indemnifying a seller of an interest in land shall be filed as a separate rate with the director.

(4) Such filed rate shall not be excessive or inadequate. The entire rate for the closing or settlement protection letter shall be retained by the title insurer.

(5) Except as provided under this section or section 381.403, a title insurer shall not provide any other coverage which purports to indemnify against improper acts or omissions of a person with regard to escrow, settlement, or closing services.

381.062. Any title insurer authorized to do an insurance business in this state, shall establish and maintain a minimum paid-in capital of not less than four hundred thousand dollars and, in addition, surplus of at least four hundred thousand dollars. Beginning January 1, 2013, any title insurer authorized to do an insurance business in this state, shall establish and maintain a minimum paid-in capital of not less than eight hundred thousand dollars and, in addition, surplus of at least eight hundred thousand dollars.

381.065. 1. The net retained liability of a title insurer for a single risk in regard to real property located in this state, or in regard to a title insurance policy issued in this state and insuring personal property, whether assumed directly or as reinsurance, shall not exceed the aggregate of fifty percent of surplus as regards policyholders plus the statutory premium reserve less the company's investment in title plants, all as shown in the most recent annual statement of the insurer on file with the director.

2. For purposes of this chapter:

- (1) A single risk shall be the insured amount of any title insurance policy, except that, where two or more title insurance policies are issued simultaneously covering different estates in the same property, a single risk shall be the sum of the insured amounts of all the title insurance policies; and

(2) A policy under which a claim payment reduces the amount of insurance under one or more other title insurance policies shall be included in computing the single risk sum only to the extent that its amount exceeds the aggregate amount of the policy or policies whose amount of insurance is reduced.

3. A title insurer may obtain reinsurance for all or any part of its liability under its title insurance policies or reinsurance agreements and may also reinsure title insurance policies issued by other title insurers on single risks located in this state or elsewhere. Reinsurance on policies issued on real property located in this state, or on policies issued in this state and insuring personal property, may be obtained from any title insurers licensed to transact title insurance business in this state, any other state, or the District of Columbia and which have a combined capital and surplus of at least one million six hundred thousand dollars.

4. The director may waive the limitation of this section for a particular risk upon application of the title insurer and for good cause shown.

381.068. In determining the financial condition of a title insurer doing business under this chapter, the general investment provisions of sections 379.080 to 379.082, RSMo, shall apply; except that, an investment in a title plant or plants in an amount equal to the actual cost shall be allowed as an admitted asset for title insurers. The aggregate amount of the investment shall not exceed twenty percent of surplus to policyholders, as shown on the most recent annual statement of the title insurer on file with the director.

381.072. 1. In determining the financial condition of a title insurer doing business under this chapter, the general provisions of the laws regulating the business of insurance requiring the establishment of reserves sufficient to cover all known and unknown liabilities including allocated and unallocated loss adjustment expense, shall apply; except that, a title insurer shall establish and maintain:

(1) (a) A known claim reserve in an amount estimated to be sufficient to cover all unpaid losses, claims, and allocated loss adjustment expenses arising under title insurance policies for which the title insurer may be liable, and for which the insurer has discovered or received notice by or on behalf of the insured or escrow or security depositor;

(b) Upon receiving notice from or on behalf of the insured of a title defect in or lien or adverse claim against the title of the insured that may result in a loss or cause expense to be incurred in the proper disposition of the claim, the title insurer shall determine the amount to be added to the reserve, which amount shall reflect a careful estimate of the loss or loss expense likely to result by reason of the claim;

(c) Reserves required under this section may be revised from time to time and shall be redetermined at least once each year;

(2) A statutory or unearned premium reserve established and maintained as follows:

(a) A domestic title insurer shall establish and maintain an unearned premium reserve computed in accordance with this section, and all sums attributed to such reserve shall at all times and for all purposes be considered and constitute unearned portions of the original premiums. This reserve shall be reported as a liability of the title insurer in its financial statements;

(b) The unearned premium reserve shall be maintained by the title insurer for the protection of holders of title insurance policies. Except as provided in this section, assets equal in value to the reserve are not subject to distribution among creditors or stockholders of the title insurer until all claims of policyholders or claims under reinsurance contracts have been paid in full, and all liability on the policies or reinsurance contracts has been paid in full and discharged or lawfully reinsured;

(c) The unearned premium reserve shall consist of:

a. The amount of the unearned premium reserve on January 1, 2008;

b. A sum equal to fifteen cents for each one thousand dollars of net retained liability under each title insurance policy, excluding mortgagee's policies simultaneously issued with owner's policies or owner's leasehold policies of the same or greater amount, on a single risk written on properties located in this state and issued after January 1, 2008; and

c. Unearned premium for closing protection letters;

(d) Amounts placed in the unearned premium reserve in any year in accordance with paragraph (c) of this subdivision shall be deducted in determining the net profit of the title insurer for that year;

(e) A title insurer shall release from the unearned premium reserve a sum equal to ten percent of the amount added to the reserve during a calendar year on July first of each of the five years following the year in which the sum was added, and shall release from the unearned premium reserve a sum equal to three and one-

third percent of the amount added to the reserve during that year on each succeeding July first until the entire amount for that year has been released. The amount of the unearned premium reserve or similar unearned premium reserve maintained before January 1, 2008, shall be released in accordance with the law in effect immediately before January 1, 2008;

(f) a. Each domestic and foreign title insurer shall file annually with the audited financial report required under section 375.1032, RSMo, an actuarial certificate made by a member in good standing of the American Academy of Actuaries, or by an actuary permitted to make such certificate by the commissioner, superintendent or director of the department of insurance of the state of incorporation of a foreign title insurer;

b. The actuarial certification shall conform to the annual statement instructions for title insurers adopted by the National Association of Insurance Commissioners and shall include the actuary's professional opinion of the insurer's reserves as of the date of the annual statement. The reserves analyzed under this section shall include reserves for known claims, including adverse developments on known claims, and reserves for incurred but not reported claims;

(g) Each domestic and foreign title insurer shall establish a supplemental reserve in the amount by which the actuarially certified reserves exceed the total of the known claim reserve and statutory premium reserve as set forth in the title insurer's annual financial report, subject to this subdivision.

2. A foreign or alien title insurer licensed to transact title insurance business in this state shall maintain at least the same reserves on title insurance policies issued on properties located in this state as are required of domestic title insurers, unless the laws of the jurisdiction of domicile of the foreign or alien title insurer require a higher amount.

381.075. 1. Sections 375.570 to 375.750, RSMo, and sections 375.1150 to 375.1246, RSMo, shall apply to all title insurers subject to this chapter, except as otherwise provided in this section. In applying such sections, the court shall consider the unique aspects of title insurance and shall have broad authority to fashion relief that provides for the maximum protection of the title insurance policyholders.

2. Security and escrow funds held by or on behalf of the title insurer shall not become general assets and shall be administered as secured claims as defined in section 375.1152, RSMo.

3. Title insurance policies that are in force at the time an order of liquidation is entered shall not be canceled except upon a showing to the court of good cause by the liquidator. The determination of good cause shall be within the discretion of the court. In making this determination, the court shall consider the unique aspects of title insurance and all other relevant circumstances.

4. The court may set appropriate dates that potential claimants must file their claims with the liquidator. The court may set different dates for claims based upon the title insurance policy than for all other claims. In setting dates, the court shall consider the unique aspects of title insurance and all other relevant circumstances.

5. As of the date of the order of insolvency or liquidation, all premiums paid, due or to become due under policies of the title insurers, shall be fully earned. It shall be the obligation of title agencies, title agents, insureds, or representatives of the title insurer to pay fully earned premium to the liquidator or rehabilitator.

381.085. 1. As used in sections 381.011 to 381.412, the terms "search", "search of the public records", or "search of title", mean a search of those records established by the laws of this state for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without knowledge.

2. A title insurer shall not deliver or issue for delivery or permit any of its authorized title agencies or title agents to deliver in this state, any standard form providing coverage, in connection with title insurance written, unless the standard form has been filed with the director thirty days prior to use.

3. Forms covered by this section shall include:

- (1) Title insurance policies, including standard form endorsements;
- (2) Title insurance commitments issued prior to the issuance of a title insurance policy; and
- (3) Closing or settlement protection letters.

4. Any term or condition related to an insurance coverage provided by a title insurance policy or any exception to the coverage, except exceptions ascertained from, or affirmative coverages offered as a result of, a search and examination of records relating to a title or inspection or survey of a property to be insured, may only be included in the policy after the term, condition or exception has been filed with the director as herein provided.

5. The director shall review such form, term, condition, or exception within thirty days. If within this time the director believes the form, term, condition, or exception is not in compliance with the insurance laws of

this state or does not contain such words, phraseology, conditions, and provisions which are specific, certain, and unambiguous and reasonably adequate to meet the needed requirements of those insured under such policies, the director may schedule a hearing to be held within sixty days and at such hearing receive evidence and suggestions of law on the matter.

6. If the director determines after a hearing that a form, term, condition, or exception shall be disapproved, the director shall issue an order disapproving the form, term, condition, or exception in a record and with findings of fact and conclusions of law in accordance with the provisions of chapter 536, RSMo. A final order may not be issued unless the director specifies the provisions of law that have not been complied with or the words, phraseology, conditions, or provisions which are not specific, certain and unambiguous and reasonably adequate to meet the needed requirement of those insured under such policies. A final order of disapproval is subject to judicial review under the provisions of chapter 536, RSMo. During the pending of any proceeding under this section, all such forms may be used, but this provision shall not deprive the director or department of any other enforcement power over such forms that may be otherwise provided by law.

7. The failure of the director to seek disapproval does not constitute an approval or endorsement of the form, term, condition, or exception by the director. It is unlawful to make any representation that the director has approved a form, term, condition, or exception filed under this section.

381.112. For purposes of the premium tax imposed by sections 148.320 and 148.340, RSMo, the premium income received by a title insurer shall mean the amount within the definition of "premium".

381.115. 1. It is unlawful for any person to transact the business of title insurance unless authorized as a title insurer, title agency or title agent;

2. It is unlawful for any person to transact business as:

(1) A title agency, unless the person is a licensed business entity insurance producer under subsection 2 of section 375.015, RSMo; or

(2) A title agent, unless the person is a licensed individual insurance producer under subsection 1 of section 375.015, RSMo, or is exempt from licensure under subsection 3 of this section.

3. A salaried employee of a title insurer, title agency, or title agent is exempt from licensure as a title agent if the employee does not materially perform or supervise others who perform any of the following:

- (1) Sell, solicit, or negotiate a title insurance policy or closing protection letter;
- (2) Calculate premiums for a title insurance policy or closing protection letter;
- (3) Determine insurability;
- (4) Establish, calculate, or negotiate title charges;
- (5) Conduct title search or examinations;
- (6) Execute title insurance policies, commitments, binders or endorsements; or
- (7) Handle escrows, settlements, or closings.

4. It is unlawful for any title insurer to contract with any person to act in the capacity of a title agency or title agent with respect to risks located in this state unless the person is licensed as required in this section.

5. The director shall adopt rules, regulations, or requirements relating to licensing and practices of persons acting in the capacity of title agencies or agents. These persons may include title agencies, title agents and employees of title insurers, or title agencies. Such rules, regulations, or requirements shall, until at least January 1, 2010, permit either provisional licensure or waiver of licensure for employees newly performing functions described in subsection 3 of this section, while under the direct supervision of a licensed insurance producer during the first six months of such employee's initial employment. This subsection is not intended to require licensure of persons performing a clerical function under the direct supervision and direction of a licensed insurance producer.

6. Every title agency licensed in this state shall:

(1) Exclude or eliminate the word insurer, insurance company, or underwriter from its business name, unless the word agency is also included as part of the name; and

(2) Provide, in a timely fashion, each title insurer with which it places business, any information the title insurer requests in order to comply with reporting requirements of the director.

7. A title agency or title agent licensed in this state prior to the effective date of this chapter shall have ninety days after the effective date of this chapter to comply with the requirements of this section.

8. If the title insurer, title agency, or title agent delegates the title search to a third party, such as an abstract company, the insurer, agency, or agent must first obtain proof that the third party is operating in compliance with rules and regulations established by the director and the third party shall provide the insurer, agency, or agent with access to and the right to copy all accounts and records maintained by the third party with respect to business placed with the title insurer. Proof from the third party may consist of a signed statement indicating compliance, and shall be effective for a three-year period.

9. A violation of any provision under this section is a level three violation under section 374.049, RSMo.

381.118. 1. Each title agency shall designate an individual as a qualified principal, who as a condition of licensure, shall successfully pass an examination developed by the producer advisory board established by section 375.019, RSMo, and approved by the director. Each title agent shall successfully pass an examination developed by the producer advisory board and approved by the director. Upon request by a title agency or agent and for good cause, the director, by order, may waive the requirements of this subsection. The examination requirement in this subsection shall be waived for all title agents and qualified principals who are licensed in this state as of January 1, 2008.

2. Each title agent licensed to sell title insurance in this state, unless exempt under subsection 8 of this section, shall successfully complete courses of study as required by this section. Any person licensed to act as a title agent shall, during each two years, attend courses or programs of instruction or attend seminars equivalent to a minimum of eight hours of instruction. The initial such two-year period shall begin January 1, 2008.

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

(1) A real property law or title insurance-related course taught by an accredited college or university or qualified instructor who has taught a course of real property or title insurance law at such institution;

(2) A course or program of instruction or seminar approved by the director developed or sponsored by any authorized insurer, recognized agents' association, title insurance trade association, or approved private provider. A local agents' group may also be approved if the instructor receives no compensation for services;

(3) Courses approved for continuing legal education credit by the Missouri Bar.

4. A person teaching any approved course of instruction or lecturing at any approved seminar without compensation shall qualify for one and one-half times the number of classroom hours as would be granted to a person taking and successfully completing such course, seminar or program, but the credit may be credited no more than once a year.

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

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

(1) Serious physical injury or illness;

(2) Active duty in the armed services for an extended period of time;

(3) Residence outside the United States; or

(4) Licensee is at least seventy years of age and is currently licensed as a title agent.

7. Every person subject to the provisions of this section shall furnish in a form satisfactory to the director, written certification as to the courses, programs, or seminars of instruction taken and successfully completed by such person.

8. The provisions of this section shall not apply to those natural persons holding or applying for a license to act as a title agent in Missouri who reside in a state that has enacted and implemented a mandatory continuing education law or regulation pertaining to title agents. However, those natural persons holding or applying for a Missouri agent license who reside in states which have no mandatory continuing education law or regulations shall be subject to all the provisions of this section to the same extent as resident Missouri title agents.

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

(1) The producer advisory board established by section 375.019, RSMo, shall be utilized by the director to assist the director in determining acceptable content of courses, programs and seminars to include classroom equivalency;

(2) Every applicant seeking approval by the director of a continuing education course under this section shall pay to the director a filing fee of fifty dollars per course, except that such total fee shall not exceed two hundred fifty dollars per year for any single applicant. Fees shall be waived for local agents' groups if the instructor receives no compensation for services. Such fee shall accompany any application form required by the director. Courses shall be approved for a period of no more than one year. Applicants holding courses intended to be offered for a longer period must reapply for approval.

10. All funds received under the provisions of this section shall be transmitted by the director to the department of revenue for deposit in the state treasury to the credit of the insurance dedicated fund. All expenditures required by this section shall be paid from funds appropriated from the insurance dedicated fund by the general assembly.

11. When a title agent pays his or her biennial renewal fee, such agent shall also furnish the written certification required by this section.

12. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created pursuant to 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 chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after January 1, 2008, shall be invalid and void.

381.122. The director may during normal business hours examine, audit and inspect any and all books and records maintained by a title insurer, title agency, or title agent under this chapter.

381.161. 1. No producer or other person, except the person paying the premium for the title insurance, shall require, directly or indirectly, or through any trustee, director, officer, agent, employee, or affiliate, as a condition, agreement, or understanding to selling or furnishing any other person any loan, or extension thereof, credit, sale, property, contract, lease or service, that such other person shall place, any contract of title insurance of any kind through any particular title agent, agency, or title insurer. No title agent, agency, or title insurer shall knowingly participate in any such prohibited plan or transaction. No person shall fix a price charged for such thing or service, or discount from or rebate upon price, on the condition, agreement, or understanding that any title insurance is to be obtained through a particular agent, agency, or title insurer.

2. [Any person who violates the provisions of this section, or any title insurer, title agent, or agency who accepts an order for title insurance knowing that it is in violation of the provision of this section shall, in addition to any other action which may be taken by the director, be subject to a fine in an amount equal to five times the premium for the title insurance.] **A violation of any provision under this section is a level three violation under section 374.049, RSMo.**

381.410. As used in this section and section 381.412, the following terms mean:

(1) "Cashier's check", a check, however labeled, drawn on the financial institution, which is signed only by an officer or employee of such institution, is a direct obligation of such institution, and is provided to a customer of such institution or acquired from such institution for remittance purposes;

(2) "Certified funds", United States currency, funds conveyed by a cashier's check, certified check, teller's check, as defined in Federal Reserve Regulations CC, or wire transfers, including written advice from a financial institution that collected funds have been credited to the settlement agent's account;

(3) "Director", the director of the department of insurance, financial and professional regulation, unless the settlement agent's primary regulator is the division of finance. When the settlement agent is regulated by such division, that division shall have jurisdiction over this section and section 381.412;

(4) "Financial institution":

(a) A person or entity doing business under the laws of this state or the United States relating to banks, trust companies, savings and loan associations, credit unions, commercial and consumer finance companies, industrial loan companies, insurance companies, small business investment corporations licensed under the Small

Business Investment Act of 1958, 15 U.S.C. Section 661, et seq., as amended, or real estate investment trusts as defined in 26 U.S.C. Section 856, as amended, or institutions constituting the Farm Credit System under the Farm Credit Act of 1971, 12 U.S.C. Section 2000, et seq., as amended; or

(b) A mortgage loan company or mortgage banker doing business under the laws of this state or the United States which is subject to licensing, supervision, or auditing by the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation, or the United States Veterans' Administration, or the Government National Mortgage Association, or the United States Department of Housing and Urban Development, or a successor of any of the foregoing agencies or entities, as an approved seller or servicer, if their principal place of business is in Missouri or a state which is contiguous to Missouri;

(5) "Settlement agent", a person, corporation, partnership, or other business organization which accepts funds and documents as fiduciary for the buyer, seller or lender for the purposes of closing a sale of an interest in real estate located within the state of Missouri, and is not a financial institution, or a member in good standing of the Missouri Bar, or a person licensed under chapter 339, RSMo.

381.412. 1. A settlement agent who accepts funds for closing a sale of an interest in real estate shall require a buyer, seller, or lender who is not a financial institution to convey such funds to the settlement agent as certified funds. A check shall be exempt from the provisions of this section if drawn on:

(1) An escrow account of a licensed real estate broker, as regulated and described in section 339.105, RSMo; or

(2) An escrow account of a title insurer or title insurance agency licensed to do business in Missouri; or

(3) An agency of the United States of America, the state of Missouri, or any county or municipality of the state of Missouri; or

(4) An account by a financial institution.

2. It is unlawful for any title insurer, title agency, or title agent, as defined in section 381.009, to make any payment, disbursement or withdrawal from an escrow account which it maintains as a depository of funds received from the public for the settlement of real estate transactions unless a corresponding deposit of funds was made to the escrow account for the benefit of the payee or payees:

(1) At least ten days prior to such payment, disbursement, or withdrawal; or

(2) Which consisted of certified funds; or

(3) Consisted of a check made exempt from this section by the provisions of subsection 1 of this section.

3. A violation of any provision of this section is a level two violation under section 374.049, RSMo."; and

Further amend said bill, Page 58, Section 409.950, by inserting after all of said section the following:

"Section B. The repeal and enactment of Sections 381.003 through 381.412 of Section A of this act is effective January 1, 2008.

[381.003. 1. Sections 381.003 to 381.125 shall be known and may be cited as the "Missouri Title Insurance Act".

2. Sections 381.009 to 381.048 shall apply to all persons engaged in the business of title insurance in this state. Sections 381.052 to 381.112 shall apply to all title insurers engaged in the business of title insurance in this state. Sections 381.115 to 381.125 shall apply to all title agencies engaged in the business of title insurance in this state.

3. Except as otherwise expressly provided in this chapter and except where the context otherwise requires, all provisions of the insurance code applying to insurance and insurance companies generally shall apply to title insurance, title insurers and title agents.]

[381.009. As used in this chapter, the following terms mean:

(1) "Abstract of title" or "abstract", a written history, synopsis or summary of the recorded instruments affecting the title to real property;

(2) "Affiliate", a specific person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified;

(3) "Affiliated business", any portion of a title insurance agency's business written in this state that was referred to it by a producer of title insurance business or by an associate of the producer, where the producer or associate, or both, have a financial interest in the title agency;

(4) "Associate", any:

(a) Business organized for profit in which a producer of title business is a director, officer, partner, employee or an owner of a financial interest;

(b) Employee of a producer of title business;

(c) Franchisor or franchisee of a producer of title business;

(d) Spouse, parent or child of a producer of title insurance business who is a natural person;

(e) Person, other than a natural person, that controls, is controlled by, or is under common control with, a producer of title business;

(f) Person with whom a producer of title insurance business or any associate of the producer has an agreement, arrangement or understanding, or pursues a course of conduct, the purpose or effect of which is to provide financial benefits to that producer or associate for the referral of business;

(5) "Bona fide employee of the title insurer", an individual who devotes substantially all of his or her time to performing services on behalf of a title insurer and whose compensation for those services is in the form of salary or its equivalent paid by the title insurer;

(6) "Control", including the terms "controlling", "controlled by" and "under common control with", the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position or corporate office held by the person. Control shall be presumed to exist if a person, directly or indirectly, owns, controls, holds with the power to vote or holds proxies representing ten percent or more of the voting securities of another person. This presumption may be rebutted by showing that control does not exist in fact. The director may determine, after furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support the determination, that control exists in fact, notwithstanding the absence of a presumption to that effect;

(7) "County" or "counties" includes any city not within a county;

(8) "Direct operations", that portion of a title insurer's operations which are attributable to business written by a bona fide employee;

(9) "Director", the director of the department of insurance, or the director's representatives;

(10) "Escrow", written instruments, money or other items deposited by one party with a depository, escrow agent or escrowee for delivery to another party upon the performance of a specified condition or the happening of a certain event;

(11) "Escrow, settlement or closing fee", the consideration for supervising or handling the actual execution, delivery or recording of transfer and lien documents and for disbursing funds;

(12) "Financial interest", a direct or indirect legal or beneficial interest, where the holder is or will be entitled to five percent or more of the net profits or net worth of the entity in which the interest is held;

(13) "Foreign title insurer", any title insurer incorporated or organized pursuant to the laws of any other state of the United States, the District of Columbia, or any other jurisdiction of the United States;

(14) "Geographically indexed or retrievable", a system of keeping recorded documents which includes as a component a method for discovery of the documents by:

(a) Searching an index arranged according to the description of the affected land; or

(b) An electronic search by description of the affected land;

(15) "Net retained liability", the total liability retained by a title insurer for a single risk, after taking into account any ceded liability and collateral, acceptable to the director, and maintained by the insurer;

(16) "Non-United States title insurer", any title insurer incorporated or organized pursuant to the laws of any foreign nation or any province or territory;

(17) "Premium", the consideration paid by or on behalf of the insured for the issuance of a title insurance policy or any endorsement or special coverage. It does not include consideration paid for settlement or escrow services or noninsurance-related information services;

(18) "Producer", any person, including any officer, director or owner of five percent or more of the equity or capital of any person, engaged in this state in the trade, business, occupation or profession of:

- (a) Buying or selling interests in real property;
- (b) Making loans secured by interests in real property; or
- (c) Acting as broker, agent, representative or attorney of a person who buys or sells any interest in real property or who lends or borrows money with the interest as security;

(19) "Qualified depository institution", an institution that is:

(a) Organized or, in the case of a United States branch or agency office of a foreign banking organization, licensed pursuant to the laws of the United States or any state and has been granted authority to operate with fiduciary powers;

(b) Regulated, supervised and examined by federal or state authorities having regulatory authority over banks and trust companies;

(c) Insured by the appropriate federal entity; and

(d) Qualified under any additional rules established by the director;

(20) "Referral", the directing or the exercising of any power or influence over the direction of title insurance business, whether or not the consent or approval of any other person is sought or obtained with respect to the referral;

(21) "Search", "search of the public records" or "search of title", a search of those records established by the laws of this state for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without knowledge;

(22) "Security" or "security deposit", funds or other property received by the title insurer as collateral to secure an indemnitor's obligation under an indemnity agreement pursuant to which the insurer is granted a perfected security interest in the collateral in exchange for agreeing to provide coverage in a title insurance policy for a specific title exception to coverage;

(23) "Subsidiary", an affiliate controlled by a person directly or indirectly through one or more intermediaries;

(24) "Title agency" means an authorized person who issues title insurance on behalf of a title insurer. An attorney licensed to practice law in this state who issues title insurance as a part of his or her law practice, but does not maintain or operate a title insurance business separate from such law practice is not a title agency;

(25) "Title agent" or "agent", an attorney licensed to practice law in this state who issues title insurance as part of his or her law practice, but who is not affiliated with or acting on behalf of a title agency, or an authorized person who, on behalf of a title agency or on behalf of a title agent not affiliated with a title agency, performs one or more of the following acts in conjunction with the issuance of a title insurance commitment or policy:

(a) Determines insurability, based upon a review of a search of title;

(b) Performs searches;

(c) Handles escrows, settlements or closings; or

(d) Solicits or negotiates title insurance business;

(26) "Title insurance business" or "business of title insurance":

(a) Issuing as insurer or offering to issue as insurer a title insurance policy;

(b) Transacting or proposing to transact by a title insurer any of the following activities when conducted or performed in contemplation of and in conjunction with the issuance of a title insurance policy:

a. Soliciting or negotiating the issuance of a title insurance policy;

b. Guaranteeing, warranting or otherwise insuring the correctness of title searches for all instruments affecting titles to real property, any interest in real property, cooperative units and proprietary leases and for all liens or charges affecting the same;

c. Handling of escrows, settlements or closings;

d. Executing title insurance policies;

- e. Effecting contracts of reinsurance; or
- f. Abstracting, searching or examining titles;
- (c) Guaranteeing, warranting or insuring searches or examinations of title to real property or any interest in real property;
- (d) Guaranteeing or warranting the status of title as to ownership of or liens on real property by any person other than the principals to the transaction;
- (e) Promising to purchase or repurchase for consideration an indebtedness because of a title defect, whether or not involving a transfer of risk to a third person; or
- (f) Promising to indemnify the holder of a mortgage or deed of trust against loss from the failure of the borrower to pay the mortgage or deed of trust when due if the property fails to yield sufficient proceeds upon foreclosure to satisfy the debt, when one or both of the following conditions exist:
 - a. The security has been impaired by the discovery of a previously unknown property interest in favor of one who is not liable for the payment of the mortgage or deed of trust; or
 - b. Perfection of the position of the mortgage or deed of trust which was assured to exist cannot be obtained, notwithstanding timely recordation with the recorder of deeds of the county in which the property is located; or
 - (g) Doing or proposing to do any business substantially equivalent to any of the activities listed in this subdivision in a manner designed to evade the provisions of this chapter;
- (27) "Title insurance commitment" or "commitment", a preliminary report, commitment or binder issued prior to the issuance of a title insurance policy containing the terms, conditions, exceptions and other matters incorporated by reference under which the title insurer is willing to issue its title insurance policy. A title insurance commitment is not an abstract of title;
- (28) "Title insurance policy" or "policy", a contract insuring or indemnifying owners of, or other persons lawfully interested in, real property or any interest in real property, against loss or damage arising from any or all of the following conditions existing on or before the policy date and not excepted or excluded:
 - (a) Title to the estate or interest in land being otherwise than as stated in the policy;
 - (b) Defects in or liens or encumbrances on the insured title;
 - (c) Unmarketability of the insured title;
 - (d) Lack of legal right of access to the land;
 - (e) Invalidity or unenforceability of the lien of an insured mortgage;
 - (f) The priority of a lien or encumbrance over the lien of any insured mortgage;
 - (g) The lack of priority of the lien of an insured mortgage over a statutory lien for services, labor or material;
 - (h) The invalidity or unenforceability of an assignment of the insured mortgage; or
 - (i) Rights or claims relating to the use of or title to the land;
- (29) "Title insurer" or "insurer", a company organized pursuant to laws of this state for the purpose of transacting the business of title insurance and any foreign or non-United States title insurer licensed in this state to transact the business of title insurance;
- (30) "Title plant", a set of records encompassing at least the most recent forty-five years, consisting of documents, maps, surveys or entries affecting title to real property or any interest in or encumbrance on the property, which have been filed or recorded in the jurisdiction for which the title plant is established or maintained. The records in the title plant shall be geographically indexed or retrievable as to those records containing a legal description of affected land, and otherwise by name of affected person;
- (31) "Underwrite", the authority to accept or reject risk on behalf of the title insurer.]

[381.011. 1. Sections 381.011 to 381.241 shall be known and may be cited as the "Missouri Title Insurance Act".

2. The purpose of sections 381.011 to 381.241 is to provide the state of Missouri with a comprehensive body of law for the effective regulation and supervision of title insurance business transacted within this state in response to the McCarran-Ferguson Act, Sections 1011-1015, Title 15, United States Code.]

[381.015. 1. When a title insurance commitment issued by a title insurer, title agency or title agent includes an offer to issue an owner's policy covering the resale of owner-occupied residential property, the commitment shall incorporate the following statement in bold type:

"Please read the exceptions and the terms shown or referred to herein carefully. The exceptions are meant to provide you with notice of matters which are not covered under the terms of the title insurance policy and should be carefully considered."

2. A title insurer, title agency or title agent issuing a lender's title insurance policy in conjunction with a mortgage loan made simultaneously with the purchase of all or part of the real estate securing the loan, where no owner's title insurance policy has been requested, shall give written notice, on a form prescribed or approved by the director, to the purchaser-mortgagor at the time the commitment is prepared. The notice shall explain that a lender's title insurance policy is to be issued protecting the mortgage-lender, and that the policy does not provide title insurance protection to the purchaser-mortgagor as the owner of the property being purchased. The notice shall explain what a title policy insures against and what possible exposures exist for the purchaser-mortgagor that could be insured against through the purchase of an owner's policy. The notice shall also explain that the purchaser-mortgagor may obtain an owner's title insurance policy protecting the property owner at a specified cost or approximate cost, if the proposed coverages are or amount of insurance is not then known. A copy of the notice, signed by the purchaser-mortgagor, shall be retained in the relevant underwriting file at least fifteen years after the effective date of the policy.

3. Each violation of any provision of this section is a class C violation as that term is defined in section 381.045.]

[381.018. 1. The title insurer shall not allow the issuance of its commitments or policies by a title agency or title agent not affiliated with a title agency unless there is in force a written contract between the parties which sets forth the responsibilities of each party or, where both parties share responsibility for particular functions, specifies the division of responsibilities.

2. For each title agency or title agent not affiliated with a title agency under contract with the insurer, the title insurer shall have on file a statement of financial condition, of each title agency or title agent as of the end of the previous calendar or fiscal year setting forth an income statement of business done during the preceding year and a balance sheet showing the condition of its affairs as of the close of the prior year, certified by the agency or agent as being a true and accurate representation of the agency's or agent's financial condition. The statement shall be filed with the insurer no later than the date the agency's or agent's federal income tax return for the same year is filed. Attorneys actively engaged in the practice of law, in addition to that related to title insurance business, are exempt from the requirements of this subsection.

3. The title insurer shall conduct reviews of the underwriting, claims and escrow practices of its agencies and agents which shall include a review of the agency's or agent's policy blank inventory and processing operations. If any such title agency or title agent does not maintain separate bank or trust accounts for each title insurer it represents, the title insurer shall verify that the funds held on its behalf are reasonably ascertainable from the books of account and records of the title agency or title agent not affiliated with a title agency. The title insurer shall conduct a review of each of its agencies and agents at least triennially commencing January first of the year first following January 1, 2001.

4. Within thirty days of executing or terminating a contract with a title agency or title agent not affiliated with a title agency, the insurer shall provide notification of the appointment or termination and the reason for termination to the director. Notices of appointment of a title agency or title agent shall be made on a form promulgated by the director.

5. The title insurer shall maintain an inventory of all policy numbers allocated to each title agency or title agent not affiliated with a title agency.

6. The title insurer shall have on file proof that the title agency or title agent is licensed by this state.

7. The title insurer shall establish the underwriting guidelines and, where applicable, limitations on title claims settlement authority to be incorporated into contracts with its title agencies and title agents not affiliated with a title agency.

8. Each violation of any provision of this section is a class B violation as that term is defined in section 381.045.]

[381.021. 1. Sections 381.011 to 381.241 shall apply to all persons engaged in the business of title insurance in this state.

2. Except as otherwise expressly provided in sections 381.011 to 381.241, and except where the context otherwise requires, all provisions of the insurance laws of this state applying to insurance and insurance companies generally shall apply to title insurance and title insurance companies. No law of this state enacted after September 28, 1987, that is inconsistent with the provisions of such sections shall be applicable to the business of title insurance unless such law specifically states that it is to be applicable to the business of title insurance.

3. Nothing in sections 381.011 to 381.241 shall be construed to authorize the practice of law by any person who is not duly admitted to practice law in this state nor shall it be construed to authorize the director to regulate the practice of law or the sale of real estate.]

[381.022. 1. A title insurer, title agency or title agent not affiliated with a title agency may operate as an escrow, security, settlement or closing agent, provided that:

(1) All funds deposited with the title insurer, title agency or title agent not affiliated with a title agency in connection with any escrow, settlement, closing or security deposit shall be submitted for collection to or deposited in a separate fiduciary trust account or accounts in a qualified depository institution no later than the close of the next business day after receipt, in accordance with the following requirements:

(a) The funds shall be the property of the person or persons entitled to them under the provisions of the escrow, settlement, security deposit or closing agreement and shall be segregated for each depository by escrow, settlement, security deposit or closing in the records of the title insurer, title agency or title agent not affiliated with a title agency, in a manner that permits the funds to be identified on an individual basis and in accordance with the terms of the individual instructions or agreements under which the funds were accepted; and

(b) The funds shall be applied only in accordance with the terms of the individual instructions or agreements under which the funds were accepted;

(2) Funds held in an escrow account shall be disbursed only pursuant to a written instruction or agreement specifying under what conditions and to whom such funds may be disbursed or pursuant to an order of a court of competent jurisdiction;

(3) Funds held in a security deposit account shall be disbursed only pursuant to a written agreement specifying:

(a) What actions the indemnitor shall take to satisfy his or her obligation under the agreement;

(b) The duties of the title insurer, title agency or title agent not affiliated with a title agency with respect to disposition of the funds held, including a requirement to maintain evidence of the disposition of the title exception before any balance may be paid over to the depositing party or his or her designee; and

(c) Any other provisions the director may require;

(4) Any interest received on funds deposited in connection with any escrow, settlement, security deposit or closing may be retained by the title insurer, title agency or title agent not affiliated with a title agency as compensation for administration of the escrow or security deposit, unless the instructions for the funds or a governing statute provides otherwise;

(5) Each violation of this subsection is a class A violation as that term is defined in section 381.045.

2. The title agency or title agent not affiliated with an agency shall cooperate with its underwriters in the conduct by the underwriters of reviews of the agency's or agent's escrow, settlement, closing and security deposit accounts. The title insurer shall provide a copy of the report of each such review it performs to the director. The director may promulgate rules setting forth the minimum threshold level at which a review would be required, the standards thereof and the form of report required.

3. If the title agency or title agent not affiliated with an agency is appointed by two or more title insurers and maintains fiduciary trust accounts in connection with providing escrow or closing settlement services, the title agency or title agent shall allow each title insurer reasonable access to the accounts and any or all of the supporting account information in order to ascertain the safety and security of the funds held by the title agency or title agent.

4. (1) Nothing in this chapter shall be deemed to prohibit the recording of documents prior to the time funds are available for disbursement with respect to a transaction in which a title insurer, title agency or title agent not affiliated with a title agency is the settlement agent, provided all parties to whom payment will become due upon such recording consent thereto in writing.

(2) The settlement agent shall record all deeds and security instruments for real estate closings handled by it within three business days after completion of all conditions precedent thereto.

(3) Each violation of this subsection is a class C violation as that term is defined in section 381.045.]

[381.025. 1. A title insurer, title agency, title agent or other person shall not give or receive, directly or indirectly, any consideration for the referral of title insurance business or escrow or other service provided by a title insurer, title agency or title agent. Each violation of this subsection is a class A violation as that term is defined in section 381.045.]

2. Any title insurer, title agency or title agent doing business in the same county as a title insurer, title agency or title agent who may be in violation of the prohibitions or limitations of this section shall have standing to seek injunctive relief against the violating title insurer, title agency or title agent in the event the department declines or fails to enforce this section within forty-five days following receipt of written notice of such violation. In any action pursuant to this subsection, the court may award to the successful party the court costs of the action together with reasonable attorney fees.]

[381.028. No title insurer, title agency or title agent shall participate in any transaction in which it knows that a producer or other person requires, directly or indirectly, or through any trustee, director, officer, agent, employee or affiliate, as a condition, agreement or understanding to selling or furnishing any other person a loan, or loan extension, credit, sale, property, contract, lease or service, that the other person shall place a title insurance policy of any kind with the title insurer or through a particular title agency or agent. Each violation of this section is a class A violation as that term is defined in section 381.045.]

[381.032. 1. No title insurer, may charge any rates regulated by the state after January 1, 2001, except in accordance with the premium rate schedule and manual filed with and approved by the director in accordance with applicable statutes and regulations governing rate filings. Premium rate schedules in effect prior to January 1, 2001, may be used until new rate schedules have been approved by the director. Title insurers shall file their premium rate schedules within thirty days after January 1, 2001. Each violation of this subsection is a class C violation as that term is defined in section 381.045. Nothing in this section shall prevent an agent not affiliated with an agency from charging for services that constitute the practice of law at the customary fee charged by such person for legal services. To the extent the premium fails to compensate the agent at such rate, the agent may render an additional bill for such services on behalf of the agent's law practice or law firm. The acceptance of any part of the premium by the law firm of said agent shall not be a violation of any provision of the Missouri title insurance act or the general insurance statutes, regulations or bulletins regarding payment of commissions to nonlicensed entities.]

2. The director may establish rules, including rules providing statistical plans, for use by all title insurers, title agencies and title agents in the recording and reporting of revenue, loss and expense experience in such form and detail as is necessary to aid the director in the establishment of rates and fees.

3. The director may require that the information provided pursuant to this section be verified by oath of the insurer's or agency's president or vice president or secretary or actuary, as applicable. The director may further require that the information required pursuant to this section be subject to

an audit conducted at the expense of the title insurer or title agency by an independent certified public accountant. The director shall have the authority to establish a minimum threshold level at which an audit would be required.

4. Information filed with the director relating to the experience of a particular agency shall be kept confidential unless the director finds it in the public interest to disclose the information required of title insurers or title agencies pursuant to this section. Prior to any such disclosure of confidential information, the director shall provide notice and opportunity to be heard to the title insurers and title agencies who would be affected thereby.]

[381.035. No title insurance company, title agency or title agent shall willfully withhold information from, or knowingly give false or misleading information to the director, or to any title insurance rating organization, of which the title insurance company is a member or subscriber, which will affect the rates or fees chargeable pursuant to this chapter. Each violation of this section is a class A violation as that term is defined in section 381.045.]

[381.038. 1. Evidence of the examination of title and determination of insurability generated by a title insurer engaged in direct operations, title agency or title agent shall be preserved and maintained by such insurer, agency or agent for as long as appropriate to the circumstances but in no event less than fifteen years after the title insurance policy has been issued.

2. Records relating to escrow and security deposits shall be preserved and retained by a title insurer engaged in direct operations, title agency and title agent for as long as appropriate to the circumstances but in no event less than five years after the escrow or security deposit account has been closed.

3. This section shall not apply to a title insurer acting as coinsurer if one of the other coinsurers has complied with this section.

4. Each violation of any provision of this section is a class C violation as that term is defined in section 381.045.]

[381.041. 1. No person other than a domestic, foreign, or alien title insurer organized on the stock plan and duly licensed by the director shall transact title insurance business as an insurer in this state.

2. Each title insurer may engage in the title insurance business in this state if licensed to do so by the director and provide any other service related or incidental to the sale and transfer or financing of property.

3. A title insurer shall maintain a minimum paid-in capital of not less than four hundred thousand dollars and, in addition, paid-in initial surplus of at least four hundred thousand dollars.]

[381.042. 1. The director may issue rules, regulations and orders necessary to carry out the provisions of this chapter.

2. No rule or portion of a rule promulgated pursuant to the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.]

[381.045. 1. If the director determines that the title insurer or any other person has violated this chapter, or any regulation or order promulgated thereunder, after notice and opportunity to be heard, the director may order:

(1) For each violation a monetary penalty which shall take into account the harm the violation caused or could have caused or potential harm to the public and which shall not exceed:

- (a) One thousand dollars per violation for a class A violation;
- (b) Five hundred dollars per violation for a class B violation; and
- (c) One hundred dollars per violation for a class C violation;
- (2) Revocation or suspension of the title insurer's license; or
- (3) Both monetary penalty and revocation or suspension.

2. Nothing contained in this section shall affect the right of the director to impose any other penalties provided for in the insurance code.

3. Nothing contained in this chapter is intended to or shall in any other manner limit or restrict the rights of policyholders, claimants and creditors.]

[381.048. The director may bring an action in a court of competent jurisdiction to enjoin violations of the Real Estate Settlement Procedures Act, 12 U.S.C. Section 2607, as amended.]

[381.051. 1. A title insurer, before issuing any title insurance policy covering property located in this state, shall deposit with the director of the department of insurance, hereinafter referred to as the director, a sum of four hundred thousand dollars, which shall be held for the security and protection of the holders or beneficiaries under its title insurance policies.

2. Assets deposited pursuant to this section may, with the approval of the director, be exchanged from time to time for other assets that qualify under subsection 3 of this section.

3. The depositing title insurer shall receive the income, interests, and dividends on any assets deposited. The deposit required under this section may be made in legal tender or in investments now or hereafter permitted to domestic life insurers with regard to their capital, reserve and surplus. For capital and reserve deposits, sums deposited pursuant to this section shall be valued at their market value.

4. A title insurer that has deposited assets pursuant to this section may, with the approval of the director, withdraw any part of the assets so deposited. If any such title insurer continues to engage in the business of title insurance, it shall not be permitted to withdraw assets that would reduce the amount of its deposits below the amount required by subsection 1 of this section.

5. In lieu of such a deposit maintained in this state, the director shall accept a certificate or certificates in proper form of the public officer or officers having general supervision of title insurers in its state of domicile to the effect that a deposit or total deposits, in an equal or greater amount, in classes of investment authorized in such state, are being maintained for like purposes in public custody or control pursuant to the laws of such state on behalf of the title insurer.

6. If sections 381.011 to 381.241 require a greater amount of capital and surplus or deposits than that required of a title insurer prior to September 28, 1987, such title insurer shall have three years after September 28, 1987, to comply with any such increased requirement.

7. The provisions of sections 375.950 to 375.990, RSMo, shall apply to the impairment of capital, liquidation, and rehabilitation of title insurers.]

[381.052. No person other than a domestic, foreign or non-United States title insurer organized on the stock plan and duly licensed by the director shall transact title insurance business as an insurer in this state.]

[381.055. Subject to the exceptions and restrictions contained in this chapter, a title insurer shall have the power to:

- (1) Do only title insurance business;
- (2) Reinsure title insurance policies; and
- (3) Perform ancillary activities, unless prohibited by the director, including examining titles to real property and any interest in real property and procuring and furnishing related information and information about relevant personal property, when not in contemplation of, or in conjunction with, the issuance of a title insurance policy.]

[381.058. 1. No insurer that transacts any class, type or kind of business other than title insurance shall be eligible for the issuance or renewal of a license to transact the business of title insurance in this state nor shall title insurance be transacted, underwritten or issued by any insurer transacting or licensed to transact any other class, type or kind of business.

2. A title insurer shall not engage in the business of guaranteeing payment of the principal or the interest of bonds or mortgages.

3. (1) Notwithstanding subsection 1 of this section, and to the extent such coverage is lawful within this state, a title insurer is expressly authorized to issue closing or settlement protection to a proposed insured upon request if the title insurer issues a commitment, binder or title insurance policy.

Such closing or settlement protection shall conform to the terms of coverage and form of instrument as required by the director and may indemnify a proposed insured solely against loss of settlement funds only because of the following acts of a title insurer's named title agency or title agent:

- (a) Theft of settlement funds; and
 - (b) Failure to comply with written closing instructions by the proposed insured when agreed to by the title agency or title agent relating to title insurance coverage.
- (2) The director may promulgate or approve a required charge for providing the coverage.
- (3) A title insurer shall not provide any other coverage which purports to indemnify against improper acts or omissions of a person with regard to escrow, settlement, or closing services.]

[381.061. 1. The net retained liability of a title insurer for a single risk on property located in this state, whether assumed directly or as reinsurance, may not exceed fifty percent of the sum of its total surplus to policyholders and unearned premium reserve, less the admitted asset value assigned to title plants, as shown in the most recent annual statement of the title insurer on file in the office of the director.

2. The director may waive the limitation of this section for a particular risk upon application of the title insurer and for good cause shown.]

[381.062. Before being licensed to do an insurance business in this state, a title insurer shall establish and maintain a minimum paid-in capital of not less than four hundred thousand dollars and, in addition, paid-in initial surplus of at least four hundred thousand dollars.]

[381.065. 1. The net retained liability of a title insurer for a single risk in regard to property located in this state, whether assumed directly or as reinsurance, shall not exceed the aggregate of fifty percent of surplus as regards policyholders plus the statutory premium reserve less the company's investment in title plants, all as shown in the most recent annual statement of the insurer on file with the director.

2. For purposes of this chapter:

(1) A single risk shall be the insured amount of any title insurance policy, except that, where two or more title insurance policies are issued simultaneously covering different estates in the same real property, a single risk shall be the sum of the insured amounts of all the title insurance policies; and

(2) A policy under which a claim payment reduces the amount of insurance under one or more other title insurance policies shall be included in computing the single risk sum only to the extent that its amount exceeds the aggregate amount of the policy or policies whose amount of insurance is reduced.

3. A title insurer may obtain reinsurance for all or any part of its liability under its title insurance policies or reinsurance agreements and may also reinsure title insurance policies issued by other title insurers on single risks located in this state or elsewhere. Reinsurance on policies issued on properties located in this state may be obtained from any title insurers licensed to transact title insurance business in this state, any other state, or the District of Columbia and which have a combined capital and surplus of at least eight hundred thousand dollars.

4. The director may waive the limitation of this section for a particular risk upon application of the title insurer and for good cause shown.]

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

[381.072. In determining the financial condition of a title insurer doing business pursuant to this chapter, the general provisions of the insurance code requiring the establishment of reserves

sufficient to cover all known and unknown liabilities including allocated and unallocated loss adjustment expense, shall apply; except that, a title insurer shall establish and maintain:

(1) (a) A known claim reserve in an amount estimated to be sufficient to cover all unpaid losses, claims and allocated loss adjustment expenses arising under title insurance policies for which the title insurer may be liable, and for which the insurer has discovered or received notice by or on behalf of the insured or escrow or security depositor;

(b) Upon receiving notice from or on behalf of the insured of a title defect in or lien or adverse claim against the title of the insured that may result in a loss or cause expense to be incurred in the proper disposition of the claim, the title insurer shall determine the amount to be added to the reserve, which amount shall reflect a careful estimate of the loss or loss expense likely to result by reason of the claim;

(c) Reserves required pursuant to this section may be revised from time to time and shall be redetermined at least once each year;

(2) A statutory or unearned premium reserve established and maintained as follows:

(a) A domestic title insurer shall establish and maintain an unearned premium reserve computed in accordance with this section, and all sums attributed to such reserve shall at all times and for all purposes be considered and constitute unearned portions of the original premiums. This reserve shall be reported as a liability of the title insurer in its financial statements;

(b) The unearned premium reserve shall be maintained by the title insurer for the protection of holders of title insurance policies. Except as provided in this section, assets equal in value to the reserve are not subject to distribution among creditors or stockholders of the title insurer until all claims of policyholders or claims under reinsurance contracts have been paid in full, and all liability on the policies or reinsurance contracts has been paid in full and discharged or lawfully reinsured;

(c) The unearned premium reserve shall consist of:

a. The amount of the unearned premium reserve on January 1, 2001; and

b. A sum equal to fifteen cents for each one thousand dollars of net retained liability under each title insurance policy, excluding mortgagee's policies simultaneously issued with owner's policies or owner's leasehold policies of the same or greater amount, on a single risk written on properties located in this state and issued after January 1, 2001;

(d) Amounts placed in the unearned premium reserve in any year in accordance with paragraph (c) of this subdivision shall be deducted in determining the net profit of the title insurer for that year;

(e) A title insurer shall release from the unearned premium reserve a sum equal to ten percent of the amount added to the reserve during a calendar year on July first of each of the five years following the year in which the sum was added, and shall release from the unearned premium reserve a sum equal to three and one-third percent of the amount added to the reserve during that year on each succeeding July first until the entire amount for that year has been released. The amount of the unearned premium reserve or similar unearned premium reserve maintained before January 1, 2001, shall be released in accordance with the law in effect immediately before January 1, 2001;

(f) a. Each domestic and foreign title insurer shall file annually with the audited financial report required pursuant to section 375.1032, RSMo, an actuarial certificate made by a member in good standing of the American Academy of Actuaries, or by an actuary permitted to make such certificate by the commissioner, superintendent or director of the department of insurance of the state of incorporation of a foreign title insurer;

b. The actuarial certification shall conform to the annual statement instructions for title insurers adopted by the National Association of Insurance Commissioners and shall include the actuary's professional opinion of the insurer's reserves as of the date of the annual statement. The reserves analyzed pursuant to this section shall include reserves for known claims, including adverse developments on known claims, and reserves for incurred but not reported claims;

(g) a. Each domestic and foreign title insurer shall establish a supplemental reserve in the amount by which the actuarially certified reserves exceed the total of the known claim reserve and statutory premium reserve as set forth in the title insurer's annual financial report, subject to this subdivision;

b. The supplemental reserve required pursuant to this section shall be phased in as follows:

- i. Twenty-five percent of the otherwise applicable supplemental reserve is required until December thirty-first of the year next following January 1, 2001;
- ii. Fifty percent of the otherwise applicable supplemental reserve is required until December thirty-first of the second year following January 1, 2001;
- iii. Seventy-five percent of the otherwise applicable supplemental reserve is required until December thirty-first of the third year following January 1, 2001;
- iv. One hundred percent of the supplemental reserve is required after December thirty-first of the fourth year following January 1, 2001.]

[381.075. 1. Sections 375.570 to 375.750, RSMo, and sections 375.1150 to 375.1246, RSMo, shall apply to all title insurers subject to the title insurance act, except as otherwise provided in this section. In applying such sections, the court shall consider the unique aspects of title insurance and shall have broad authority to fashion relief that provides for the maximum protection of the title insurance policyholders.

2. Security and escrow funds held by or on behalf of the title insurer shall not become general assets and shall be administered as secured claims as defined in section 375.1152, RSMo.

3. Title insurance policies that are in force at the time an order of liquidation is entered shall not be canceled except upon a showing to the court of good cause by the liquidator. The determination of good cause shall be within the discretion of the court. In making this determination, the court shall consider the unique aspects of title insurance and all other relevant circumstances.

4. The court may set appropriate dates that potential claimants must file their claims with the liquidator. The court may set different dates for claims based upon the title insurance policy than for all other claims. In setting dates, the court shall consider the unique aspects of title insurance and all other relevant circumstances.

5. As of the date of the order of insolvency or liquidation, all premiums paid, due or to become due under policies of the title insurers, shall be fully earned. It shall be the obligation of title agencies, title agents, insureds or representatives of the title insurer to pay fully earned premium to the liquidator or rehabilitator.]

[381.078. A title insurer shall only declare or distribute a dividend to shareholders with the prior written approval of the director, as would be permitted pursuant to subdivision (1) of subsection 1 of section 382.210, RSMo.]

[381.081. 1. A domestic title insurer shall establish and maintain an unearned premium reserve computed in accordance with this section, and all sums attributed to such reserve shall at all times and for all purposes be considered and constitute unearned portions of the original premiums. This reserve shall be reported as a liability of the title insurer in its financial statements.

2. The unearned premium reserve shall be maintained by the title insurer for the protection of holders of title insurance policies. Except as provided in this section, assets equal in value to the reserve are not subject to distribution among creditors or stockholders of the title insurer until all claims of policyholders or claims under reinsurance contracts have been paid in full, and all liability on the policies or reinsurance contracts has been paid in full and discharged or lawfully reinsured.

3. A foreign or alien title insurer licensed to transact title insurance business in this state shall maintain at least the same reserves on title insurance policies issued on properties located in this state as are required of domestic title insurers, unless the laws of the jurisdiction of domicile of the foreign or alien title insurer require a higher amount.

4. The unearned premium reserve shall consist of:

- (1) The amount of the unearned premium reserve on September 28, 1987; and
- (2) A sum equal to fifteen cents for each one thousand dollars of net retained liability under each title insurance policy, excluding mortgagee's policies simultaneously issued with owner's policies or owner's leasehold policies of the same or greater amount, on a single risk written on properties located in this state and issued after September 28, 1987.

5. Amounts placed in the unearned premium reserve in any year in accordance with subdivision (2) of subsection 4 of this section shall be deducted in determining the net profit of the title insurer for that year.

6. A title insurer shall release from the unearned premium reserve a sum equal to ten percent of the amount added to the reserve during a calendar year on July first of each of the five years following the year in which the sum was added, and shall release from the unearned premium reserve a sum equal to three and one-third percent of the amount added to the reserve during that year on each succeeding July first until the entire amount for that year has been released. The amount of the unearned premium reserve or similar unearned premium reserve maintained before September 28, 1987, shall be released in accordance with the law in effect immediately before September 28, 1987.]

[381.085. 1. A title insurer or authorized rate service organization shall not deliver or issue for delivery or permit any of its authorized title agencies or title agents to deliver in this state, any form, in connection with title insurance written, unless it has been filed with the director and approved by the director or thirty days have elapsed and it has not been disapproved as misleading or violative of public policy. Each violation of this subsection is a class C violation as that term is defined in section 381.045.

2. Forms covered by this section shall include:

- (1) Title insurance policies, including standard form endorsements; and
- (2) Title insurance commitments issued prior to the issuance of a title insurance policy.

3. After notice and opportunity to be heard are given to the insurer or rate service organization which submitted a form for approval, the director may withdraw approval of the form on finding that the use of the form is contrary to the legal requirements applicable at the time of withdrawal. The effective date of withdrawal of approval shall not be less than ninety days after notice of withdrawal is given.

4. Any term or condition related to an insurance coverage provided by an approved title insurance policy or any exception to the coverage, except those ascertained from a search and examination of records relating to a title or inspection or survey of a property to be insured, may only be included in the policy after the term, condition or exception has been filed with the director and approved as herein provided.]

[381.088. 1. A title insurer may satisfy its obligation to file premium rates, rating manuals and forms as required by this chapter by becoming a member of, or a subscriber to, a rate service organization, organized and licensed pursuant to the provisions of this chapter, where the organization makes the filings, and by authorizing the director in writing to accept the filings on the insurer's behalf.

2. Nothing in this chapter shall be construed as requiring any title insurer, title agency or title agent to become a member of, or a subscriber to, any rate service organization. Nothing in this chapter shall be construed as prohibiting the filing of deviations from rate service organization filings by any member or subscriber.]

[381.091. 1. If a domestic title insurer becomes insolvent, is in the process of liquidation or dissolution, or is in the possession of the director:

(1) Such amount of the assets of such title insurer equal to the unearned premium reserve then remaining may be used by or with the written approval of the director to pay for reinsurance of the liability of such title insurer upon all outstanding title insurance policies or reinsurance agreements to the extent to which claims for losses by the holders thereof are not then pending. The balance of assets, if any, equal to the unearned premium reserve, may then be transferred to the general assets of the title insurer;

(2) The net assets of the unearned premium reserve shall be available to pay claims for losses sustained by holders of title insurance policies then pending or arising up to the time reinsurance is effected. If claims for losses exceed such other assets of the title insurer, such claims, when established, shall be paid pro rata out of the surplus assets attributable to the unearned premium reserve to the extent of such surplus, if any.

2. If reinsurance is not obtained, assets equal to the unearned premium reserve and assets constituting minimum capital, or so much as remains thereof after outstanding claims have been paid, shall constitute a trust fund to be held and invested by the director for twenty years, out of which claims of policyholders shall be paid as they arise. The balance, if any, of the trust fund shall, at the expiration of twenty years, revert to the general assets of the title insurer.]

[381.092. 1. Every title insurer that shall propose its own premium rates and every title insurance rating organization shall propose premium rates that are not excessive nor inadequate for the safety and soundness of any title insurer, which do not unfairly discriminate between risks in this state which involve essentially the same exposure to loss and expense elements, and which shall give due consideration to the following matters:

- (1) The desirability for stability and responsiveness of rate structures;
- (2) The necessity of assuring the financial solvency of title insurance companies in periods of economic depression;
- (3) The necessity for paying dividends on the capital stock of title insurance companies sufficient to induce capital to be invested therein; and
- (4) A reasonable level of profit for the insurer.

2. Every title insurer that shall propose its own rates and every title insurance rating organization may adopt basic classifications of policies or contracts of title insurance which shall be used as the basis for rates.]

[381.095. 1. If the director shall find in his review of rate filings that the filings provide for, result in, or produce rates that are not unreasonably high, and are not inadequate for the safeness and soundness of the insurer, and are not unfairly discriminatory between risks in this state involving essentially the same hazards and expense elements, the director shall approve such rates. Prior to such approval the director may conduct a public hearing with respect to a rate filing. An approval shall continue in effect until the director shall issue an order of disapproval pursuant to the requirements and procedure provided for in subsections 2 and 3 of this section.

2. Upon the review at any time by the director of a rate filing, the director shall, before issuing an order of disapproval, hold a hearing upon not less than ten days' written notice, specifying in reasonable detail the matters to be considered at such hearing, to every title insurer and title insurance rating organization which made such filing, and if, after such hearing, the director finds that such filing or a part thereof does not meet the requirements of this chapter, the director shall issue an order specifying in what respects the director finds that it so fails, and stating when, within a reasonable period thereafter, such filing or a part thereof shall be deemed no longer effective. A title insurer or title insurance rating organization shall have the right at any time to withdraw a filing or a part thereof, subject to the provisions of section 381.102, in the case of deviation filing. Copies of the order shall be sent to every title insurer and title insurance rating organization affected. The order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in the order.

3. Any person or organization aggrieved with respect to any filing which is in effect may make written application to the director for a hearing thereon. The title insurance company or title insurance rating organization that made the filing shall not be authorized to proceed pursuant to this subsection. Such application shall specify in reasonable detail the grounds to be relied upon by the applicant. If the director shall find that the application is made in good faith, that the applicant would be so aggrieved if his or her grounds are established, and that such grounds otherwise justify holding such a hearing, the director shall, within thirty days after receipt of such application, hold a hearing upon not less than ten days' written notice to the applicant and to every title insurance company and title insurance rating organization which made such a filing. If, after such hearing, the director finds that the filing or a part thereof does not meet the requirements of this chapter, the director shall issue an order specifying in what respects the director finds that such filing or a part thereof fails to meet the requirements of this chapter, stating when within a reasonable period thereafter, such filing or a part thereof shall be deemed no longer effective. Copies of such order shall be sent to the applicant

and to every such title insurer and title insurance rating organization. The order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in the order.]

[381.098. 1. A corporation, an unincorporated association, a partnership or an individual, whether located within or outside this state, may make application to the director for license as a rating organization for title insurers, and shall file therewith:

- (1) A copy of its constitution, its articles of agreement or association or its certificate of incorporation, and of its bylaws, rules and regulations governing the conduct of its business;
- (2) A list of its members and subscribers;
- (3) The name and address of a resident of this state upon whom notices or orders of the director or process affecting such rating organization may be served; and
- (4) A statement of its qualifications as a title insurance rating organization.

2. If the director finds that the applicant is competent, trustworthy and otherwise qualified to act as a rating organization, and that its constitution, articles of agreement or association or certificate of incorporation, and its bylaws, rules and regulations governing the conduct of its business, conform to requirements of law, the director shall issue a license authorizing the applicant to act as a rating organization for title insurance. Licenses issued pursuant to this section shall remain in effect for three years unless sooner suspended or revoked by the director or withdrawn by the licensee. The fee for such license shall be one thousand five hundred dollars. Licenses issued pursuant to this section may be suspended or revoked by the director, after hearing upon notice, in the event the rating organization ceases to meet the requirements of this subsection. Every rating organization shall notify the director promptly of every change in:

- (1) Its constitution, its articles of agreement or association or its certificate of incorporation, and its bylaws, rules and regulations governing the conduct of its business;
- (2) Its list of members and subscribers; and
- (3) The name and address of the resident of this state designated by it upon whom notices or orders of the director or process affecting such rating organization may be served.

3. Subject to rules and regulations which have been approved by the director as reasonable, each title insurance rating organization shall permit any title insurance company not a member to be a subscriber to its rating services. Notices of proposed changes in such rules and regulations shall be given to subscribers. Each such rating organization shall furnish its rating services without discrimination to its members and subscribers. The reasonableness of any rule or regulation in its application to subscribers, or the refusal of any such rating organization to admit a title insurance company as a subscriber, shall at the request of any subscriber or any such title insurance company, be reviewed by the director at a hearing held upon at least ten days' written notice to such rating organization and to such subscriber. If the director finds that such rule or regulation is unreasonable in its application to subscribers, the director shall order that such rule or regulation shall not be applicable to subscribers. If the rating organization fails to grant or reject an application of a title insurance company for subscribership within thirty days after it was made, the title insurance company may request a review by the director as if the application had been rejected. If the director finds that the title insurance company has been refused admittance to the title insurance rating organization as a subscriber without justification, the director shall order such rating organization to admit the title insurance company as a subscriber. If the director finds that the action of the title insurance rating organization was justified, the director shall make an order affirming its action.]

[381.101. 1. All title insurers licensed in this state shall establish and maintain reserves against unpaid losses and loss expenses.

2. Upon receiving notice from or on behalf of the insured of a title defect in or lien or adverse claim against the title of the insured that may result in a loss or cause expense to be incurred in the proper disposition of the claim, the title insurer shall determine the amount to be added to the reserve, which amount shall reflect a careful estimate of the loss or loss expense likely to result by reason of the claim.

3. Reserves required under this section may be revised from time to time and shall be redetermined at least once each year.]

[381.102. Every member of or subscriber to a title insurance rating organization shall adhere to the filings made on its behalf by such organization, except that any title insurance company which is a member of or subscriber to such a rating organization may file with the director a uniform percentage of decrease or increase to be applied to any or all elements of the fees produced by the rating system so filed for a class of title insurance which is found by the director to be a proper rating unit for the application of such uniform decrease or increase, or to be applied to the rates for a particular area, or otherwise deviate from the rating plans, policy forms or other matters which are the subject of filings pursuant to this chapter. Such deviation filing shall specify the basis for the modification and shall be accompanied by the data or historical pattern upon which the applicant relies. A copy of the deviation filing and data shall be sent simultaneously to such rating organization. Deviation filings shall be subject to the provisions of section 381.095.]

[381.105. 1. Any member of or subscriber to a title insurance rating organization may appeal to the director from any action or decision of such rating organization in approving or rejecting any proposed change in or addition to the filings of such rating organization, and the director shall, after a hearing held upon not less than ten days' written notice to the appellant and to such rating organization, issue an order approving the action or decision of such rating organization or directing it to give further consideration to such proposal and to take action or make a decision upon it within thirty days. If such appeal is from the action or decision of the title insurance rating organization in rejecting a proposed addition to its filings, the director may, in the event the director finds that such action or decision was unreasonable, issue an order directing the rating organization to make an addition to its filings, on behalf of its members and subscribers, in a manner consistent with the director's findings, within a reasonable time after the issuance of such order. If the appeal is from the action of the title insurance rating organization with regard to a rate or a proposed change in or addition to its filings relating to the character and extent of coverage, the director shall approve the action of the rating organization or such modification thereof as shall have been suggested by the appellant if either be made in accordance with this chapter.

2. The failure of a title insurance rating organization to take action or make a decision within thirty days after submission to it of a proposal pursuant to this section shall constitute a rejection of such proposal within the meaning of this section. If such appeal is based upon the failure of the rating organization to make a filing on behalf of such member or subscriber which is based on a system of expense allocation which differs from the system of expense allocation included in a filing made by such rating organization, the director shall, if the director grants the appeal, order the rating organization to make the requested filing for use by the appellant. In deciding such appeal, the director shall apply the standards set forth in section 381.032.]

[381.108. 1. The director shall promulgate reasonable rules and statistical plans, reasonably adapted to each of the rating systems on file with the department, which may be modified from time to time, and which shall be used thereafter by each title insurer in the recording and reporting of the composition of its business, its loss and countrywide expense experience and those of its title insurance underwriters in order that the experience of all title insurers may be made available, at least annually, in such form and detail as may be necessary to aid him or her in determining whether rating systems comply with the standards set forth in this chapter. Such rules and plans may also provide for the recording of expense experience items which are specially applicable to this state and are not susceptible of determination by a prorating of countrywide expense experience. In promulgating such rules and plans, the director shall give due consideration to the rating systems on file with the department, and in order that such rules and plans may be as uniform as is practicable among the several states, to the rules and to the form of the plans used for such rating systems in other states. Such rules and plans shall not place an unreasonable burden of expense on any title insurer. No title insurer shall be required to record or report its expense and loss experience on a classification basis that is inconsistent with the rating system filed by it, nor shall any title insurer be required to report the experience to any agency of which it is not a member or subscriber. The director may designate one or more rating organizations or other agencies to assist the director in gathering such experience and making compilations thereof, and such compilations shall be made available, subject to reasonable

rules promulgated by the director, to title insurers and rating organizations. The director shall give preference in such designation to entities organized by and functioning on behalf of title insurers operating in this state. If the director, in his or her judgment, determines that one or more of such organizations designated as statistical agents is unable or unwilling to perform its statistical functions according to reasonable requirements established from time to time by the director, he or she may, after consultation with such statistical agent and upon twenty days' notice to any affected companies, designate another person to act on the director's behalf in the gathering of statistical experience. The director shall in such case establish the fee to be paid to such designated person by the affected companies in order to pay the total cost of gathering and compiling such experience. Agencies designated by the director shall assist the director in making compilations of the reported data and such compilations shall be made available, subject to reasonable rules and regulations promulgated by the director, to insurers, rating organizations and any other interested parties.

2. Reasonable rules and plans may be promulgated by the director for the interchange of data necessary for the application of rating plans.

3. In order to further uniform administration of rate regulatory laws, the director and every title insurer and rating organization may exchange information and experience data with insurance supervisory officials, title insurers and rating organizations in other states, and may consult with them with respect to rate making and the application of rating systems.

4. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.]

[381.111. A title insurer may obtain reinsurance for all or any part of its liability under its title insurance policies or reinsurance agreements and may also reinsure title insurance policies issued by other title insurers on single risks located in this state or elsewhere. Reinsurance on policies issued on properties located in this state may be obtained from any title insurers licensed to transact title insurance business in this state, any other state, or the District of Columbia and which have a combined capital and surplus of at least eight hundred thousand dollars.]

[381.112. For purposes of the premium tax imposed by sections 148.320 and 148.340, RSMo, the premium income received by a title insurer shall mean the amount of premium actually remitted to the title insurer and shall exclude any amount of premium retained by the title agent within the definition of "premium" contained in section 381.009.]

[381.115. 1. A person shall not act in the capacity of a title agency or title agent and a title insurer may not contract with any person to act in the capacity of a title agency or title agent with respect to risks located in this state unless the person is a licensed title agency or title agent in this state.

2. An individual employed by a licensed title agency or title agent to whom the agency or agent delegates authority to act on that agency's or agent's behalf shall be either individually licensed or be named on the employing agent's license if such employee performs any of the functions defined in paragraph (a) of subdivision (25) of section 381.009. Each person named on the license shall possess all qualifications determined by the director to be appropriate. The director may adopt rules, regulations, and requirements relating to licensing and practices of persons acting in the capacity of title agencies or agents. These persons may include title agencies, title agents, employees of either, and persons acting on behalf of title agencies or title agents. This subsection is not intended to include persons performing clerical functions.

3. Every title agency licensed in this state shall:

(1) Exclude or eliminate the word insurer or underwriter from its business name, unless the word agency is also included as part of the name; and

(2) Provide, in a timely fashion, each title insurer with which it places business any information the title insurer requests in order to comply with reporting requirements of the director.

4. A title agency or title agent licensed in this state prior to the effective date of this chapter shall have ninety days after the effective date of this chapter to comply with the requirements of this section.

5. If the title agency or title agent delegates the title search to a third party, such as an abstract company, the agency or agent must first obtain proof that the third party is operating in compliance with rules and regulations established by the director and the third party shall provide the agency or agent and the insurer with access to and the right to copy all accounts and records maintained by the third party with respect to business placed with the title insurer. Proof from the third party may consist of a signed statement indicating compliance, and shall be effective for a three-year period. Each violation of this subsection is a class C violation as that term is defined in section 381.045.]

[381.118. 1. Each title agent licensed to sell title insurance in this state, unless exempt pursuant to subsection 8 of this section, shall successfully complete courses of study as required by this section. Any person licensed to act as a title agent shall, during each two years, attend courses or programs of instruction or attend seminars equivalent to a minimum of eight hours of instruction. The initial such two-year period shall begin January first of the year next following the effective date of this chapter.

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

(1) An insurance-related course taught by an accredited college or university or qualified instructor who has taught a course of insurance law at such institution;

(2) A course or program of instruction or seminar developed or sponsored by any authorized insurer, recognized agents' association or insurance trade association. A local agents' group may also be approved if the instructor receives no compensation for services;

(3) Courses approved for continuing legal education credit by the Missouri Bar.

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

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

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

(1) Serious physical injury or illness;

(2) Active duty in the armed services for an extended period of time;

(3) Residence outside the United States; or

(4) Licensee is at least seventy years of age and is currently licensed as a title agent.

6. Every person subject to the provisions of this section shall furnish in a form satisfactory to the director, written certification as to the courses, programs, or seminars of instruction taken and successfully completed by such person. A filing fee shall be paid by the person furnishing the report as determined by the director to be necessary to cover the administrative cost related to the handling of such certification reports, subject to the limitations imposed in subsection 9 of this section.

7. The provisions of this section shall not apply to those natural persons holding or applying for a license to act as a title agent in Missouri who reside in a state that has enacted and implemented a mandatory continuing education law or regulation pertaining to title agents. However, those natural persons holding or applying for a Missouri agent license who reside in states which have no mandatory continuing education law or regulations shall be subject to all the provisions of this section to the same extent as resident Missouri title agents.

8. Rules necessary to implement and administer this section shall be promulgated by the director of the department of insurance, including, but not limited to, rules regarding the following:

(1) The insurance advisory board established by section 375.019, RSMo, shall be utilized by the director to assist the director in determining acceptable content of courses, programs and seminars to include classroom equivalency;

(2) Every applicant seeking approval by the director of a continuing education course pursuant to this section shall pay to the director a filing fee of fifty dollars per course, except that such total fee shall not exceed two hundred fifty dollars per year for any single applicant. Fees shall be waived for local agents' groups if the instructor receives no compensation for services. Such fee shall accompany any application form required by the director. Courses shall be approved for a period of no more than one year. Applicants holding courses intended to be offered for a longer period must reapply for approval;

(3) The director has the authority to determine the amount of the filing fee to be paid by title agents at the time of license renewal, which shall be set at an amount to produce revenue which shall not substantially exceed the cost of administering this section, but in no event shall such fee exceed ten dollars per biennial report filed.

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

10. When a title agent pays his or her biennial renewal fee, such agent shall also furnish the written certification and filing fee required by this section.

11. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.]

[381.121. 1. The deposit required by section 381.051 and the capital, surplus and unearned premium reserve of domestic title insurers shall be held in either cash or investments now or hereafter permitted to domestic life insurers with regard to their capital, reserve and surplus for reserve deposit.

2. A domestic title insurer may invest in title plants. For purposes of determining the financial condition of such title insurer, title plants will be treated as an asset valued at actual cost to the title insurer, not to exceed fifty percent of the surplus as to policyholders as shown on the most recent annual statement of the title insurer.

3. Any investment of a domestic title insurer acquired before September 28, 1987, and which under such sections, would be considered ineligible as an investment on that date, shall be disposed of within five years of September 28, 1987. The director, upon application and proof that forced sale of any such investment would be contrary to the best interests of the title insurer or its policyholders, may extend the period for disposal of the investment for a reasonable time.]

[381.122. The director may during normal business hours examine, audit and inspect any and all books and records maintained by a title agency pursuant to this chapter.]

[381.125. 1. Whenever the business to be written constitutes affiliated business, prior to commencing the transaction, the title agency or title agent shall ensure that its customer has been provided with disclosure of the existence of the affiliated business arrangement and a written estimate of the charge or range of charges generally made for the title services provided by the title agency or agent.

2. The director may establish rules for use by all title agencies in the recording and reporting of the agency's owners and of the agency's ownership interests in other persons or businesses and of material transactions between the parties.

3. The director may require each title agency to file on forms prescribed by the director reports setting forth the names and addresses of those persons, if any, that have a financial interest in the agency and who the agency knows or has reason to believe are producers of title insurance business or associates of producers.

4. Nothing in this chapter shall be construed as prohibiting affiliated business arrangements in the provision of title insurance business so long as:

(1) The title agency, title agent or party making a referral constituting affiliated business, at or prior to the time of the referral, discloses the arrangement and, in connection with the referral, provides the person being referred with a written estimate of the charge or range of charges likely to be assessed and otherwise complies with the disclosure obligations of this section;

(2) The person being referred is not required to use a specified title insurance agency, agent or insurer; and

(3) The only thing of value that is received by the title agency, title agent or party making the referral, other than payments otherwise permitted, is a return on an ownership interest.

For purposes of this subsection, the terms "required use" and "return on an ownership interest" shall have the meaning accorded to them under the Real Estate Settlement Procedures Act (RESPA), 12 U.S.C. Section 2607, as amended and Regulation X, 24 CFR Section 3500, et seq.

5. Each violation of any provision of this section is a class C violation as that term is defined in section 381.045.]

[381.131. Any person who shall be appointed or who shall act as title insurance agent or agency for any title insurance company within this state, or who shall, as title insurance agent or agency, solicit applications, deliver policies and collect premiums thereon, or who shall receive or collect moneys from any source or on any account whatsoever, as agent or agency, for a title insurance company doing business in this state, shall be held responsible in a trust or fiduciary capacity to the company for any money so collected or received by him for such company.]

[381.151. Nothing in sections 381.011 to 381.241 shall be construed as prohibiting the division of premiums and charges between or among a title insurer and its title agent or agency, two or more title insurers, one or more title insurers and one or more title agents or agencies or two or more title agents or agencies, provided such division of premiums and charges does not constitute:

(1) An unlawful rebate or inducement under the provisions of sections 381.011 to 381.241; or

(2) Payment of a forwarding fee or finder's fee.]

[381.211. Every title insurer shall file with the director copies of the following forms it proposes to use in this state, including:

(1) Title insurance policies;

(2) Standard form endorsements; and

(3) Preliminary reports, commitments, binders, or any other reports issued prior to the issuance of a title insurance policy.]

[381.221. For purposes of the premium tax imposed by sections 148.320 and 148.340, RSMo, the premium income received by a title insurer shall be one hundred percent of the amounts paid by or on behalf of the insured as "premiums" within the definition of that term contained in sections 381.011 to 381.241.]

[381.231. In addition to any other powers granted under sections 381.011 to 381.241, the director may adopt rules or regulations to protect the interests of the public including, but not limited to, regulations governing sales practices, escrow, collection, settlement, closing procedures, policy coverage standards, rebates and inducements, controlled business, the approval of agency contracts, unfair trade practices and fraud, statistical plans for data collection, consumer education, any other consumer matters, the business of title insurance, or any regulations otherwise implementing or interpreting the provisions of sections 381.011 to 381.241. No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.]

[381.241. 1. The director of insurance or his duly authorized representative may at any time and from time to time, inspect and examine the records, books and accounts of any title insurer, and may require such periodic and special reports from any title insurer, as may be reasonably necessary

to enable the director to satisfy himself that such title insurer is complying with the requirements of sections 381.011 to 381.241. No person shall be authorized to inspect and examine the records, books and accounts of any title insurer unless such person has five years experience in the title insurance business. It shall be the duty of the director at least once every four years to make or cause to be made an examination of every title insurer. The reasonable expense of any examination shall be paid by the title insurer.

2. The purpose of such examination is to enable the director to ascertain whether there is compliance with the provisions of sections 381.011 to 381.241. If as a result of such examination the director has reason to believe that any rate, rating plan or rating system made or used by an insurer does not meet the standards and provisions of sections 381.011 to 381.241, applicable to it, the director may hold a public hearing. Within a reasonable period of time, which shall be not less than ten days before the date of such hearing, he shall mail written notice specifying the matters to be considered at such hearing to every person, insurer or organization believed by him not to be in compliance with the provisions of sections 381.011 to 381.241.

3. If the director, after such hearing, for good cause finds that such rate, rating plan or rating system does not meet the provisions of sections 381.011 to 381.241, he shall issue an order specifying in what respects any such rate, rating plan or rating system fails to meet such provisions, and stating when, within a reasonable period of time, the further use of such rate, rating plan or rating system by the title insurer which is the subject of the examination shall be prohibited. A copy of such order shall be sent to such title insurer.]

[381.410. As used in sections 381.410 and 381.412, the following terms mean:

(1) "Cashier's check", a check, however labeled, drawn on the financial institution, which is signed only by an officer or employee of such institution, is a direct obligation of such institution, and is provided to a customer of such institution or acquired from such institution for remittance purposes;

(2) "Certified funds", U.S. currency, funds conveyed by a cashier's check, certified check, teller's check, as defined in Federal Reserve Regulations CC, or wire transfers, including written advice from a financial institution that collected funds have been credited to the settlement agent's account;

(3) "Director", the director of the department of insurance, unless the settlement agent's primary regulator is another division in the department of economic development. When the settlement agent is regulated by such division, that division shall have jurisdiction over sections 381.410 and 381.412;

(4) "Financial institution":

(a) A person or entity doing business under the laws of this state or the United States relating to banks, trust companies, savings and loan associations, credit unions, commercial and consumer finance companies, industrial loan companies, insurance companies, small business investment corporations licensed pursuant to the Small Business Investment Act of 1958 (15 U.S.C. Section 661, et seq.), as amended, or real estate investment trusts as defined in 26 U.S.C. Section 856, as amended, or institutions constituting the Farm Credit System pursuant to the Farm Credit Act of 1971 (12 U.S.C. Section 2000, et seq.), as amended, or any person which services loans secured by liens or mortgages on real property, which person may or may not maintain a servicing portfolio for such loans; or

(b) The following persons or entities if their principal place of business is in Missouri or a state which is contiguous to Missouri:

a. A mortgage loan company which is subject to licensing, supervision or auditing by the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation, or the United States Veterans Administration, or the Government National Mortgage Association, or the United States Department of Housing and Urban Development, or a successor of any of the foregoing agencies or entities, as an approved seller or servicer; or

b. A person or entity acting as a mortgage loan company pursuant to court order;

(5) "Settlement agent", a person, corporation, partnership, or other business organization which accepts funds and documents as fiduciary for the buyer, seller or lender for the purposes of closing a sale of an interest in real estate located within the state of Missouri, and is not a financial

institution, or a member in good standing of the Missouri Bar Association, or a person licensed under chapter 339, RSMo.]

[381.410. As used in this section and section 381.412, the following terms mean:

(1) "Cashier's check", a check, however labeled, drawn on the financial institution, which is signed only by an officer or employee of such institution, is a direct obligation of such institution, and is provided to a customer of such institution or acquired from such institution for remittance purposes;

(2) "Certified funds", United States currency, funds conveyed by a cashier's check, certified check, teller's check, as defined in Federal Reserve Regulations CC, or wire transfers, including written advice from a financial institution that collected funds have been credited to the settlement agent's account;

(3) "Director", the director of the department of insurance, unless the settlement agent's primary regulator is another division in the department of economic development. When the settlement agent is regulated by such division, that division shall have jurisdiction over this section and section 381.412;

(4) "Financial institution":

(a) A person or entity doing business pursuant to the laws of this state or the United States relating to banks, trust companies, savings and loan associations or credit unions; or

(b) The following persons or entities if their principal place of business is in Missouri or outside Missouri, but within the St. Louis or Kansas City standard metropolitan statistical area:

a. A mortgage loan company which is subject to licensing, supervision or auditing by the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation, or the United States Veterans Administration, or the Government National Mortgage Association, or the United States Department of Housing and Urban Development, or a successor of any of the foregoing agencies or entities, as an approved seller or servicer;

(5) "Settlement agent", a person, corporation, partnership, or other business organization which accepts funds and documents as fiduciary for the buyer, seller or lender for the purposes of closing a sale of an interest in real estate located within the state of Missouri, and is not a financial institution, or a member in good standing of the Missouri Bar, or a person licensed under chapter 339, RSMo.]

[381.412. 1. A settlement agent who accepts funds of more than ten thousand dollars, but less than two million dollars, for closing a sale of an interest in real estate shall require a buyer, seller or lender who is not a financial institution to convey such funds to the settlement agent as certified funds. The settlement agent shall record all security instruments for such real estate closing within three business days of such closing after receipt of such certified funds. A check:

(1) Drawn on an escrow account of a licensed real estate broker, as regulated and described in section 339.105, RSMo;

(2) Drawn on an escrow account of a title insurer or title insurance agency licensed to do business in Missouri;

(3) Drawn on an agency of the United States of America, the state of Missouri or any county or municipality of the state of Missouri; or

(4) Drawn on an account by a financial institution;

shall be exempt from the provisions of this section.

2. No title insurer, title insurance agency or title insurance agent, as defined in section 381.031, shall make any payment, disbursement or withdrawal in excess of ten thousand dollars from an escrow account which it maintains as a depository of funds received from the public for the settlement of real estate transactions unless a corresponding deposit of funds was made to the escrow account for the benefit of the payee or payees:

(1) At least ten days prior to such payment, disbursement or withdrawal;

(2) Which consisted of certified funds; or

(3) Consisted of a check made exempt from this section by the provisions of subsection 1 of this section.

3. If the director finds that a settlement agent, title insurer, title insurance agency or title insurance agent has violated any provisions of this section, the director may assess a fine of not more than two thousand dollars for each violation, plus the costs of the investigation. Each separate transaction where certified funds are required shall constitute a separate violation. In determining a fine, the director shall consider the extent to which the violation was a knowing and willful violation, the corrective action taken by the settlement agent to ensure that the violation will not be repeated, and the record of the settlement agent in complying with the provisions of this section.]

[381.412. 1. A settlement agent who accepts funds of more than ten thousand dollars for closing a sale of an interest in real estate shall require a buyer, seller or lender who is not a financial institution to convey such funds to the settlement agent as certified funds. A check:

(1) Drawn on an escrow account of a licensed real estate broker, as regulated and described in section 339.105, RSMo;

(2) Drawn on an escrow account of a title insurer or title insurance agency licensed to do business in Missouri;

(3) Drawn on an agency of the United States of America, the state of Missouri or any county or municipality of the state of Missouri; or

(4) Drawn on an account by a financial institution;

shall be exempt from the provisions of this section.

2. No title insurer, title insurance agency or title insurance agent, as defined in section 381.009, shall make any payment, disbursement or withdrawal in excess of ten thousand dollars from an escrow account which it maintains as a depository of funds received from the public for the settlement of real estate transactions unless a corresponding deposit of funds was made to the escrow account for the benefit of the payee or payees:

(1) At least ten days prior to such payment, disbursement or withdrawal;

(2) Which consisted of certified funds; or

(3) Consisted of a check made exempt from this section by the provisions of subsection 1 of this section.

3. If the director finds that a settlement agent, title insurer, title insurance agency or title insurance agent has violated any provisions of this section, the director may assess a fine of not more than two thousand dollars for each violation, plus the costs of the investigation. Each separate transaction where certified funds are required shall constitute a separate violation. In determining a fine, the director shall consider the extent to which the violation was a knowing and willful violation, the corrective action taken by the settlement agent to ensure that the violation will not be repeated, and the record of the settlement agent in complying with the provisions of this section.]" and

Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.

On motion of Representative Yates, **House Amendment No. 1** was adopted by the following vote:

AYES: 116

Aull	Avery	Baker 25	Baker 123	Bearden
Bivins	Bland	Brandom	Brown 30	Brown 50
Burnett	Casey	Chappelle-Nadal	Cooper 120	Cooper 155
Cooper 158	Corcoran	Cunningham 86	Curls	Darrough
Daus	Davis	Day	Deeken	Dempsey
Denison	Dixon	Donnelly	Dougherty	Dusenberg
El-Amin	Emery	Ervin	Faith	Fallert
Fares	Flook	Funderburk	George	Grill

Haywood	Hobbs	Holsman	Hoskins	Hubbard
Hughes	Hunter	Icet	Johnson	Jones 89
Jones 117	Kingery	Komo	Kratky	Kraus
Lampe	Lembke	Lipke	Low 39	Lowe 44
Marsh	McGhee	Meiners	Munzlinger	Muschany
Nance	Nasheed	Nieves	Nolte	Norr
Onder	Oxford	Page	Parson	Pearce
Portwood	Pratt	Quinn 7	Richard	Robb
Roorda	Ruzicka	Salva	Sander	Schaaf
Schad	Scharnhorst	Schneider	Schoeller	Schoemehl
Silvey	Skaggs	Smith 14	Smith 150	Spreng
St. Onge	Storch	Stream	Sutherland	Talboy
Thomson	Threlkeld	Tilley	Viebrock	Villa
Vogt	Wasson	Wilson 119	Wood	Wright-Jones
Yaeger	Yates	Young	Zimmerman	Zweifel
Mr Speaker				

NOES: 040

Bringer	Cox	Dethrow	Fisher	Frame
Guest	Harris 110	Hodges	Kelly	Kuessner
Liese	Loehner	May	McClanahan	Meadows
Moore	Pollock	Quinn 9	Robinson	Rucker
Ruestman	Sater	Scavuzzo	Schieffer	Schlottach
Self	Shively	Stevenson	Swinger	Todd
Wallace	Walsh	Walton	Wells	Weter
Whorton	Wildberger	Wilson 130	Witte	Wright 159

PRESENT: 000

ABSENT WITH LEAVE: 007

Bowman	Bruns	Cunningham 145	Franz	Grisamore
Harris 23	LeVota			

Representative Yates offered **House Amendment No. 2.**

House Amendment No. 2

AMEND Senate Committee Substitute for Senate Bill No. 66, Section A, Page 1, by inserting after all of said section the following:

"354.150. Every health services corporation subject to the provisions of sections 354.010 to 354.380 shall pay the following fees to the director [of insurance] for **the administration and** enforcement of the provisions of this chapter:

[Issuance of certificate of authority	\$150.00
Filing articles of amendment	\$ 20.00
Filing each annual statement	\$100.00
Filing articles of acceptance and issuing a certificate of acceptance	\$ 20.00
Filing any other statement or report	\$ 1.00
For a certified copy of any document or other paper filed in the office of the director, per page	\$.35
For the certificate and for affixing the seal thereto	\$ 10.00
For filing statement and pertinent admission papers required of a foreign health services corporation	\$200.00
For copies of papers, records and documents filed in the office of the director, an amount not to exceed, at the director's discretion	\$ 1.00 per page
For each service of process upon the director, on behalf of the health services corporation	\$10.00]

- (1) For filing the declaration required on organization of each domestic company, two hundred fifty dollars;**
- (2) For filing statement and certified copy of charter required of foreign companies, two hundred fifty dollars;**
- (3) For filing application to renew certificate of authority, along with all required annual reports, including the annual statement, actuarial statement, risk based capital report, report of valuation of policies or other obligations of assurance, and audited financial report of any company doing business in this state, one thousand five hundred dollars;**
- (4) For filing any paper, document, or report not filed under subdivision (1), (2), or (3) of this section but required to be filed in the office of the director, fifty dollars each;**
- (5) For affixing the seal of office of the director, ten dollars;**
- (6) For accepting each service of process upon the company, ten dollars.**

354.180. 1. [(1) The director may issue cease and desist orders whenever it appears to him upon competent and substantial evidence that any person is acting in violation of any law, rule or regulation relating to corporations subject to the provisions of sections 354.010 to 354.380, or whenever the director has reason to believe that any health services corporation is in such financial condition that the assumption of additional obligations would be hazardous to its members or the general public. Before any cease and desist order shall be issued, a copy of the proposed order together with an order to show cause why such cease and desist order should not be issued shall be served either personally or by certified mail on any person named therein.

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

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

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

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

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

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

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

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

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

3. (1) When it appears to the director that there is a violation of the law, rule or regulation relating to corporations subject to the provisions of sections 354.010 to 354.380, and that the continuance of the acts or actions of any person as herein defined would produce injury to the public or to any other person in this state, or when it appears that a person is doing or threatening to do some act in violation of the laws of this state relating to corporations subject to the provisions of sections 354.010 to 354.380, the director may file a petition for injunction in the circuit court of Cole County, Missouri, in which he may ask for a temporary injunction or restraining order as well as a permanent injunction

to restrain the act or threatened act. In the event the temporary injunction or restraining order or a permanent injunction is issued by the circuit court of Cole County, Missouri, no person against whom the temporary injunction or restraining order or permanent injunction is granted shall do or continue to do any of the acts or actions complained of in the petition for injunction, unless and until the temporary injunction or restraining order or permanent injunction is vacated, dismissed or otherwise terminated.

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

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

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

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

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

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

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

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

2. [If after the hearing the director shall determine that the corporation subject to the provisions of sections 354.010 to 354.380 has fraudulently conducted its business as defined in this section, he shall order the corporation to cease and desist from the fraudulent practice and may suspend the corporation's certificate of authority for a period not to exceed thirty days and may in addition order a forfeiture to the state of Missouri of a sum not to exceed one thousand dollars, which forfeiture may be recovered by a civil action brought by and in the name of the director of insurance. The civil action may be brought in the circuit court of Cole County or, at the option of the director of insurance, in another county which has venue of an action against the corporation under other provisions of law] **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 this section 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 this section or a rule adopted or order issued pursuant thereto, the director may issue such administrative orders as authorized under section 374.046, RSMo. Each practice in violation of this section is a level two violation under section 374.049, RSMo. Each act as a part of a practice does not constitute a separate violation under section 374.049, RSMo. The director [of insurance] may also suspend or revoke the license or certificate of authority of a corporation subject to the provisions of sections 354.010 to 354.380 or enrollment representative for any such willful violation.

3. 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 this section 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 this section or a rule adopted or order issued pursuant thereto, the director may maintain a civil action for relief authorized under section 374.048, RSMo. Each practice in violation of this section is a level two violation under section 374.049, RSMo. Each act as a part of a practice does not constitute a separate violation under section 374.049, RSMo.

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

(1) "Basic health care services", health care services which an enrolled population might reasonably require in order to be maintained in good health, including, as a minimum, emergency care, inpatient hospital and physician care, and outpatient medical services;

(2) "Community-based health maintenance organization", a health maintenance organization which:

(a) Is wholly owned and operated by hospitals, hospital systems, physicians, or other health care providers or a combination thereof who provide health care treatment services in the service area described in the application for a certificate of authority from the [department of insurance] **director**;

(b) Is operated to provide a means for such health care providers to market their services directly to consumers in the service area of the health maintenance organization;

(c) Is governed by a board of directors that exercises fiduciary responsibility over the operations of the health maintenance organization and of which a majority of the directors consist of equal numbers of the following:

a. Physicians licensed pursuant to chapter 334, RSMo;

b. Purchasers of health care services who live in the health maintenance organization's service area;

c. Enrollees of the health maintenance organization elected by the enrollees of such organization; and

d. Hospital executives, if a hospital is involved in the corporate ownership of the health maintenance organization;

(d) Provides for utilization review, as defined in section 374.500, RSMo, under the auspices of a physician medical director who practices medicine in the service area of the health maintenance organization, using review standards developed in consultation with physicians who treat the health maintenance organization's enrollees;

(e) Is actively involved in attempting to improve performance on indicators of health status in the community or communities in which the health maintenance organization is operating, including the health status of those not enrolled in the health maintenance organization;

(f) Is accountable to the public for the cost, quality and access of health care treatment services and for the effect such services have on the health of the community or communities in which the health maintenance organization is operating on a whole;

(g) Establishes an advisory group or groups comprised of enrollees and representatives of community interests in the service area to make recommendations to the health maintenance organization regarding the policies and procedures of the health maintenance organization;

(h) Enrolls fewer than fifty thousand covered lives;

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

(4) "Director", the director of the department of insurance, **financial and professional regulation**;

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

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

- (b) Serious impairment to a bodily function;
- (c) Serious dysfunction of any bodily organ or part;
- (d) Inadequately controlled pain; or
- (e) With respect to a pregnant woman who is having contractions:
 - a. That there is inadequate time to effect a safe transfer to another hospital before delivery; or
 - b. That transfer to another hospital may pose a threat to the health or safety of the woman or unborn child;
- (6) "Emergency services", health care items and services furnished or required to screen and stabilize an emergency medical condition, which may include, but shall not be limited to, health care services that are provided in a licensed hospital's emergency facility by an appropriate provider;
- (7) "Enrollee", a policyholder, subscriber, covered person or other individual participating in a health benefit plan;
- (8) "Evidence of coverage", any certificate, agreement, or contract issued to an enrollee setting out the coverage to which the enrollee is entitled;
- (9) "Health care services", any services included in the furnishing to any individual of medical or dental care or hospitalization, or incident to the furnishing of such care or hospitalization, as well as the furnishing to any person of any and all other services for the purpose of preventing, alleviating, curing, or healing human illness, injury, or physical disability;
- (10) "Health maintenance organization", any person which undertakes to provide or arrange for basic and supplemental health care services to enrollees on a prepaid basis, or which meets the requirements of section 1301 of the United States Public Health Service Act;
- (11) "Health maintenance organization plan", any arrangement whereby any person undertakes to provide, arrange for, pay for, or reimburse any part of the cost of any health care services and at least part of such arrangement consists of providing and assuring the availability of basic health care services to enrollees, as distinguished from mere indemnification against the cost of such services, on a prepaid basis through insurance or otherwise, and as distinguished from the mere provision of service benefits under health service corporation programs;
- (12) "Individual practice association", a partnership, corporation, association, or other legal entity which delivers or arranges for the delivery of health care services and which has entered into a services arrangement with persons who are licensed to practice medicine, osteopathy, dentistry, chiropractic, pharmacy, podiatry, optometry, or any other health profession and a majority of whom are licensed to practice medicine or osteopathy. Such an arrangement shall provide:
 - (a) That such persons shall provide their professional services in accordance with a compensation arrangement established by the entity; and
 - (b) To the extent feasible for the sharing by such persons of medical and other records, equipment, and professional, technical, and administrative staff;
- (13) "Medical group/staff model", a partnership, association, or other group:
 - (a) Which is composed of health professionals licensed to practice medicine or osteopathy and of such other licensed health professionals (including dentists, chiropractors, pharmacists, optometrists, and podiatrists) as are necessary for the provisions of health services for which the group is responsible;
 - (b) A majority of the members of which are licensed to practice medicine or osteopathy; and
 - (c) The members of which (i) as their principal professional activity over fifty percent individually and as a group responsibility engaged in the coordinated practice of their profession for a health maintenance organization; (ii) pool their income from practice as members of the group and distribute it among themselves according to a prearranged salary or drawing account or other plan, or are salaried employees of the health maintenance organization; (iii) share medical and other records and substantial portions of major equipment and of professional, technical, and administrative staff; (iv) establish an arrangement whereby an enrollee's enrollment status is not known to the member of the group who provides health services to the enrollee;
- (14) "Person", any partnership, association, or corporation;
- (15) "Provider", any physician, hospital, or other person which is licensed or otherwise authorized in this state to furnish health care services;
- (16) "Uncovered expenditures", the costs of health care services that are covered by a health maintenance organization, but that are not guaranteed, insured, or assumed by a person or organization other than the health maintenance organization, or those costs which a provider has not agreed to forgive enrollees if the provider is not paid by the health maintenance 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 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 maintain a civil action for relief authorized under section 374.048, RSMo. A violation of any of these sections is a level one violation under section 374.049, RSMo.**

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

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

- (1) A statement or item of information shall be deemed to be untrue if it does not conform to fact in any respect which is or may be significant to an enrollee of, or person considering enrollment with, a health maintenance organization;
- (2) A statement or item of information shall be deemed to be misleading, whether or not it may be literally untrue, if, in the total context in which such statement is made or such item of information is communicated, such statement or item of information may be reasonably understood by a reasonable person, not possessing special knowledge regarding health care coverage, as indicating any benefit or advantage or the absence of any exclusion, limitation, or disadvantage of possible significance to an enrollee of, or person considering enrollment in, a health maintenance organization plan, if such benefit, advantage, or absence of limitation, exclusion, or disadvantage does not, in fact, exist;
- (3) An evidence of coverage shall be deemed to be deceptive if the evidence of coverage, taken as a whole, is misleading.

354.464. No health maintenance organization, unless licensed as an insurer, may use in its name, contracts, or literature any of the words "insurance", "casualty", "surety", "mutual", or any other words descriptive of the insurance, casualty, or surety business or deceptively similar to the name or description of any insurance or surety corporation doing business in this state when such words are deceptive or misleading. No person, if not in possession of a valid certificate of authority issued pursuant to sections 354.400 to [354.550] **354.636**, may use the 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 authorized to do business in this state, may directly or through a subsidiary or affiliate, organize and operate a health maintenance organization under the provisions of sections 354.400 to [354.550] **354.636** so long as they comply with the provisions of section 354.410 as applicable thereto. Notwithstanding any other law to the contrary, any two or more such insurance companies, health services corporations, or subsidiaries or affiliates thereof, may jointly organize and operate a health maintenance organization.

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

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

354.495. Every health maintenance organization subject to sections 354.400 to [354.550] **354.636** shall pay to the director the following fees:

- | | |
|--|---------------------|
| [(1) Issuance or renewal of certificate of authority | \$ 150.00 |
| (2) Filing of articles of amendment | 1.00 |
| (3) Filing each annual statement | 100.00 |
| (4) Filing articles of acceptance and issuing a certificate of acceptance | 20.00 |
| (5) Filing any other statement or report | 20.00 |
| (6) For the certification of any document, and affixing the seal thereto | 10.00 |
| (7) For filing statement and pertinent admission papers required of a foreign health maintenance organization | 200.00 |
| (8) For each appointment of an agent by the health maintenance organization | 5.00 |
| (9) For copies of papers, records and documents filed in the office of the director, an amount not to exceed, at the director's discretion | 1.00 per page |
| (10) For each service of process upon the director, on behalf of the health maintenance organization | 10.00] |
- (1) **For filing the declaration required on organization of each domestic company, two hundred fifty dollars;**
- (2) **For filing statement and certified copy of charter required of foreign companies, two hundred fifty dollars;**
- (3) **For filing application to renew certificate of authority, along with all required annual reports, including the annual statement, actuarial statement, risk based capital report, report of valuation of policies or other obligations of assurance, and audited financial report of any company doing business in this state, one thousand five hundred dollars;**
- (4) **For filing any paper, document, or report not filed under subdivision (1), (2), or (3) of this section but required to be filed in the office of the director, fifty dollars each;**
- (5) **For affixing the seal of office of the director, ten dollars;**
- (6) **For accepting each service of process upon the company, ten dollars.**

354.500. 1. If the director shall for any reason have cause to believe that any violation of sections 354.400 to [354.550] **354.636** has occurred or is about to occur, the director may give notice to the health maintenance organization

and to the representatives, or other persons who appear to be involved in such suspected violation, to arrange a conference with the alleged violators, or potential violators, or their authorized representatives, for the purpose of attempting to ascertain the facts relating to such suspected or potential violation, and, in the event it appears that any violation has occurred or is about to occur, to arrive at an adequate and effective means of correcting or preventing such violation. Proceedings under this subsection shall not be governed by any formal procedural requirements, and may be conducted in such manner as the director may deem appropriate under the circumstances.

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

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

354.510. **Unless otherwise provided**, all applications, filings, and reports required under 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 be adjudged invalid for any reason, such judgment shall not affect, impair, or invalidate any other section, term, or provision of sections 354.400 to [354.550] **354.636**, but the remaining sections, 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 another bordering state may be admitted to do business in this state by satisfying the director that it is fully and legally organized under the laws of its state, and that it complies with all requirements for health maintenance organizations organized within Missouri. The director may waive or modify the provisions of sections 354.400 to [354.550] **354.636** if he determines that the same are not appropriate or necessary to a particular health maintenance organization of another state.

354.545. The provisions of sections 354.400 to [354.550] **354.636** shall not apply to any labor organization's health plan providing services established and maintained solely for its members and their dependents, and facilities of not-for-profit corporations in existence on October 1, 1980, subject either to the provisions and regulations of section 302 of the Labor-Management Relations Act, 29 U.S.C. 186 or the Labor-Management Reporting and 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 community health corporations as defined by Public Law 94-63 so long as such corporations 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:

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

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

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

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

(b) Serious impairment to a bodily function;

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

(d) Inadequately controlled pain; or

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

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

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

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

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

(6) "Facility", an institution providing health care services or a health care setting, including but not limited to, hospitals and other licensed inpatient centers, ambulatory surgical or treatment centers, skilled nursing facilities, residential treatment centers, diagnostic, laboratory and imaging centers, and rehabilitation and other therapeutic health settings;

[(7)] (2) "Health benefit plan", a policy, contract, certificate or agreement entered into, offered or issued by a health carrier to provide, deliver, arrange for, pay for or reimburse any of the costs of health care services;

[(8)] (3) "Health care professional", a physician or other health care practitioner licensed, accredited or certified by the state of Missouri to perform specified health services;

[(9)] (4) "Health care provider" or "provider", a health care professional or a facility;

[(10)] "Health care service", a service for the diagnosis, prevention, treatment, cure or relief of a health condition, illness, injury or disease;

[(11)] (5) "Health carrier", a health maintenance organization established pursuant to sections 354.400 to 354.636;

[(12)] (6) "Health indemnity plan", a health benefit plan that is not a managed care plan;

[(13)] (7) "Intermediary", a person authorized to negotiate and execute provider contracts with health carriers on behalf of health care providers or on behalf of a network;

[(14)] (8) "Managed care plan", a health benefit plan that either requires an enrollee to use, or creates incentives, including financial incentives, for an enrollee to use health care providers managed, owned, under contract with or employed by the health carrier;

[(15)] (9) "Network", the group of participating providers providing services to a managed care plan;

[(16)] (10) "Participating provider", a provider who, under a contract with the health carrier or with its contractor or subcontractor, has agreed to provide health care services to enrollees with an expectation of receiving payment, other than coinsurance, co-payments or deductibles, directly or indirectly from the health carrier;

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

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

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

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

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

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

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

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

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

2. [When the director believes that grounds for the suspension or revocation of the corporation's certificate of authority exists, he shall notify the corporation in writing, stating the grounds and fixing a date and time for a hearing. At least twenty days' notice of such hearing shall be given. The hearing and any appeals therefrom shall be in accordance with chapter 536, RSMo.

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

4.] 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 354.700 to 354.723 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 354.700 to 354.723 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 this section is a level two violation under section 374.049, RSMo. The director may also suspend or revoke the certificate of authority of a corporation for any such willful violation.

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

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

374.051. 1. Any applicant refused a license or the renewal of a license by order of the director under sections 374.755, 374.787, and 375.141, RSMo, may file a petition with the administrative hearing commission alleging that the director has refused the license. The administrative hearing commission shall conduct hearings and make findings of fact and conclusions of law in determining whether the applicant may be disqualified by statute. Notwithstanding section 621.120, RSMo, the director shall retain discretion in refusing a license or renewal and such discretion shall not transfer to the administrative hearing commission.

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

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

374.055. 1. Except as otherwise provided, any interested person aggrieved by any order of the director under the laws of this state relating to insurance in this chapter, chapter 354, RSMo, and chapters 375 to 385, RSMo, or a rule adopted by the director, or by any refusal or failure of the director to make an order pursuant to any of said provisions, shall be entitled to a hearing before the director in accordance with the provisions of chapter 536, RSMo. A final order issued by the director is subject to judicial review in accordance with the provisions of chapter 536, RSMo. However, any findings of fact or conclusions of law in any order regarding the actual costs of the investigation or proceedings under section 374.046, or the classification of any violation under section 374.049, shall be subject to de novo review.

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

3. Notwithstanding any other provision of law to the contrary, no person or entity shall impose an accident response service fee on or from an insurance company, the driver or owner of a motor vehicle, or any other person. As used in this section, the term "accident response service fee" means a fee imposed for the response or investigation by a local law enforcement agency of a motor vehicle accident.

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

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

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

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

2. **At the request of the director, every domestic insurance company or health maintenance organization subject to an order of conservation, rehabilitation, or liquidation shall reimburse the insurance dedicated fund for administrative services rendered by state employees to the company. Reimbursement shall include that portion of the employee's salary, state benefits, and expenses that specifically relates to the services rendered on behalf of the company.**

3. All other expenses of the department of insurance, **financial institutions and professional registration** now or hereafter incurred and unpaid, or that may be hereafter incurred, including the salaries of the director and deputy director, shall be paid out of the state treasury in the manner provided by law.

[3.]4. The director shall assess the expenses of any examination against the company examined and shall order that the examination expenses be paid into the insurance examiners fund created by section 374.162. [The director shall also assess an additional amount equal to fifteen percent of the total expenses of examination, to be paid for the supervision and support of the examiners. The insurance examiner's sick leave fund created by sections 374.261 to 374.267 shall be combined with the insurance examiners fund.] **This assessment shall include the costs of compensation, including benefits, for the examiners, analysts, actuaries, and attorneys directly contributing to the examination of the company, any reasonable travel, lodging, and meal expenses related to an on-site examination, and other expenses related to the examination of the company, including an allocation for examiners' office space, supplies, and equipment, but not expenses associated with attending a course, seminar, or meeting, unless solely related to the examination of the company assessed.** The director shall pay from the insurance examiners fund the compensation of insurance examiners [pursuant to section 374.115, any expenses to be paid from such sick leave fund under sections 374.261 to 374.267], **analysts, actuaries, and attorneys, including standard benefits afforded to state employees, for performance of any such examination and other expenses** [incurred for supervision and support of the examiners] **covered in the assessment.** The general assembly shall annually provide appropriations sufficient to distribute all receipts into the insurance examiners fund. The provisions of section 33.080, RSMo, relating to the transfer of unexpended balances to the general revenue fund shall not apply to the insurance examiners fund.

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

374.185. 1. **The director may cooperate, coordinate, and consult with other members of the National Association of Insurance Commissioners, the commissioner of securities, state securities regulators, the division**

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

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

- (1) Maximizing effectiveness of regulation for the protection of insurance consumers;
- (2) Maximizing uniformity in regulatory standards; and
- (3) Minimizing burdens on the business of insurance, without adversely affecting essentials of consumer protection.

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

- (1) Establishing or employing one or more designees as a central electronic depository for licensing and rate and form filings with the director and for records required or allowed to be maintained;
- (2) Encouraging insurance companies and producers to implement electronic filing through a central electronic depository;
- (3) Developing and maintaining uniform forms;
- (4) Conducting joint market conduct examinations and other investigations through collaboration and cooperation with other insurance regulators;
- (5) Holding joint administrative hearings;
- (6) Instituting and prosecuting joint civil or administrative enforcement proceedings;
- (7) Sharing and exchanging personnel;
- (8) Coordinating licensing under section 375.014, RSMo;
- (9) Formulating rules, statements of policy, guidelines, forms, no action determinations, and bulletins; and
- (10) Formulating common systems and procedures.

374.208. The director shall study and recommend to the General Assembly changes to avoid unnecessary duplication of market conduct activities and to implement uniform processes and procedures for market analysis and market conduct examinations which will more effectively utilize resources to protect insurance consumers. The study shall be completed and recommendations provided by January 1, 2008.

374.210. 1. It is unlawful for, any person [testifying falsely in reference to any matter material to the investigation, examination or inquiry shall be deemed guilty of perjury.] in any investigation, examination, inquiry, or other proceeding under this chapter, chapter 354, RSMo, and chapters 375 to 385, RSMo, to:

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

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

(1) Knowingly make or cause to be made a false statement upon oath or affirmation or in any record that is submitted to the director or used in any proceeding under this chapter, chapter 354, RSMo, and chapters 375 to 385, RSMo; or

(2) Make any false certificate or entry or memorandum upon any of the books or papers of any insurance company, or upon any statement or exhibit offered, filed or offered to be filed in the [insurance] department, or used in the course of any examination, inquiry, or investigation[, with intent to deceive the director or any person employed or appointed by him to make any examination, inquiry or investigation, shall, upon conviction, be punished by a fine not

exceeding one thousand dollars, and by imprisonment not less than two months in the county or city jail, nor more than five years in the penitentiary] **under this chapter, chapter 354, RSMo, and chapters 375 to 385, RSMo.**

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

- (1) Hold the person in contempt;**
- (2) Order the person to appear before the director;**
- (3) Order the person to testify about the matter under investigation or in question;**
- (4) Order the production of records;**
- (5) Grant injunctive relief;**
- (6) Impose a civil penalty of up to fifty thousand dollars for each violation; and**
- (7) Grant any other necessary or appropriate relief.**

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

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

4. A person is not excused from attending, testifying, filing a statement, producing a record or other evidence, or obeying a subpoena of the director under an action or proceeding instituted by the director on the grounds that the required testimony, statement, record, or other evidence, directly or indirectly, may tend to incriminate the individual or subject the individual to a criminal fine, penalty, or forfeiture. If the person refuses to testify, file a statement, or produce a record or other evidence on the basis of the individual's privilege against self-incrimination, the director may apply to the circuit court of any county of the state or any city not within a county to compel the testimony, the filing of the statement, the production of the record, or the giving of other evidence. The testimony, record, or other evidence compelled under such an order may not be used as evidence against the person in a criminal case, except in a prosecution for perjury or contempt or otherwise failing to comply with the order.

5. 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 this section, 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 this section or a rule adopted or order issued pursuant thereto, the director may issue such administrative orders as authorized under section 374.046. A violation of subsection 1 of this section is a level four violation under section 374.049. The director may also suspend or revoke the license or certificate of authority of such person for any willful violation.

6. 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 this section 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 this section or a rule adopted or order issued pursuant thereto, the director may maintain a civil action for relief authorized under section 374.048. A violation of subsection 1 of this section is a level four violation under section 374.049.

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

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

9. Nothing in this section shall limit the power of the state to punish any person for 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 business in this state fails to timely make and file any statutorily required report or statement, the department [of insurance] shall notify such company **or entity** of such failure by first class mail. Any company **or entity** notified by the department [of insurance]

pursuant to this section shall [have] **file such report or statement within** fifteen days [to make and file such report. If such company fails to make and file such report within the fifteen days, it shall forfeit one hundred dollars for each day after the fifteen-day grace period expires.

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

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

2. 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 this section 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 this section or a rule adopted or order issued pursuant thereto, the director may issue such administrative orders as authorized under section 374.046. A violation of this section is a level two violation under section 374.049. The director may also suspend or revoke the certificate of authority of such person for any willful violation.

3. 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 this section 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 this section or a rule adopted or order issued pursuant thereto, the director may maintain a civil action for relief authorized under section 374.048. A violation of this section is a level two violation under section 374.049.

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

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

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

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

[(4)] **(3)** For filing **application to renew certificate of authority, along with all required annual reports, including the annual statement, actuarial statement, risk based capital report, report of valuation of policies or other obligations of assurance, and audited financial report** annual statement of any company doing business in this state, [two hundred fifty] **one thousand five hundred** dollars;

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

[(6)] **(5)** For filing any [other] paper, **document, or report not filed under subdivision (1), (2), or (3), but** required to be filed in the office of the director [of the department of insurance], fifty dollars each;

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

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

[(9)] **(7)** For affixing the seal of office of the director [of the department of insurance], ten dollars;

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

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

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

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

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

2. If the director [believes] **determines** that the utilization review agent has [violated the provisions of sections 374.500 to 374.515, or is not satisfied that the alleged violation has been corrected, he shall conduct a hearing on the alleged violation, in accordance with chapter 536, RSMo] **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 374.500 to 374.515 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 374.500 to 374.515 or a rule adopted or order issued pursuant thereto, the director may issue such administrative orders as authorized under section 374.046. A violation of any of these sections is a level two violation under section 374.049. The director may also suspend or revoke the license or certificate of authority of such person for any willful violation.**

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

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

(2) Suspension or revocation of the authority to do business in this state as a utilization review agent if the utilization review agent knew that it was in violation of sections 374.500 to 374.515] **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 374.500 to 374.515 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 374.500 to 374.515 or a rule adopted or order issued pursuant thereto, the director may maintain a civil action for relief authorized under section 374.048. A violation of any of these sections is a level two violation under section 374.049.**

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

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

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

(2) "Director", the director of the department of insurance, **financial and professional regulation**;

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

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

(5) "Insurance company" or "insurer", any person, reciprocal exchange, interinsurer, Lloyds insurer, fraternal benefit society, and any other legal entity engaged in the business of insurance, including health services corporations, health maintenance organizations, prepaid limited health care service plans, dental, optometric and other similar health

service plans, unless their exclusion from this definition can be clearly ascertained from the context of the particular statutory section under consideration. Insurer shall also include all companies organized, incorporated or doing business pursuant to the provisions of chapters 375, 376, 377, 378, 379, 381 and 384, RSMo. Trusteed pension plans and profit-sharing plans qualified pursuant to the United States Internal Revenue Code as now or hereafter amended shall not be considered to be insurance companies or insurers within the definition of this section;

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

(7) "License", a document issued by the director authorizing a person to act as an insurance producer for the lines of authority specified in the document. The license itself shall not create any authority, actual, apparent or inherent, in the holder to represent or commit an insurance company;

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

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

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

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

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

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

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

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

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

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

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

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

[2.] **3.** All statutory references to "insurance agent" or "insurance broker" shall mean "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 pursuant to section 375.016, licensed to sell insurance in this state shall successfully complete courses of study as required by this section. Any person licensed to act as an insurance producer shall, during each two years, attend courses or programs of instruction or attend seminars equivalent to a minimum of [ten] **sixteen** hours of instruction [for a life or accident and health license or both a life and an accident and health license and a minimum ten hours of instruction for a property or casualty license or both a property and a casualty license. Sixteen hours of training will suffice for those with a life, health, accident, property and casualty license]. Of the sixteen hours' training required [above] **in this subsection**, the hours need not be divided equally **among the lines of authority in which the producer has qualified**. The courses or programs **attended by the producer during each two-year period** shall include instruction on Missouri law, **products offered in any line of authority in which the producer is qualified, producers' duties and obligations to**

the department, and business ethics, including sales suitability. Course credit shall be given to members of the general assembly as determined by the department.

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

- (1) American College Courses (CLU, ChFC);
- (2) Life Underwriters Training Council (LUTC);
- (3) Certified Insurance Counselor (CIC);
- (4) Chartered Property and Casualty Underwriter (CPCU);
- (5) Insurance Institute of America (IIA);
- (6) **Any other professional financial designation approved by the director by rule;**

(7) An insurance-related course taught by an accredited college or university or qualified instructor who has taught a course of insurance law at such institution;

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

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

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

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

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

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

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

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

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

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

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

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

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

375.145. 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 375.012 to 375.144 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 375.012 to 375.144, 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 sections 375.012 to 375.142 is a level two violation under section 374.049, RSMo. A violation of section 375.144 is a level four violation under 374.049, RSMo.

2. 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 this section 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 this section 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 sections 375.012 to 375.142 is a level two violation under section 374.049, RSMo. A violation of section 375.144 is a level four violation under 374.049, RSMo.

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

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

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

(3) **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 375.147 to 375.153 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 375.147 to 375.153 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 two violation under section 374.049, RSMo.**

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 375.147 to 375.153 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 375.147 to 375.153 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 under any of these sections is a level two violation under section 374.049, RSMo. In addition to the relief available in this section, the director may also order the managing general agent to reimburse the insurer, the rehabilitator or liquidator of the insurer, for any losses incurred by the insurer caused by a violation of sections 375.147 to 375.153 committed by the managing general agent.

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

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

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

375.236. Other provisions of law notwithstanding, the director may suspend or revoke, after a hearing, the certificate of authority or license of any insurance company including a reciprocal or interinsurance exchange for the same reasons and upon the same grounds as set 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 agent, **producer**, or otherwise, in receiving or procuring applications for insurance, or in any manner to aid in transacting the business referred to in [sections 375.010 to 375.920] **this chapter** for any company or association doing business in this state, unless the company is possessed of the amount of capital and of actual paid-up capital, or of premium notes, cash premiums or guarantee fund, of the kind, character and amounts required of companies organized under the provisions of [sections 375.010 to 375.920] **this chapter.**

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

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

4. [Any insurance company or agent thereof violating the provisions of this section shall be liable to a fine of not less than fifty dollars nor more than five hundred dollars] **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 this section 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 this section 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 this section is a level two violation under section 374.049, RSMo.**

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

2. 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 this section 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 this section 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 this section is a level four violation under section 374.049, RSMo.

3. 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 this section 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 this section 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 this section is a level four violation under section 374.049, RSMo.

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

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

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

Further amend said bill, Section 375.345, Pages 4 through 9, by inserting after all of said section the following:

"375.445. 1. [When upon investigation the director finds that] **It is unlawful for any insurance company transacting business [in] under the laws of this state [has conducted] to:**

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

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

(3) Habitually and as a matter of business practice compelling claimants under policies or liability judgment creditors of the insured to either accept less than the amount due under the terms of the policy or resort to litigation against the company to secure payment of the amount due[, and that a proceeding in respect thereto would be in the interest of the public, he shall issue and serve upon the company a statement of the charges in that respect and a notice of a hearing thereon].

2. [If after the hearing the director shall determine that the company has fraudulently conducted its business as defined in this section, he shall order the company to cease and desist from the fraudulent practice and may suspend the company's certificate of authority for a period not to exceed thirty days and may in addition order a forfeiture to the state of Missouri of a sum not to exceed one thousand dollars, which forfeiture may be recovered by a civil action brought by and in the name of the director of insurance. The civil action may be brought in the circuit court of Cole County or, at the option of the director of insurance, in another county which has venue of an action against the person, partnership or corporation under other provisions of law] **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 this section 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 this section or a rule adopted or order issued pursuant thereto, the director may issue such administrative orders as authorized under section 374.046, RSMo. Each practice in violation of this section is a level two violation under section 374.049, RSMo. Each act as a part of a practice does not constitute a separate violation under section 374.049, RSMo. The director [of insurance] may also suspend or revoke the license [of an insurer or agent] or certificate of authority of such person for any [such] willful violation.**

3. 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 this section 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 this section or a rule adopted or order issued pursuant thereto, the director may maintain a civil action for relief authorized under section 374.048, RSMo. Each practice violation of this section is a level two violation under section 374.049, RSMo. Each act as part of a practice does not constitute a separate violation under section 374.049, RSMo."; and

Further amend said bill, Section 375.534, Pages 10 and 11, by inserting after all of said section the following:

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

2. **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 this section 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 this section 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 this section is a level three 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.**

3. **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 this section 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 this section 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 this section is a level three violation under section 374.049, RSMo.**

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

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

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

375.777. 1. The director shall:

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

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

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

2. The director may[:

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

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

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

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

4. **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 this section 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 this section 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 this section is a level two 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.

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

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

3. Nothing in this section shall limit the power of the state to punish any person for 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 business in this state, as set forth in subsection 2, without a certificate of authority from the director; provided, however, that this section shall not apply to:

- (1) The lawful transaction of insurance as provided in chapter 384, RSMo;
- (2) The lawful transaction of reinsurance by insurance companies;
- (3) Transactions in this state involving a policy lawfully solicited, written and delivered outside of this state covering only subjects of insurance not resident, located or expressly to be performed in this state at the time of issuance, and which transactions are subsequent to the issuance of such policy;
- (4) Attorneys acting in the ordinary relation of attorney and client in the adjustment of claims or losses;
- (5) Transactions in this state involving group life and group sickness and accident or blanket sickness and accident insurance or group annuities where the master policy of such groups was lawfully issued and delivered in and pursuant to the laws of a state in which the insurance company was authorized to do an insurance business, to a group organized for purposes other than the procurement of insurance, and where the policyholder is domiciled or otherwise has a bona fide situs;
- (6) Transactions in this state involving any policy of insurance or annuity contract issued prior to August 13, 1972;
- (7) Transactions in this state relative to a policy issued or to be issued outside this state involving insurance on vessels, craft or hulls, cargoes, marine builder's risk, marine protection and indemnity or other risk, including strikes and war risks commonly insured under ocean or wet marine forms of policy;
- (8) Except as provided in chapter 384, RSMo, transactions in this state involving contracts of insurance issued to one or more industrial insureds; provided that nothing herein shall relieve an industrial insured from taxation imposed upon independently procured insurance. An "industrial insured" is hereby defined as an insured:
 - (a) Which procures the insurance of any risk or risks other than life, health and annuity contracts by use of the services of a full-time employee acting as an insurance manager or buyer or the services of [a regularly and continuously retained qualified insurance consultant] **an insurance producer whose services are wholly compensated by such insured and not by the insurer;**
 - (b) Whose aggregate annual premiums for insurance excluding workers' compensation insurance premiums total at least [twenty-five] **one hundred** thousand dollars; and
 - (c) Which has at least twenty-five full-time employees;

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

- (a) File a copy of any policy or contract issued to Missouri residents with the director;
- (b) File a copy of its annual statement prepared pursuant to the laws of its state of domicile, as well as such other financial material as may be requested, with the director; and
- (c) Provide, in such form as may be acceptable to the director, for the appointment of the director as its true and lawful attorney upon whom may be served all lawful process in any action or proceeding against such company arising out of any policy or contract it has issued to, or which is currently held by, a Missouri citizen, and process so served against such company shall have the same form and validity as if served upon the company;

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

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

- (1) The making of or proposing to make an insurance contract;
- (2) The making of or proposing to make, as guarantor or surety, any contract of guaranty or suretyship as a vocation and not merely incidental to any other legitimate business or activity of the guarantor or surety;
- (3) The taking or receiving of any application for insurance;
- (4) The receiving or collection of any premium, commission, membership fees, assessments, dues or other consideration for any insurance or any part thereof;
- (5) The issuance or delivery of contracts of insurance to residents of this state or to persons authorized to do business in this state;
- (6) Directly or indirectly acting as an agent for or otherwise representing or aiding on behalf of another any person or insurance company in the solicitation, negotiation, procurement or effectuation of insurance or renewals thereof or in the dissemination of information as to coverage or rates, or forwarding of applications, or delivery of policies or contracts, or inspection of risks, a fixing of rates or investigation or adjustment of claims or losses or in the transaction of matters subsequent to effectuation of the contract and arising out of it, or in any other manner representing or assisting a person or insurance company in the transaction of insurance with respect to subjects of insurance resident, located or to be performed in this state. The provisions of this subsection shall not operate to prohibit full-time salaried employees of a corporate insured from acting in the capacity of an insurance manager or buyer in placing insurance in behalf of such employer;
- (7) The transaction of any kind of insurance business specifically recognized as transacting an insurance business within the meaning of the statutes relating to insurance;
- (8) The transacting or proposing to transact any insurance business in substance equivalent to any of the foregoing in a manner designed to evade the provisions of the statutes.

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

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

4. 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 this section 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 this section 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 this section is a level four violation under section 374.049, RSMo.

5. 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 this section 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 this section 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 this section is a level four violation under section 374.049, RSMo.

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

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

8. Nothing in this section shall limit the power of the state to punish any person for 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 insurance company [or may by order require the insurance company to pay to the people of the state of Missouri a penalty in a sum not exceeding five hundred dollars and upon failure of the insurance company to pay the penalty within twenty days after the mailing of the order, postage prepaid, certified, and addressed to the last known place of business of the insurance company, unless the order is stayed by an order of a court of competent jurisdiction, the director of insurance may revoke or suspend the license of the insurance company for any period of time] **under section 374.047, RSMo, or issue such administrative orders as appropriate under section 374.046, RSMo**, whenever he finds that the company

- (1) Is insolvent;
- (2) Fails to comply with the requirements for admission in respect to capital, the investment of its assets or the maintenance of deposits in this or other state or fails to maintain the surplus which similar domestic companies transacting the same kinds of business are required to maintain;
- (3) Is in such a financial condition that its further transaction of business in this state would be hazardous to policyholders and creditors in this state and to the public;
- (4) Has refused or neglected to pay a valid final judgment against the company within thirty days after the rendition of the judgment;
- (5) Has refused to submit to the jurisdiction of a court of this state upon the grounds of diversity of citizenship in a cause of action arising out of business transacted, acts done, or contracts made in this state by the foreign insurance company;
- (6) Has violated any law of this state or has in this state violated its charter or exceeded its corporate powers;
- (7) Has refused to submit its books, papers, accounts, records, or affairs to the reasonable inspection or examination of the director, his actuaries, deputies or examiners;
- (8) Has an officer who has refused upon reasonable demand to be examined under oath touching its affairs;
- (9) Fails to file its annual statement within thirty days after the date when it is required by law to file the statement;
- (10) Fails to file with the director a copy of an amendment to its charter or articles of association within thirty days after the effective date of the amendment;
- (11) Fails to file with the director copies of the agreement and certificate of merger and the financial statements of the merged companies, if required, within thirty days after the effective date of the merger;
- (12) Fails to pay any fees, taxes or charges prescribed by the laws of this state within thirty days after they are due and payable; provided, however, that in case of objection or legal contest the company shall not be required to pay the tax until thirty days after final disposition of the objection or legal contest;
- (13) Fails to file any report for the purpose of enabling the director to compute the taxes to be paid by the company within thirty days after the date when it is required by law to file the report;
- (14) Has had its corporate existence dissolved or its certificate of authority revoked in the state or country in which it was organized;
- (15) Has had all its risks reinsured in their entirety in another company; or
- (16) Has ceased to transact the business of insurance in this state for a period of one year.

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

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

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

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

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

5. Statements of charges, notices, orders, and other processes of the director under sections 375.930 to 375.948 may be served by anyone duly authorized by the director either in the manner provided by law for service of process in civil actions, or by registering or certifying and mailing a copy thereof to the person affected by such statement, notice, order, or other process at his or its residence or principal office or place of business. The verified return by the person so serving such statement, notice, order or other process, setting forth the manner of such service, shall be proof of the same, and the return postcard receipt for such statement, notice, order or other process, registered and mailed as aforesaid, shall be proof of the service of the 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 engaged in an unfair method of competition or in an unfair or deceptive act or practice prohibited by section 375.934 or 375.937, he shall reduce his findings to writing and shall issue and cause to be served upon the person charged with the violation a copy of such findings and an order requiring such person to cease and desist from engaging in such method of competition, act or practice, and thereafter the director may, at his discretion, order one or more of the following:

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

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

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

3. After the expiration of the time allowed for filing such a petition for review, if no such petition has been duly filed within such time, the director may at any time, after notice and opportunity for hearing, reopen and alter, modify

or set aside, in whole or in part, any order issued by him under this section, whenever in his opinion conditions of fact or of law have so changed as to require such action or if the public interest shall so require.

4. Nothing contained in sections 375.930 to 375.948 shall be construed to prohibit the director and the person from agreeing to a voluntary forfeiture with or without proceedings being instituted. Any sum so agreed upon shall be paid into the school fund as provided by law for other fines and penalties] **If the director determines that an insurer has engaged, is engaging, or has taken a substantial step toward engaging in an act, practice, or course of business constituting a violation of sections 375.930 to 375.948 or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding a practice constituting a violation of sections 375.930 to 375.948 or a rule adopted or order issued pursuant thereto, the director may issue such administrative orders as authorized under section 374.046, RSMo. Each practice in violation of section 375.934 is a level two violation under section 374.049, RSMo. Each act as part of a trade practice does not constitute a separate violation under section 374.049, RSMo. The director may also suspend or revoke the license or certificate of authority of an insurer for any willful violation.**

2. **If the director believes that an insurer 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 375.930 to 375.948 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 conduct constituting a violation of sections 375.930 to 375.948 or a rule adopted or order issued pursuant thereto, the director may maintain a civil action for relief authorized under section 374.048, RSMo. Each practice in violation of section 375.934 is a level two violation under section 374.049, RSMo. Each act as part of a trade practice 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 provision of a cease and desist order of the director under section 375.942[, while such order is in effect, may, after notice and hearing, and upon order of the director, be subject to either or both of the following:**

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

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

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

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

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

4. **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 section 375.991 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 section 375.991 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 two 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.**

5. **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 section 375.991 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 section 375.991 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 two violation under section 374.049, RSMo.**

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

[5. In the event] 7. **If the director determines that a person regulated under this chapter has conducted its business fraudulently with respect to sections 375.991 to 375.994, or has as a matter of business practice abused its rights under said sections, such conduct shall [be considered] constitute either an unfair trade practice under the provisions**

of sections 375.930 to 375.948 or an unfair claims settlement practice under the provisions of sections 375.1000 to 375.1018. [The director shall have the power and authority, pursuant to the unfair trade practices act and the unfair claims settlement practices act to subject such persons to the monetary penalty 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 been engaged or is engaging in this state in any improper claims practice, and that a proceeding by him in respect thereto would be to the interest of the public, he shall issue and serve upon such person or insurer a statement of the charges in that respect and a notice of hearing thereon to be held at a time and place fixed in the notice which shall not be less than twenty days after the date of service thereof.

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

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

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

5. Statements of charges, notices, orders, and other processes of the director under sections 375.1000 to 375.1018 may be served by anyone duly authorized by the director either in the manner provided by law for service of process in civil actions, or by registering or certifying and mailing a copy thereof to the person affected by such statement, notice, order, or other process at his or its residence or principal office or place of business. The verified return by the person so serving such statement, notice, order or other process, setting forth the manner of such service, shall be proof of the same, and the return postcard receipt for such statement, notice, order or other process, registered and mailed as aforesaid, shall be proof of the service of the same] **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 375.1000 to 375.1018 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 375.1000 to 375.1018 or a rule adopted or order issued pursuant thereto, the director may issue such administrative orders as authorized under section 374.046, RSMo. Each practice in violation of section 375.1005 is a level two violation under section 374.049, RSMo. Each act as part of a claims settlement practice does not constitute a separate violation under section 374.049, RSMo. The director may also suspend or revoke the license or certificate of authority of an insurer for any willful violation.**

2. **If the director believes that an insurer 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 375.1000 to 375.1018 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 375.1000 to 375.1018 or a rule adopted or order issued pursuant thereto, the director may maintain a civil action for relief authorized under section 374.048, RSMo. Each practice in violation of section 375.1005 is a level two violation under section 374.049, RSMo. Each act as part of a claims 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, who is aggrieved by a final order or decision of the director shall be entitled to judicial review thereof.

2. The court shall make and enter upon the pleadings evidence and proceedings set forth in the transcript a degree modifying, affirming or reversing the order of the director, in whole or in part. To the extent that the order of the director is affirmed, the court shall thereupon issue its own order commanding obedience to the terms of such order of the director. If either party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the director, the court may order such additional evidence to be taken before the director and to be adduced upon the hearing in such manner and upon such terms and conditions as the court may deem proper. The director may modify his findings of fact, or make new findings by reason of the additional evidence so taken, and he shall file such modified or new findings which are supported by evidence on the record and his recommendation, if any, for the modification or setting aside of his original order, with the return of such additional evidence.

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

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

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

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

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

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

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

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

Further amend said bill, Section 375.1075, Pages 11 and 12, by inserting after all of said section the following:

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

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

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

(3)] **If the director determines that a reinsurance intermediary, insurer, or reinsurer 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 375.1110 to 375.1140 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 375.1110 to 375.1140 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 two violation under section 374.049, RSMo. The director may also suspend or revoke the license or certificate of authority of a reinsurance intermediary, insurer, or reinsurer for any willful violation.**

2. If the director believes that a reinsurance intermediary, insurer, or reinsurer 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 375.1110 to 375.1140 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 375.1110 to 375.1140 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 two violation under section 374.049, RSMo.

3. In addition to any other relief authorized by sections 374.046 and 374.047, RSMo, if a violation was committed by the reinsurance intermediary, such reinsurance intermediary shall make restitution to the insurer, reinsurer,

rehabilitator or liquidator of the insurer or reinsurer for the net losses incurred by the insurer or reinsurer attributable to such violation.

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

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

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

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

- (a) To reply promptly in writing to any inquiry from the director requesting such a reply; and
- (b) To make available to the director any books, accounts, documents, or other records or information or property of or pertaining to the insurer and in its possession, custody or control.

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

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

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

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

375.1160. 1. As used in this section:

- (1) "Exceeded its powers" means one or more of the following conditions:
 - (a) The insurer has refused to permit examination of its books, papers, accounts, records or affairs by the director, his deputy, employees or duly commissioned examiners;
 - (b) A domestic insurer has unlawfully removed from this state or is unable to produce books, papers, accounts or records necessary for an examination of the insurer;
 - (c) The insurer has failed to promptly comply with the applicable financial reporting statutes or rules and requests relating thereto;
 - (d) The insurer has neglected or refused to observe an order of the director to make good, within the time prescribed by law, any prohibited deficiency in its capital, capital stock or surplus;
 - (e) The insurer is continuing to transact insurance or write business after its license has been revoked or suspended by the director;
 - (f) The insurer, by contract or otherwise, has unlawfully or has in violation of an order of the director or has without first having obtained written approval of the director if approval is required by law:
 - a. Totally reinsured its entire outstanding business, or
 - b. Merged or consolidated substantially its entire property or business with another insurer;
 - (g) The insurer engaged in any transaction in which it is not authorized to engage under the laws of this state;

(h) A domestic insurer has committed or engaged in, or is about to commit or engage in, any act, practice or transaction that would subject it to delinquency proceedings under sections 375.1150 to 375.1246; or

(i) The insurer refused to comply with a lawful order of the director;

(2) "Consent" means agreement to administrative supervision by the insurer.

2. (1) An insurer may be subject to administrative supervision by the director if upon examination or at any other time it appears in the director's discretion that:

(a) The insurer's condition renders the continuance of its business hazardous to the public or to its insureds;

(b) The insurer exceeded its powers granted under its certificate of authority and applicable law;

(c) The insurer has failed to comply with the laws of this state relating to insurance;

(d) The business of the insurer is being conducted fraudulently; or

(e) The insurer gives its consent.

(2) If the director determines that the conditions set forth in subdivision (1) of this subsection exist, the director shall:

(a) Notify in writing the insurer of his determination;

(b) Furnish to the insurer a written list of his requirements to rescind his determination; and

(c) Notify the insurer that it is under the supervision of the director and that the director is applying and effectuating the provisions of this section.

(3) The notice of supervision under this subsection and any order issued pursuant to this section shall be served upon the insurer in writing by registered mail. The notice of supervision shall state the conduct, condition or ground upon which the director bases his order.

(4) If placed under administrative supervision, the insurer shall have sixty days, or another period of time as designated by the director, to comply with the requirements of the director subject to the provisions of this section. In the event of such insurer's failure to comply with such time periods, the director may institute proceedings under section 375.1165 or 375.1175 to have a rehabilitator or liquidator appointed, or to extend the period of supervision.

(5) If it is determined that none of the conditions giving rise to the supervision exist, the director shall release the insurer from supervision.

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

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

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

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

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

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

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

(2) Withdraw any of its bank accounts;

(3) Lend any of its funds;

(4) Invest any of its funds;

(5) Transfer any of its property;

(6) Incur any debt, obligation or liability;

(7) Merge or consolidate with another company;

(8) Approve new premiums or renew any policies;

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

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

- (11) Write any new or renewal business;
- (12) Release, pay or refund premium deposits, accrued cash or loan values, unearned premiums, or other reserves on any insurance policy, certificate or contract;
- (13) Make any material change in management; or
- (14) Increase salaries and benefits of officers or directors or the preferential payment of bonuses, dividends or other payments deemed preferential.

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

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

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

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

9.] initiate an action under section 375.1161.

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

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

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

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

[13.] 12. There shall be no liability on the part of, and no cause of action of any nature shall arise against, the director or the department of insurance or its employees or agents for any 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 person, other than the insured, responsible for the payment of a premium, shall be obligated to pay any unpaid earned premium due the insurer at the time of the declaration of insolvency as shown on the records of the insurer. The liquidator shall also have the right to recover from such person any part of an unearned premium that represents commission of such person. Credits or setoffs or both shall not be allowed to [an agent, broker,] **a producer** or premium finance company for any amounts advanced to the insurer by the [agent, broker,] **producer** or premium finance company on behalf of, but in the absence of a payment by the insured. An insured shall be obligated to pay any unpaid earned premium due the insurer at the time of the declaration of insolvency, as shown on the records of the insurer.

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

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

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

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

4. When the director shall take any action provided by subsection 2 of this section, the party aggrieved may appeal said action to the court within thirty days of the director's decision] **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 this section 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 this section 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 this section is a level one violation under section 374.049, RSMo. The director may also suspend, revoke, or refuse to renew any license issued by the director to any offending person for any willful violation.**

3. 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 this section 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 this section 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 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, as those terms are defined in subdivisions (3) and (4) of section 375.1300, of an employee or prospective employee to distinguish between, discriminate against, or restrict any right or benefit otherwise due or available to such employee or prospective employee. The requirements of this section shall not prohibit:

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

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

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

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

2. [Any person who violates the provisions of this section shall be fined not more than five hundred dollars for each violation of this section] **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 this section 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 this section 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 two violation under section 374.049, RSMo.

3. 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 this section 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 this section 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 two violation under section 374.049, RSMo.

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

- (1) Statistical data compiled without reference to the identity of an individual;
- (2) Health research conducted in accordance with the provisions of the federal common rule protecting the rights and welfare of research participants (45 CFR 46 and 21 CFR 50 and 56), or to health research using medical archives or databases in which the identity of individuals is protected from disclosure by coding or encryption, or by removing all identities;
- (3) The release of such information pursuant to legal or regulatory process; or
- (4) The release of such information for body identification.

2. [Any person who violates the provisions of this section shall be fined not more than five hundred dollars]
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 this section 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 this section 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 two violation under section 374.049, RSMo.

3. 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 this section 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 this section 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 two violation under section 374.049, RSMo."; and

Further amend said bill, Section 376.307, Pages 54 through 56, by inserting after all of said section the following:

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

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

3. To the extent it deems necessary to comply with any applicable federal or state act, the company may, with respect to any separate account or any portion thereof, provide for the benefit of persons having beneficial interests therein special voting and other rights and special procedures for the conduct of the business and affairs of such separate account or portion thereof, including, without limitation, special rights and procedures relating to investment policy,

investment advisory services, selection of public accountants, and selection of a committee, the members of which need not be otherwise affiliated with the company, to manage the business and affairs of such separate account or portion thereof; and the corporate charter of such company shall be deemed amended to authorize the company to do so. The provisions of this section shall not affect existing laws pertaining to the voting rights of such company's policyholders.

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

5. Unless otherwise approved by the director [of insurance], assets allocated to a separate account shall be valued at their market value on the date of valuation, or if there is no readily available market, then as provided under the terms of the contract or the rules or other written agreement applicable to such separate account; provided, that the portion of the assets of such separate account at least equal to the company's reserve liability with regard to the guaranteed benefits and funds referred to in subsection 4 of this section, if any, shall be valued in accordance with the rules otherwise applicable to the company's assets.

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

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

- (1) The history and financial condition of the company;
- (2) The character, responsibility and general fitness of the officers and directors of the company; and

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

8. An authorized life insurance company, whether domestic, foreign or alien, which issues contracts under which amounts are to be allocated to one or more separate accounts as provided herein, and which is a subsidiary of or affiliated through common management or ownership with another life insurance company authorized to do business in this state, may be deemed to have met the provisions of subsection 7 of this section if either it or the parent or affiliated company meets the requirements thereof.

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

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

376.620. [In all suits upon policies of insurance on life hereafter issued by any company doing business in this state, to a citizen of this state, it shall be no defense that the insured committed suicide, unless it shall be shown to the satisfaction of the court or jury trying the cause, that the insured contemplated suicide at the time he made his application for the policy, and any stipulation in the policy to the contrary shall be void.] **1. Any life insurance or certificate issued or delivered in this state, may exclude or restrict liability of death as the result of suicide in the event the insured, while sane or insane, dies as a result of suicide within one year from the date of the issue of the policy or certificate. Any such exclusion or restriction shall be clearly stated in the policy or certificate.**

2. Any life insurance policy or certificate which contains any exclusion or restriction under subsection 1 of this section shall also provide that in the event the insured dies as a result of suicide within one year from the date of issue of the policy that the insurer shall promptly refund all premiums paid for coverage on such insured.

376.889. [In addition to any other applicable penalties, the director may require issuers violating any provision of sections 376.850 to 376.890 or regulations promulgated pursuant to sections 376.850 to 376.890 to cease marketing any Medicare supplement policy or certificate in this state which is related directly or indirectly to a violation, or may require such issuer to take such actions as are necessary to comply with the provisions of sections 376.850 to 376.890, or both] **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 376.850 to 376.890 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 376.850 to 376.890 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 two violation under section 374.049, RSMo.**

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 376.850 to 376.890 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 376.850 to 376.890 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 two violation under section 374.049, RSMo."; and

Further amend said bill, Section 376.1012, Pages 56 and 57, by inserting after all of said section the following:

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

- (1) Is in an unsound financial condition;
- (2) Is using such methods or practices in the conduct of its business so as to render its further transaction of business in this state hazardous or injurious to insured persons or the public; or
- (3) Has failed to satisfy any judgment rendered against it in this state within sixty days after the judgment has become final.

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

- (1) Has violated any lawful rule or order of the director or any provision of the insurance laws of this state;
- (2) Has refused to be examined or to produce its accounts, records and files for examination, or if any of its officers has refused to give information with respect to its affairs or has refused to perform any other legal obligation as to such examination, when required by the director;
- (3) Has, without just cause, refused to pay proper claims or perform services arising under its contracts or has, without just cause, caused covered individuals to accept less than the amount due them or caused covered individuals to employ attorneys or bring suit against the administrator to secure full payment or settlement of such claims;
- (4) Is affiliated with or under the same general management or interlocking directorate or ownership as another administrator or insurer which unlawfully transacts business in this state without having a certificate of authority;
- (5) At any time fails to meet any qualification for which issuance of the certificate could have been refused had such failure then existed and been known to the department;
- (6) Has been convicted of, or has entered a plea of guilty or nolo contendere to, a felony without regard to whether adjudication was withheld;
- (7) Is not competent, trustworthy, financially responsible or of good personal and business reputation, has had an insurance or administrator license denied for cause by any state or been subject to any form of administrative, civil or criminal action by any federal or state agency or court resulting in some form of discipline or sanction; or
- (8) Is under suspension or revocation in another state.

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

- (1) The administrator is insolvent or impaired;
- (2) A proceeding for receivership, conservatorship, rehabilitation, or other delinquency proceeding regarding the administrator has been commenced in any state;
- (3) The financial condition or business practices of the administrator otherwise poses an imminent threat to the public health, safety or welfare of the residents of this state.

4. [If the director finds that one or more grounds exist for the suspension or revocation of a certificate of authority issued under sections 376.1075 to 376.1095, the director may, in lieu of such suspension or revocation, bring a civil action against the administrator in a court of competent jurisdiction. The court may impose a fine upon the administrator of not more than fifty thousand dollars, such fine to be payable to the Missouri state school fund] **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 376.1075 to 376.1095 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 376.1075 to 376.1095 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 three violation under section 374.049, RSMo.**

5. 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 376.1075 to 376.1095 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 376.1075 to 376.1095 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 three violation under section 374.049, RSMo.

376.1500. As used IN sections 376.1500 to 376.1532, the following words or phrases mean:

- (1) "Director", the director of the department of insurance, financial institutions and professional registration;
- (2) "Discount card", a card or any other purchasing mechanism or device, which is not insurance, that purports to offer discounts or access to discounts in health-related purchases from health care providers;
- (3) "Discount medical plan", a business arrangement or contract in which a person, in exchange for fees, dues, charges, or other consideration, provides access for plan members to providers of medical services and the right to receive medical services from those providers at a discount. The term does not include any product regulated as an insurance product, group health service product or membership in a health maintenance organization in this state or discounts provided by an insurer, group health service, or health maintenance

organizations where those discounts are provided at no cost to the insured or member and are offered due to coverage with a licensed insurer, group health service, or health maintenance organization. The term does not include an arrangement where the discounts or prices are sold, rented or otherwise provided to another licensed carrier or to a self-insured or self-funded employer sponsored plan or Taft-Hartley trust;

(4) "Discount medical plan organization", means a person or an entity that, in exchange for fees, dues, charges or other consideration, provides access for plan members to providers of medical services and the right to receive medical services from those providers at a discount. It is the person or organization that contracts with providers, provider networks or other discount medical plan organizations to offer access to medical services at a discount and determines the charge to plan members;

(5) "Health care provider", any person or entity licensed by this state to provide health care services including, but not limited to physicians, hospitals, home health agencies, pharmacies, and dentists;

(6) "Health care provider network", an entity which directly contracts with physicians and hospitals and has contractual rights to negotiate on behalf of those health care providers with a discount medical plan organization to provide medical services to members of the discount medical plan organization;

(7) "Marketer", a person or entity who markets, promotes, sells or distributes a discount medical plan, including a private label entity that places its name on and markets or distributes a discount medical plan but does not operate a discount medical plan;

(8) "Medical services", any care, service or treatment of illness or dysfunction of, or injury to, the human body including, but not limited to, physician care, inpatient care, hospital surgical services, emergency services, ambulance services, dental care services, vision care services, mental health services, substance abuse services, chiropractic services, podiatric care services, laboratory services, and medical equipment and supplies. The term does not include pharmaceutical supplies or prescriptions;

(9) "Member", any person who pays fees, dues, charges, or other consideration for the right to receive the purported benefits of a discount medical plan; and

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

376.1502. 1. It is unlawful to transact business in this state as a discount medical plan organization, unless the organization is a corporation, limited liability corporation, partnership, limited liability partnership or other legal entity organized under the laws of this state or, if a foreign entity, authorized to transact business in this state, and is registered as a discount medical plan organization with the director or duly authorized by the director as an insurance company, licensed health maintenance organization, licensed group health service organization, or licensed third party administrator.

2. An individual person, employee, or agent of a registered entity described in subsection 1 of this section may also transact business in this state on behalf of such entity.

376.1504. 1. To register as a discount medical plan organization, an applicant shall:

(1) File with the director an application on a form approved and adopted by the director; and

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

2. A registration is valid for a one-year term and expires one year following the registration date unless it is renewed as provided in this section.

3. Before it expires, a registrant may renew the registration for an additional one-year term if the registrant:

(1) Otherwise is qualified to receive a registration;

(2) Files with the director a renewal application on a form approved and adopted by the director; and

(3) Pays a renewal fee of two hundred fifty dollars.

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

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

376.1506. 1. If the director has a reason to believe that the discount medical plan organization is not complying with the requirements of sections 376.1500 to 376.1532, the director may examine or investigate the business and affairs of any discount medical plan organization under the authority of sections 374.190 and 374.202

to 374.207, RSMo. The director may require any discount medical plan organization or applicant to produce any records, books, files, advertising and solicitation materials, or other information and may take statements under oath to determine whether the discount medical plan organization or applicant is in violation of the law. Reasonable expenses incurred in conducting any examination shall be paid by the discount medical plan organization under sections 374.202 to 374.207, RSMo.

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

376.1508. 1. A discount medical plan organization may charge a reasonable one-time processing fee and a periodic charge as long as the fee is disclosed to the applicant.

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

3. The right of cancellation shall be set out in the written membership materials on the first page, in ten-point type or larger.

4. If a discount medical plan organization cancels a membership for any reason other than nonpayment of charges by the member, the discount medical plan organization shall make a pro rata reimbursement of all periodic charges to the member.

376.1510. A discount medical plan organization shall not:

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

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

(3) Pay providers any fees for medical services;

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

(5) Except as otherwise provided in sections 376.1500 to 376.1532, as a disclaimer of any relationship between discount medical plan benefits and insurance, or as a description of an insurance product connected with a discount medical plan, use in its advertisements, marketing material, brochures, and discount cards the term "insurance".

376.1512. 1. The following disclosures, to be printed in bold and in not less than twelve-point type, shall be made in writing to any prospective member and shall appear on the first content page of any advertisements, marketing materials or brochures relating to a discount medical plan:

(1) The plan is not insurance;

(2) The plan provides discounts with certain health care providers for medical services;

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

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

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

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

3. Each discount card or any other plan identifier issued to a plan member shall state in bold and prominent type on the front face of the card that "THIS IS NOT INSURANCE".

376.1514. 1. All providers offering medical services to members under a discount medical plan shall provide such services pursuant to a written agreement. The agreement may be entered into directly by the health care provider or by a health care provider network to which the provider belongs if the provider network has contracts with the health care provider that allow the provider network to contract on behalf of the health care provider.

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

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

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

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

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

(1) Contain the terms described in this subsection;

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

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

4. A health care provider agreement between a discount medical plan organization and an entity that contracts with a health care provider network shall require that the entity, in its contract with the health care provider network, require the health care provider network to have written agreements with its providers that comply with subsection 3 of this section.

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

376.1516. 1. Each benefit under the discount medical plan shall be included in the written membership materials between the discount medical plan organization and the member. The written membership materials shall also include a statement notifying the members of their right to cancel under section 376.1508, and such materials shall also list all of the disclosures required by section 376.1512.

2. Upon request by the Director, any forms used by a discount medical plan organization, including written membership materials, shall be submitted to the Director.

376.1518. 1. Each discount medical plan organization registered pursuant to sections 376.1500 to 376.1532, shall at all times maintain a net worth of at least one hundred fifty thousand dollars.

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

376.1520. Each discount medical plan organization required to be registered pursuant to this section shall provide the director at least thirty days' advance notice of any change in the discount medical plan organization's name, address, principal business address, or mailing address.

376.1522. Each discount medical plan organization shall maintain a current list of the names and addresses of the providers with which it has contracted on a 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.

376.1524. 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.

376.1528. The director under the provisions of section 374.045, RSMo, may promulgate rules to administer and interpret the provisions of sections 376.1500 to 376.1532.

376.1530. 1. The director may deny a registration to an applicant or refuse to renew, suspend, or revoke the registration of a registrant if the applicant or registrant, or an officer, director, or employee of the applicant or registrant:

- (1) Makes a material misstatement or misrepresentation in an application for registration;**
- (2) Fraudulently or deceptively obtains or attempts to obtain a registration for the applicant or registrant or for another;**
- (3) Has advertised, merchandised or attempted to merchandise its services in such a manner as to misrepresent its services or capacity for service or has engaged in deceptive, misleading or unfair practices with respect to advertising or merchandising;**
- (4) In connection with the advertisement, offer, sale or administration of a health care discount program, makes any untrue statement of material fact, conceals any material fact, uses any deception or commits fraud or engages in any dishonest activity;**
- (5) Is not fulfilling its obligations as a discount medical plan organization;**
- (6) Does not have the minimum net worth as required by sections 376.1500 to 376.1532; or**
- (7) Violates any provision of sections 376.1500 to 376.1532, or any law or regulation of this state relating to insurance or the provision of medical care.**

2. If the director has cause to believe that grounds for the suspension or revocation of a registration exist, the director shall notify the discount medical plan organization in writing, specifically stating the grounds for suspension or revocation, and shall provide opportunity for a hearing on the matter before the director.

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

376.1532. 1. If the director determines that a person has engaged, is engaging, or has taken a substantial step toward engaging in a violation of sections 376.1500 to 376.1532, 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 376.1500 to 376.1532 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 sections 376.1500 to 376.1532 is a level two violation under section 374.049, RSMo. The director of insurance 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, or has taken a substantial step toward engaging in a violation of sections 376.1500 to 376.1532 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 376.1500 to 376.1532 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 sections 376.1500 to 376.1532 is a level two violation under section 374.049, RSMo."; and

Further amend said bill, Section 377.200, Pages 57 and 58, by inserting after all of said section the following:

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

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

3. No penalty shall be imposed or no license shall be suspended or revoked except upon a written order of the director, stating his findings, made after a hearing held upon not less than ten days' written notice to such person or

organization specifying the alleged violation] **If the director determines that any insurer or filing organization 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 section 379.017 and sections 379.316 to 379.361 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 section 379.017 and sections 379.316 to 379.361 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 two violation under section 374.049, RSMo. The practice of using a rate not in effect under section 379.321, if caused by a single act or omission by the insurer or filing organization, is a level two violation under section 374.049, RSMo. Each act as part of a rating violation does not constitute a separate violation under section 374.049, RSMo. The director may also suspend or revoke the license or certificate of authority of an insurer or filing company 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 section 379.017 and sections 379.316 to 379.361 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 section 379.017 and sections 379.316 to 379.361 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 two violation under section 374.049, RSMo. The practice of using a rate not in effect under section 379.321, if caused by a single act or omission by the insurer or filing organization, is a level two violation under section 374.049, RSMo. Each act as part of a rating violation does not constitute a separate violation under section 374.049, RSMo.

379.510. [Any person or organization who willfully violates a final order of the director under sections 379.420 to 379.510 shall be deemed guilty of a misdemeanor and shall upon conviction thereof be punished by a fine not to exceed five hundred dollars for such violation] **1. If the director determines that any person has violated a final order of the director under sections 379.420 to 379.510, the director may issue such administrative orders as authorized under section 374.046, RSMo. A violation of any of these sections is a level two violation under section 374.049, RSMo.**

2. If the director believes that a person has violated a final order of the director under sections 379.420 to 379.510, 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 two violation under section 374.049, RSMo.

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

2. 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 this section 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 this section 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 this section is a level one violation under section 374.049, RSMo.

3. 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 this section 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 this section 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 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 of any company operating under the provisions of sections 380.201 to [380.591 shall.] **380.611 to** directly or indirectly, use or employ,

or permit others to use or employ, any of the money, funds or securities of the company for private profit or gain[, and any such use shall be deemed a felony, punishable, upon conviction, by imprisonment by the department of corrections and human resources for not less than two years nor more than five years for each offense].

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

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

4. Nothing in this section shall limit the power of the state to punish any person for 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 upon competent and substantial evidence that any company operating under the provisions of sections 380.201 to 380.591 is acting in violation of those laws or any other applicable laws or any rule or regulation promulgated by the director pursuant thereto. Before any cease and desist order shall be issued, a copy of the proposed order together with an order to show cause why such cease and desist order should not be issued shall be served either personally or by certified mail on the company named therein.

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

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

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

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

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

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

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

9. The director of insurance may in addition to a monetary fine, suspend or revoke the certificate of authority of any company violating a cease and desist order] **If the director determines that any 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 380.201 to 380.611 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 380.201 to 380.611 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 two violation under section 374.049, RSMo, except a violation of section 380.391 is a level four violation under section 374.049, RSMo. The director may also suspend or revoke the 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 380.201 to 380.611 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 380.201 to 380.611 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 two violation under section 374.049, RSMo, except a violation of section 380.391 is a level four violation under section 374.049, RSMo."; and

Further amend said bill, Section 381.068, Page 58, by inserting after all of said section the following:

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

384.071. 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 384.011 to 384.071 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 384.011 to 384.071 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 three violation under section 374.049, RSMo.**

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 384.011 to 384.071 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 384.011 to 384.071 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 three violation under section 374.049, RSMo.

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

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

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

Further amend said bill, Section 409.950, Page 58, by inserting after all of said section the following:

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

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

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

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

2. The initial assessment shall be made within one month of September 28, 1981, in the total amount of thirty-six thousand dollars. Thereafter, assessments shall be made annually, or as needed whenever the balance in the fund becomes less than ten thousand dollars. The amount of such

subsequent assessments shall be that amount necessary to return the balance in the fund to thirty-six thousand dollars.]

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

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

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

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

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

Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.

Representative Burnett raised a point of order that **House Amendment No. 2** is not in order pursuant to Rule 84.

The Chair ruled the point of order not well taken.

Representative Burnett offered **House Amendment No. 1 to House Amendment No. 2.**

House Amendment No. 1
to
House Amendment No. 2

AMEND House Amendment No. 2 to Senate Committee Substitute for Senate Bill No. 66, Pages 28-29, Section 374.185-374.208, by deleting said sections from the bill.

Representative Burnett moved that **House Amendment No. 1 to House Amendment No. 2** be adopted.

Which motion was defeated.

Representative Talboy offered **House Amendment No. 2 to House Amendment No. 2.**

House Amendment No. 2
to
House Amendment No. 2

AMEND House Amendment No. 2 to Senate Committee Substitute for Senate Bill No. 66, Pages 88-89, Section 376.620, Lines 16-24 and Lines 1-4, Page 88, Line 16, delete open bracket and on Line 20, delete closed bracket.; and

Further amend said bill, by deleting Section 1, Page 88, and deleting Section 2, Lines 1-4 of Page 89.

Representative Talboy moved that **House Amendment No. 2 to House Amendment No. 2** be adopted.

Which motion was defeated by the following vote:

AYES: 054

Aull	Bland	Bringer	Brown 50	Burnett
Casey	Chappelle-Nadal	Corcoran	Curls	Donnelly
El-Amin	Fallert	Flook	Frame	Grill
Harris 110	Haywood	Hodges	Holsman	Hughes
Johnson	Kuessner	Lampe	LeVota	Low 39
Lowe 44	McClanahan	Meadows	Nasheed	Norr
Oxford	Quinn 9	Robinson	Roorda	Rucker
Salva	Scavuzzo	Schieffer	Schoemehl	Shively
Skaggs	Spreng	Storch	Swinger	Talboy
Todd	Vogt	Walsh	Walton	Whorton
Witte	Wright-Jones	Yaeger	Zweifel	

NOES: 102

Avery	Baker 25	Baker 123	Bearden	Bivins
Brandom	Brown 30	Bruns	Cooper 120	Cooper 155
Cooper 158	Cox	Cunningham 86	Darrough	Daus
Davis	Day	Deeken	Dempsey	Denison
Dethrow	Dixon	Dougherty	Dusenberg	Emery
Ervin	Faith	Fares	Fisher	Funderburk
George	Guest	Hobbs	Hoskins	Hubbard
Hunter	Ice	Jones 89	Jones 117	Kelly
Kingery	Komo	Kratky	Kraus	Lembke
Liese	Lipke	Loehner	Marsh	May
McGhee	Meiners	Moore	Munzlinger	Muschany
Nance	Nieves	Nolte	Onder	Parson
Pearce	Pollock	Portwood	Pratt	Quinn 7
Richard	Robb	Ruestman	Ruzicka	Sander
Sater	Schaaf	Schad	Scharnhorst	Schlottach
Schneider	Schoeller	Self	Silvey	Smith 14
Smith 150	Stevenson	St. Onge	Stream	Sutherland
Thomson	Threlkeld	Tilley	Viebrock	Villa
Wallace	Wasson	Wells	Weter	Wilson 119
Wilson 130	Wood	Wright 159	Yates	Young
Zimmerman	Mr Speaker			

PRESENT: 000

ABSENT WITH LEAVE: 007

Bowman	Cunningham 145	Franz	Grisamore	Harris 23
Page	Wildberger			

On motion of Representative Yates, **House Amendment No. 2** was adopted.

Representative Davis offered **House Amendment No. 3**.

House Amendment No. 3

AMEND Senate Committee Substitute for Senate Bill No. 66, Line 5 of the Title, by inserting after "RSMo," the following:

"and section 376.1753 as truly agreed and finally passed in Senate Substitute No. 2 for Senate Committee Substitute for House Committee Substitute for House Bill No. 818, Ninety-fourth General Assembly, First Regular Session,"; and

Further amend said bill, Page 1, Section A, Line 4, by inserting after "RSMo," the following:

"and section 376.1753 as truly agreed and finally passed in Senate Substitute No. 2 for Senate Committee Substitute for House Committee Substitute for House Bill No. 818, Ninety-fourth General Assembly, First Regular Session,"; and

Further amend said bill, Page 1, Section A, Line 9, by inserting after all of said section the following:

"334.010. 1. It shall be unlawful for any person not now a registered physician within the meaning of the law to practice medicine or surgery in any of its departments, to engage in the practice of medicine across state lines or to profess to cure and attempt to treat the sick and others afflicted with bodily or mental infirmities, [or engage in the practice of midwifery in this state,]except as herein provided.

2. For the purposes of this chapter, the "practice of medicine across state lines" shall mean:

(1) The rendering of a written or otherwise documented medical opinion concerning the diagnosis or treatment of a patient within this state by a physician located outside this state as a result of transmission of individual patient data by electronic or other means from within this state to such physician or physician's agent; or

(2) The rendering of treatment to a patient within this state by a physician located outside this state as a result of transmission of individual patient data by electronic or other means from within this state to such physician or physician's agent.

3. A physician located outside of this state shall not be required to obtain a license when:

(1) In consultation with a physician licensed to practice medicine in this state; and

(2) The physician licensed in this state retains ultimate authority and responsibility for the diagnosis or diagnoses and treatment in the care of the patient located within this state; or

(3) Evaluating a patient or rendering an oral, written or otherwise documented medical opinion, or when providing testimony or records for the purpose of any civil or criminal action¹ before any judicial or administrative proceeding of this state or other forum in this state; or

(4) Participating in a utilization review pursuant to section 376.1350, RSMo.

334.120. 1. There is hereby created and established a board to be known as "The State Board of Registration for the Healing Arts" for the purpose of registering, licensing and supervising all physicians and surgeons [, and midwives] in this state. The board shall consist of nine members, including one voting public member, to be appointed by the governor by and with the advice and consent of the senate, five of whom shall be graduates of professional schools approved and accredited as reputable by the American Medical Association or the Liaison Committee on Medical Education and two of whom shall be graduates of professional schools approved and accredited as reputable by the American Osteopathic Association, and all of whom, except the public member, shall be duly licensed and registered as physicians and surgeons pursuant to the laws of this state. Each member must be a citizen of the United States and must have been a resident of this state for a period of at least one year next preceding his or her appointment and shall have been actively engaged in the lawful and ethical practice of the profession of physician and surgeon for at least five years next preceding his or her appointment. Not more than four members shall be affiliated with the same political party. All members shall be appointed for a term of four years. Each member of the board shall receive as compensation an amount set by the board not to exceed fifty dollars for each day devoted to the affairs of the board, and shall be entitled to reimbursement of his or her expenses necessarily incurred in the discharge of his or her official duties. The president of the Missouri State Medical Association, for all medical physician appointments, or the president of the Missouri Association of Osteopathic Physicians and Surgeons, for all osteopathic physician appointments, in office at the time shall, at least ninety days prior to the expiration of the term of the respective board member, other than the public member, or as soon as feasible after the appropriate vacancy on the board otherwise occurs, submit to the director of the division of professional registration a list of five physicians and surgeons qualified and willing to fill the vacancy in question, with the request and recommendation that the governor appoint one of the five persons so listed, and with the list so submitted, the president of the Missouri State Medical Association or the Missouri Association of Osteopathic

Physicians and Surgeons, as appropriate, shall include in his or her letter of transmittal a description of the method by which the names were chosen by that association.

2. The public member shall be at the time of his or her appointment a citizen of the United States; a resident of this state for a period of one year and a registered voter; a person who is not and never was a member of any profession licensed or regulated pursuant to this chapter or the spouse of such person; and a person who does not have and never has had a material, financial interest in either the providing of the professional services regulated by this chapter, or an activity or organization directly related to any profession licensed or regulated pursuant to this chapter. All members, including public members, shall be chosen from lists submitted by the director of the division of professional registration. The duties of the public member shall not include the determination of the technical requirements to be met for licensure or whether any person meets such technical requirements or of the technical competence or technical judgment of a licensee or a candidate for licensure."; and

Further amend said bill, Page 58, Section 409.950, Line 7, by inserting after all of said section the following:

"[334.260. On August 29, 1959, all persons licensed under the provisions of chapter 334, RSMo 1949, as midwives shall be deemed to be licensed as midwives under this chapter and subject to all the provisions of this chapter.]"'; and

Further amend said bill, Page 59, Line 15, by inserting after all of said line the following:

"[376.1753. Notwithstanding any law to the contrary, any person who holds current ministerial or tocological certification by an organization accredited by the National Organization for Competency Assurance (NOCA) may provide services as defined in 42 U.S.C. 1396 r-6(b)(4)(E)(ii)(I).]"'; and

Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.

Representative Davis moved that **House Amendment No. 3** be adopted.

Which motion was defeated.

Representative Haywood offered **House Amendment No. 4**.

Representative Yates raised a point of order that **House Amendment No. 4** goes beyond the scope of the bill.

The Chair ruled the point of order well taken.

On motion of Representative Yates, **SCS SB 66, as amended**, was read the third time and passed by the following vote:

AYES: 125

Aull	Avery	Baker 25	Baker 123	Bearden
Bivins	Bland	Brandom	Brown 30	Brown 50
Bruns	Casey	Chappelle-Nadal	Cooper 120	Cooper 155
Cooper 158	Corcoran	Cunningham 86	Curls	Darrough
Daus	Davis	Day	Deeken	Dempsey
Denison	Dethrow	Dixon	Donnelly	Dougherty
Dusenberg	El-Amin	Ervin	Faith	Fallert
Fares	Funderburk	George	Grill	Guest
Harris 23	Hobbs	Holsman	Hoskins	Hubbard
Hughes	Icet	Jones 89	Jones 117	Kelly
Kingery	Komo	Kratky	Kraus	Lampe
Lembke	LeVota	Lipke	Lowe 44	Marsh

May	McGhee	Meadows	Meiners	Munzlinger
Muschany	Nance	Nasheed	Nolte	Norr
Onder	Oxford	Page	Parson	Pearce
Pollock	Portwood	Pratt	Quinn 7	Quinn 9
Richard	Robb	Robinson	Roorda	Ruzicka
Salva	Sander	Schaaf	Schad	Scharnhorst
Schlottach	Schneider	Schoeller	Schoemehl	Self
Silvey	Skaggs	Smith 14	Smith 150	Spreng
Stevenson	St. Onge	Storch	Stream	Sutherland
Thomson	Threlkeld	Tilley	Viebrock	Villa
Vogt	Wallace	Walsh	Walton	Wasson
Weter	Wilson 119	Wood	Wright-Jones	Yaeger
Yates	Young	Zimmerman	Zweifel	Mr Speaker

NOES: 033

Bringer	Burnett	Cox	Emery	Fisher
Flook	Frame	Harris 110	Haywood	Hodges
Hunter	Johnson	Kuessner	Liese	Loehner
Low 39	McClanahan	Moore	Rucker	Ruestman
Sater	Scavuzzo	Schieffer	Shively	Swinger
Talboy	Todd	Wells	Whorton	Wildberger
Wilson 130	Witte	Wright 159		

PRESENT: 000

ABSENT WITH LEAVE: 005

Bowman	Cunningham 145	Franz	Grisamore	Nieves
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Speaker Pro Tem Bearden declared the bill passed.

HOUSE BILL WITH SENATE AMENDMENTS

SS HB 744, as amended, relating to transportation, was taken up by Representative St. Onge.

Representative St. Onge moved that the House refuse to adopt **SS HB 744, as amended**, and request the Senate to recede from its position and, failing to do so, grant the House a conference.

Representative Cooper (120) made a substitute motion that the House refuse to adopt **SS HB 744, as amended**, and request the Senate to recede from its position and, failing to do so, grant the House a conference and that the conferees be allowed to exceed the differences in Sections 388.700 through 388.742 as Truly Agreed To and Finally Passed on SS SCS HCS HB 327, as amended.

Representative Schad moved to amend the substitute motion by adding after the word “amended” the following:

“and bind conferees to the House position on **SS HB 744, as amended**, with respect to the enforcement of seat belt laws being primary.”.

Representative Roorda requested a roll call on the amendment to the substitute motion.

Representative Roorda moved to withdraw the request for a roll call on the amendment to the substitute motion.

An objection was noted.

On motion of Representative Schad, the amendment to the substitute motion was adopted by the following vote:

AYES: 113

Aull	Avery	Baker 123	Bearden	Bivins
Brandom	Bringer	Brown 30	Brown 50	Bruns
Chappelle-Nadal	Cooper 120	Cooper 155	Cooper 158	Cox
Cunningham 86	Davis	Day	Deeken	Dempsey
Dethrow	Dixon	Dusenberg	Emery	Ervin
Faith	Fallert	Fisher	Flook	Frame
Funderburk	Guest	Harris 110	Haywood	Hobbs
Hoskins	Hubbard	Hughes	Hunter	Icet
Johnson	Jones 89	Jones 117	Kelly	Kingery
Kraus	Kuessner	Lembke	Liese	Lipke
Loehner	Marsh	May	McGhee	Meadows
Meiners	Moore	Munzlinger	Muschany	Nance
Nasheed	Nieves	Nolte	Onder	Parson
Pearce	Pollock	Portwood	Pratt	Quinn 7
Richard	Robb	Robinson	Roorda	Rucker
Ruestman	Ruzicka	Salva	Sander	Sater
Schaaf	Schad	Scharnhorst	Schieffer	Schlottach
Schneider	Schoeller	Self	Silvey	Smith 150
Stevenson	St. Onge	Sutherland	Swinger	Talboy
Thomson	Tilley	Viebrock	Vogt	Wallace
Walton	Wasson	Wells	Weter	Whorton
Wilson 119	Wilson 130	Witte	Wood	Wright 159
Yates	Young	Mr Speaker		

NOES: 040

Baker 25	Bland	Burnett	Casey	Corcoran
Curls	Daus	Donnelly	El-Amin	Fares
George	Grill	Harris 23	Hodges	Holsman
Komo	Lampe	LeVota	Low 39	Lowe 44
McClanahan	Norr	Oxford	Page	Quinn 9
Scavuzzo	Shively	Skaggs	Smith 14	Storch
Stream	Threlkeld	Todd	Villa	Walsh
Wildberger	Wright-Jones	Yaeger	Zimmerman	Zweifel

PRESENT: 004

Darrough	Dougherty	Schoemehl	Spreng
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ABSENT WITH LEAVE: 006

Bowman	Cunningham 145	Denison	Franz	Grisamore
Kratky				

Representative Tilley assumed the Chair.

Representative Dempsey moved the previous question.

Which motion was adopted by the following vote:

AYES: 088

Avery	Baker 123	Bearden	Bivins	Brandom
Brown 30	Bruns	Cooper 120	Cooper 155	Cooper 158
Cox	Cunningham 86	Davis	Day	Deeken
Dempsey	Dethrow	Dixon	Dusenberg	Emery
Ervin	Faith	Fares	Fisher	Flook
Funderburk	Guest	Hobbs	Hunter	Icet
Jones 89	Jones 117	Kelly	Kingery	Kraus
Lembke	Lipke	Loehner	Marsh	May
McGhee	Moore	Munzlinger	Muschany	Nance
Nieves	Nolte	Onder	Parson	Pearce
Pollock	Portwood	Pratt	Quinn 7	Richard
Robb	Ruestman	Ruzicka	Sander	Sater
Schaaf	Schad	Scharnhorst	Schlottach	Schneider
Schoeller	Self	Silvey	Smith 14	Smith 150
Stevenson	St. Onge	Stream	Sutherland	Thomson
Threlkeld	Tilley	Viebrock	Wallace	Wasson
Wells	Weter	Wilson 119	Wilson 130	Wood
Wright 159	Yates	Mr Speaker		

NOES: 068

Aull	Baker 25	Bland	Bowman	Bringer
Burnett	Casey	Chappelle-Nadal	Corcoran	Curls
Darrough	Daus	Donnelly	Dougherty	El-Amin
Fallert	Frame	George	Grill	Harris 23
Harris 110	Haywood	Hodges	Holsman	Hoskins
Hubbard	Hughes	Johnson	Komo	Lampe
LeVota	Liese	Low 39	Lowe 44	McClanahan
Meadows	Meiners	Nasheed	Norr	Oxford
Page	Quinn 9	Robinson	Roorda	Rucker
Salva	Scavuzzo	Schieffer	Schoemehl	Shively
Skaggs	Spreng	Storch	Swinger	Talboy
Todd	Villa	Vogt	Walsh	Walton
Whorton	Wildberger	Witte	Wright-Jones	Yaeger
Young	Zimmerman	Zweifel		

PRESENT: 000

ABSENT WITH LEAVE: 007

Brown 50	Cunningham 145	Denison	Franz	Grisamore
Kratky	Kuessner			

Representative Cooper (120) moved that the House refuse to adopt **SS HB 744, as amended**, and request the Senate to recede from its position, and failing to do so, grant the House a conference and that the conferees be allowed to exceed the differences in Sections 388.700 through 388.742 as Truly Agreed To and Finally Passed on SS SCS HCS HB 327, as amended and bind conferees to the House position on **SS HB 744, as amended**, with respect to the enforcement of seat belt laws being primary.

Which motion was adopted.

THIRD READING OF SENATE BILL

HCS SB 516, relating to judicial personnel and procedures, was taken up by Representative Pratt.

Representative Jones (89) offered **House Amendment No. 1**.

House Amendment No. 1

AMEND House Committee Substitute for Senate Bill No. 516, Page 111, Section 488.2253, Line 15, by inserting after all of said line the following:

"488.2300. 1. A "Family Services and Justice Fund" is hereby established in each county or circuit with a family court, for the purpose of aiding with the operation of the family court divisions and services provided by those divisions. In **any** circuits or counties having a family court **other than St. Louis County and Jackson County**, the circuit clerk shall charge and collect a surcharge of thirty dollars in all proceedings falling within the jurisdiction of the family court. **The circuit clerk of St. Louis County and Jackson County shall charge and collect a surcharge as established by its circuit court not to exceed forty-five dollars in all proceedings falling within the jurisdiction of the family court.** The surcharge shall not be charged when no court costs are otherwise required, shall not be charged against the petitioner for actions filed pursuant to the provisions of chapter 455, RSMo, but may be charged to the respondent in such actions, shall not be charged to a government agency and shall not be charged in any proceeding when costs are waived or are to be paid by the state, county or municipality.

2. In juvenile proceedings under chapter 211, RSMo, a judgment [of up to thirty dollars] **in an amount authorized in subsection 1 of this section** may be assessed against the child, parent or custodian of the child, in addition to other amounts authorized by law, in informal adjustments made under the provisions of sections 211.081 and 211.083, RSMo, and in an order of disposition or treatment under the provisions of section 211.181, RSMo. The judgment may be ordered paid to the clerk of the circuit where the assessment is imposed.

3. All sums collected pursuant to this section and section 487.140, RSMo, shall be payable to the various county family services and justice funds.

4. Any moneys in the family services and justice fund not expended for salaries of commissioners, family court administrators and family court staff shall be used toward funding the enhanced services provided as a result of the establishment of a family court; however, it shall not replace or reduce the current and ongoing responsibilities of the counties to provide funding for the courts as required by law. Moneys collected for the family services and justice fund shall be expended for the benefit of litigants and recipients of services in the family court, with priority given to services such as mediation, counseling, home studies, psychological evaluation and other forms of alternative dispute-resolution services. Expenditures shall be made at the discretion of the presiding judge or family court administrative judge, as designated by the circuit and associate circuit judges en banc, for the implementation of the family court system as set forth in this section. No moneys from the family services and justice fund may be used to pay for mediation in any cause of action in which domestic violence is alleged.

5. From the funds collected pursuant to this section and retained in the family services and justice fund, each circuit or county in which a family court commissioner in addition to those commissioners existing as juvenile court commissioners on August 28, 1993, have been appointed pursuant to sections 487.020 to 487.040, RSMo, shall pay to and reimburse the state for the actual costs of that portion of the salaries of family court commissioners appointed pursuant to the provisions of sections 487.020 to 487.040, RSMo.

6. No moneys deposited in the family services and justice fund may be expended for capital improvements."; and

Further amend said title, enacting clause and intersectional references accordingly.

On motion of Representative Jones (89), **House Amendment No. 1** was adopted.

Representative Pratt offered **House Amendment No. 2**.

House Amendment No. 2

AMEND House Committee Substitute for Senate Bill No. 516, Page 30, Section 195.202, Line 7, by inserting after the word "**violates**" the words "**subsection 2 of**"; and

Further amend House Committee Substitute for Senate Bill No. 516, Page 30, Section 195.202, Line 9, by inserting after all of said line the following:

"210.854. 1. In the event of the entry of a judgment of paternity and support, a person against whom such a judgment has been entered may file a petition requesting a circuit court with jurisdiction over the subject child or children to set aside said judgment in the interests of justice and upon the grounds set forth in this section. Any such petition shall be served upon the biological mother and any other legal guardian or custodian.

2. The petition shall include an affidavit executed by the petitioner alleging that evidence exists which was not considered before entry of judgment and either:

(1) An allegation that genetic testing was conducted within ninety days prior to the filing of such petition using DNA methodology to determine the probability or improbability of paternity, and performed by an expert as defined in section 210.834. The affidavit shall also allege that the test results indicate a ninety-nine percent or greater probability that the person subject to the child support payment order is not the child's father; or

(2) A request to the court for an order of genetic paternity testing using DNA methodology.

3. The court, after a hearing wherein all interested parties have been given an opportunity to present evidence and be heard, may order the relevant parties to submit to genetic paternity testing upon a finding of probable cause to believe said testing may result in a determination of non-paternity. The genetic paternity testing costs shall be paid by the petitioner.

4. The court shall grant relief on the petition and enter judgment setting aside the previous judgment of paternity and support, or acknowledgment of paternity under section 210.823, extinguish any existing child support arrearage, and order the department of health and senior services to modify the child's birth certificate accordingly upon a finding that the genetic test referred to herein was properly conducted, accurate and indicates a ninety-nine percent or greater probability that the person subject to the child support payment order is not the child's father.

5. The provisions of this section shall not apply to grant relief to the parent of any adopted child.

6. A finding under subsection 4 of this section shall constitute a material mistake of fact under section 210.823.

7. Notwithstanding any other provision of law to the contrary, an action under this section may be brought at any time.

8. The provisions of this section shall not be construed to create a cause of action to recover child support or state debt, under subdivision (2) of subsection 1 of section 454.465, RSMo, and subsection 10 of section 425.340, RSMo, that was previously paid pursuant to the order. The petitioner shall have no right for reimbursement for any moneys previously paid pursuant to said order."; and

Further amend said bill, Page 66, Section 407.300, Line 29, by deleting from said line the word "**business.**" and inserting in lieu thereof the following:

"business; or

(4) Any transaction for which the type of metal subject to subsection 1 of this section is a minor part of a larger item, except for equipment used in the generation and transmission of electric power."; and

Further amend said bill, Page 77, Section 429.010, Line 40, by deleting the word "**this**" and inserting after the word "**subsection**" the number "**2**"; and

Further amend House Committee Substitute for Senate Bill No. 516, Page 100, Section 455.038, Line 10, by inserting after all of said line the following:

"The provisions of this section shall only apply to those circuit clerks able to access a statewide victim notification system designed to provide notification of service of orders of protection."; and

Further amend House Committee Substitute for Senate Bill No. 516, Page 103, Section 478.463, Line 8, by inserting after the word "**twenty**" the word "**shall**"; and

Further amend House Committee Substitute for Senate Bill No. 516, Page 107, Section 484.280, Line 6, by inserting after the word "**compensation**", the following:

"; however, no state court judge serving pursuant to article V, Constitution of Missouri, shall be permitted to engage in the practice of law during his or her term in office, except for such limited purpose as authorized by supreme court rule"; and

Further amend House Committee Substitute for Senate Bill No. 516, Page 110, Section 488.2253, Line 1, by deleting the phrase "**1.**"; and

Further amend said section, Page 111, Lines 6-15, by deleting all of said lines; and

Further amend House Committee Substitute for Senate Bill No. 516, Page 113, Section 510.120, Line 9, by inserting an open bracket "[" immediately preceding the word "more"; and

Further amend said section, Page 113, Line 10, by inserting a closed bracket "]" after the word "subsection"; and

Further amend House Committee Substitute for Senate Bill No. 516, Page 117, Section 548.260, Line 27, by inserting after all of said line the following:

"556.036. 1. A prosecution for murder, forcible rape, attempted forcible rape, forcible sodomy, attempted forcible sodomy, or any class A felony may be commenced at any time.

2. Except as otherwise provided in this section, prosecutions for other offenses must be commenced within the following periods of limitation:

- (1) For any felony, three years;
- (2) For any misdemeanor, one year;
- (3) For any infraction, six months.

3. If the period prescribed in subsection 2 of this section has expired, a prosecution may nevertheless be commenced for:

(1) Any offense a material element of which is either fraud or a breach of fiduciary obligation within one year after discovery of the offense by an aggrieved party or by a person who has a legal duty to represent an aggrieved party and who is himself or herself not a party to the offense, but in no case shall this provision extend the period of limitation by more than three years. As used in this subdivision, the term "person who has a legal duty to represent an aggrieved party" shall mean the attorney general or the prosecuting or circuit attorney having jurisdiction pursuant to section 407.553, RSMo, for purposes of offenses committed pursuant to sections 407.511 to 407.556, RSMo; and

(2) Any offense based upon misconduct in office by a public officer or employee at any time when the defendant is in public office or employment or within two years thereafter, but in no case shall this provision extend the period of limitation by more than three years; [and]

(3) Any offense based upon an intentional and willful fraudulent claim of child support arrearage to a public servant in the performance of his or her duties within one year after discovery of the offense, but in no case shall this provision extend the period of limitation by more than three years; **and**

(4) Any violation of sections 569.040 to 569.055, RSMo, within five years.

4. An offense is committed either when every element occurs, or, if a legislative purpose to prohibit a continuing course of conduct plainly appears, at the time when the course of conduct or the defendant's complicity therein is terminated. Time starts to run on the day after the offense is committed.

5. A prosecution is commenced for a misdemeanor or infraction when the information is filed and for a felony when the complaint or indictment is filed.

6. The period of limitation does not run:

(1) During any time when the accused is absent from the state, but in no case shall this provision extend the period of limitation otherwise applicable by more than three years; or

(2) During any time when the accused is concealing himself from justice either within or without this state;
or
(3) During any time when a prosecution against the accused for the offense is pending in this state; or
(4) During any time when the accused is found to lack mental fitness to proceed pursuant to section 552.020, RSMo."; and

Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.

Representative Darrough raised a point of order that **House Amendment No. 2** goes beyond the scope of the bill.

Representative Tilley requested a parliamentary ruling.

The Parliamentary Committee ruled the point of order not timely.

On motion of Representative Pratt, **House Amendment No. 2** was adopted.

Representative Dixon offered **House Amendment No. 3**.

Representative Skaggs raised a point of order that **House Amendment No. 3** goes beyond the scope of the bill.

Representative Tilley requested a parliamentary ruling.

The Parliamentary Committee ruled the point of order well taken.

Representative Bivins offered **House Amendment No. 4**.

Representative Darrough raised a point of order that **House Amendment No. 4** is not germane to the bill.

Representative Tilley requested a parliamentary ruling.

The Parliamentary Committee ruled the point of order well taken.

Representative Lipke offered **House Amendment No. 5**.

House Amendment No. 5

AMEND House Committee Substitute for Senate Bill No. 516, Page 117, Section 548.260, Lines 1-27, by removing all of said lines from the bill; and

Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.

On motion of Representative Lipke, **House Amendment No. 5** was adopted.

Representative Grill offered **House Amendment No. 6**.

House Amendment No. 6

AMEND House Committee Substitute for Senate Bill No. 516, Page 115, Section 535.025, Lines 1-4, by striking said lines.

Representative Grill moved that **House Amendment No. 6** be adopted.

Which motion was defeated.

HCS SB 516, as amended, was laid over.

BILL CARRYING REQUEST MESSAGE

CCR#2 HCS SCS SB 64, as amended, relating to elementary and secondary education, was taken up by Representative Wallace.

Wallace moved that the House grant the Senate a further conference on **HCS SCS SB 642, as amended**.

Which motion was adopted.

Representative Jones (89) assumed the Chair.

BILL IN CONFERENCE

CCR HCS SCS SBs 62 & 41, as amended, relating to defensive use of force and firearms, was taken up by Representative Ruestman.

On motion of Representative Ruestman, **CCR HCS SCS SBs 62 & 41, as amended**, was adopted by the following vote:

AYES: 151

Aull	Avery	Baker 25	Baker 123	Bearden
Bivins	Bland	Brandom	Bringer	Brown 30
Brown 50	Burnett	Casey	Chappelle-Nadal	Cooper 120
Cooper 155	Cooper 158	Corcoran	Cox	Cunningham 86
Darrough	Daus	Davis	Day	Deeken
Dempsey	Denison	Dethrow	Dixon	Donnelly
Dougherty	Dusenberg	El-Amin	Emery	Ervin
Faith	Fallert	Fares	Fisher	Flook
Frame	Funderburk	George	Grill	Guest
Harris 23	Harris 110	Haywood	Hobbs	Hodges
Holsman	Hoskins	Hubbard	Hughes	Hunter
Ice	Johnson	Jones 89	Jones 117	Kelly
Kingery	Komo	Kratky	Kraus	Kuessner
Lampe	Lembke	LeVota	Liese	Lipke
Loehner	May	McClanahan	McGhee	Meadows
Meiners	Moore	Munzlinger	Muschany	Nance
Nieves	Nolte	Norr	Onder	Page
Parson	Pearce	Pollock	Portwood	Pratt
Quinn 7	Quinn 9	Richard	Robb	Robinson
Roorda	Rucker	Ruestman	Ruzicka	Salva
Sander	Sater	Scavuzzo	Schaaf	Schad
Scharnhorst	Schieffer	Schlottach	Schneider	Schoeller
Schoemehl	Self	Shively	Silvey	Skaggs
Smith 14	Smith 150	Spreng	Stevenson	St. Onge
Storch	Stream	Sutherland	Swinger	Talboy
Thomson	Threlkeld	Tilley	Todd	Viebrock
Villa	Vogt	Wallace	Walsh	Walton
Wasson	Wells	Weter	Whorton	Wildberger

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Wilson 119	Wilson 130	Witte	Wood	Wright 159
Yaeger	Yates	Young	Zimmerman	Zweifel
Mr Speaker				

NOES: 006

Bowman	Curls	Low 39	Nasheed	Oxford
Wright-Jones				

PRESENT: 000

ABSENT WITH LEAVE: 006

Bruns	Cunningham 145	Franz	Grisamore	Lowe 44
Marsh				

On motion of Representative Ruestman, **CCS HCS SCS SBs 62 & 41**, was truly agreed to and finally passed by the following vote:

AYES: 151

Aull	Avery	Baker 25	Baker 123	Bearden
Bivins	Bland	Brandom	Bringer	Brown 30
Brown 50	Bruns	Burnett	Casey	Chappelle-Nadal
Cooper 120	Cooper 155	Cooper 158	Corcoran	Cox
Cunningham 86	Darrough	Daus	Davis	Day
Deeken	Dempsey	Denison	Dethrow	Dixon
Donnelly	Dougherty	Dusenberg	El-Amin	Emery
Ervin	Faith	Fallert	Fares	Fisher
Flook	Frame	Funderburk	George	Grill
Guest	Harris 23	Harris 110	Haywood	Hobbs
Hodges	Holsman	Hoskins	Hubbard	Hughes
Hunter	Icet	Johnson	Jones 89	Jones 117
Kelly	Kingery	Komo	Kratky	Kraus
Kuessner	Lampe	LeVota	Liese	Lipke
Loehner	May	McClanahan	McGhee	Meadows
Meiners	Moore	Munzlinger	Muschany	Nance
Nieves	Nolte	Norr	Onder	Page
Parson	Pearce	Pollock	Portwood	Pratt
Quinn 7	Quinn 9	Richard	Robb	Robinson
Roorda	Rucker	Ruestman	Ruzicka	Salva
Sander	Sater	Scavuzzo	Schaaf	Schad
Scharnhorst	Schieffer	Schlottach	Schneider	Schoeller
Schoemehl	Self	Shively	Silvey	Skaggs
Smith 14	Smith 150	Spreng	Stevenson	St. Onge
Storch	Stream	Sutherland	Swinger	Talboy
Thomson	Threlkeld	Tilley	Todd	Viebrock
Villa	Vogt	Wallace	Walsh	Walton
Wasson	Wells	Weter	Whorton	Wildberger
Wilson 119	Wilson 130	Witte	Wood	Wright 159
Yaeger	Yates	Young	Zimmerman	Zweifel
Mr Speaker				

NOES: 006

Bowman Curls Low 39 Nasheed Oxford
Wright-Jones

PRESENT: 000

ABSENT WITH LEAVE: 006

Cunningham 145 Franz Grisamore Lembke Lowe 44
Marsh

Representative Jones (89) declared the bill passed.

MESSAGES FROM THE SENATE

Mr. Speaker: I am instructed by the Senate to inform the House of Representatives that the Senate refuses to recede from its position on **SCS HCS HB 159** and grants the House a conference thereon and the conferees be allowed to exceed the differences so as to exclude second, third and fourth class counties from the entire bill, and that the conferees are bound thereto.

Mr. Speaker: I am instructed by the Senate to inform the House of Representatives that the President Pro Tem has appointed the following Conference Committee to act with a like Committee from the House on **SCS HCS HB 159**: Senators Engler, Lager, Griesheimer, Green and Callahan.

Mr. Speaker: I am instructed by the Senate to inform the House of Representatives that the Senate refuses to recede from its position on **SS SCS HCS HB 780, as amended**, and grants the House a conference thereon.

Mr. Speaker: I am instructed by the Senate to inform the House of Representatives that the President Pro Tem has appointed the following Conference Committee to act with a like Committee from the House on **SS SCS HCS HB 780, as amended**: Senators Scott, Nodler, Engler, Green and Kennedy.

Mr. Speaker: I am instructed by the Senate to inform the House of Representatives that the Senate has taken up and passed **SS SCS HCS HBs 952 & 674**, entitled:

An act to repeal sections 198.073, 198.076, 198.079, 198.086, and 320.202, RSMo, and to enact in lieu thereof eight new sections relating to protection of vulnerable persons in long-term care facilities, with a termination date for a certain section.

With Senate Amendment No. 1, Senate Amendment No. 1 to Senate Amendment No. 2, Senate Amendment No. 2, as amended, Senate Substitute Amendment No. 1 for Senate Amendment No. 3 and Senate Amendment No. 6.

Senate Amendment No. 1

AMEND Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill Nos. 952 & 674, Page 14, Section 198.076, Lines 17-19, by deleting all of said line; and

Further amend said bill, Section 198.079, Page 15, Lines 24-26 of said page, by deleting all of said line.

Senate Amendment No. 1
to
Senate Amendment No. 2

AMEND Senate Amendment No. 2 to Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill Nos. 952 & 674, Page 1, Section 198.074, Line 3, by striking “thirty” and inserting in lieu thereof “**twenty**”.

Senate Amendment No. 2

AMEND Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill Nos. 952 & 674, Page 9, Section 198.074, Line 14 of said page, by inserting immediately following the word “facilities” on said line “with more than thirty residents”.

Senate Substitute Amendment No. 1
for
Senate Amendment No. 3

AMEND Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill Nos. 952 & 674, Pages 21-22, Section 1, by striking said section from the bill; and

Further amend the title and enacting clause accordingly.

Senate Amendment No. 6

AMEND Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill Nos. 952 & 674, Page 11, Section 198.074, Line 8, by adding at the end of said line the following:

“(4) No payments or interest shall be due until the average total reimbursement rate for the care of persons eligible for Medicaid public assistance is equal to or greater than forty-eight dollars.”.

In which the concurrence of the House is respectfully requested.

Mr. Speaker: I am instructed by the Senate to inform the House of Representatives that the Senate refuses to concur in **HCS SS SCS SB 22, as amended**, and requests the House to recede from its position and, failing to do so, grant the Senate a conference thereon.

Mr. Speaker: I am instructed by the Senate to inform the House of Representatives that the Senate has taken up and adopted the Conference Committee Report on **HCS SB 30, as amended**, and has taken up and passed **CCS HCS SB 30**.

Mr. Speaker: I am instructed by the Senate to inform the House of Representatives that the President Pro Tem has appointed the following Conference Committee to act with a like Committee from the House on **HCS SCS SB 64, as amended**: Senators Goodman, Shields, Mayer, Smith and Wilson.

Mr. Speaker: I am instructed by the Senate to inform the House of Representatives that the Senate has taken up and adopted the Conference Committee Report on **HCS SCS SB 82, as amended**, and has taken up and passed **CCS HCS SCS SB 82**.

Mr. Speaker: I am instructed by the Senate to inform the House of Representatives that the Senate has taken up and adopted the Conference Committee Report on **HCS SB 84, as amended**, and has taken up and passed **CCS HCS SB 84**.

Mr. Speaker: I am instructed by the Senate to inform the House of Representatives that the President Pro Tem has appointed the following Conference Committee to act with a like Committee from the House on **HCS SCS SB 86, as amended**: Senators Champion, Lager, Griesheimer, Bray and Kennedy.

Mr. Speaker: I am instructed by the Senate to inform the House that the Senate refuses to adopt the Conference Committee Report on **HCS SCS SB 308, as amended**, and requests the House grant further conference.

Mr. Speaker: I am instructed by the Senate to inform the House of Representatives that the Senate refuses to concur in **HCS SS SCS SB 429, as amended**, and requests the House to recede from its position and, failing to do so, grant the Senate a conference thereon.

Speaker Jetton resumed the Chair.

APPOINTMENT OF CONFERENCE COMMITTEE

The Speaker appointed the following Conference Committee to act with a like Committee from the Senate on the following bill:

HCS SCS SB 64: Representatives Wallace, Cunningham (86), Muschany, Aull and Lampe

Representative Jones (89) resumed the Chair.

BILL CARRYING REQUEST MESSAGE

HCS SCS SB 308, as amended, relating to licensed professionals, was taken up by Representative Wasson.

Wasson moved that the House grant the Senate a further conference on **HCS SCS SB 308, as amended**.

Representative Skaggs moved to amend the motion by adding "and to exceed the differences to include HB 818 without the midwifery provision."

Representative Yates raised a point of order that the amending motion was improperly drafted.

Speaker Pro Tem Bearden resumed the Chair.

The Chair ruled the point of order well taken.

Representative Wasson again moved that the House grant the Senate a further conference on **HCS SCS SB 308, as amended**.

Which motion was adopted.

REFERRAL OF SENATE BILL

The following Senate Bill was referred to the Committee indicated:

HCS#2 SS SCS SB 3 - Fiscal Review (Fiscal Note)

**CONFERENCE COMMITTEE REPORT
ON
HOUSE BILL NO. 574**

The Conference Committee appointed on House Bill No. 574, with Senate Amendment No. 1 and Senate Amendment No. 3, begs leave to report that we, after free and fair discussion of the differences, have agreed to recommend and do recommend to the respective bodies as follows:

1. That the Senate recede from its position on House Bill No. 574, as amended;
2. That the House recede from its position on House Bill No. 574;
3. That the attached Conference Committee Substitute for House Bill No. 574, be Third Read and Finally Passed.

FOR THE HOUSE:

/s/ Neal St. Onge
/s/ Charles Schlottach
/s/ Walter Bivins
/s/ Michael Daus
/s/ John Kuessner

FOR THE SENATE:

/s/ Bill Stouffer
/s/ Scott Rupp
/s/ Matt Bartle
/s/ Harry Kennedy
/s/ Ryan McKenna

**CONFERENCE COMMITTEE REPORT
ON
HOUSE COMMITTEE SUBSTITUTE
FOR
SENATE COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 82**

The Conference Committee appointed on House Committee Substitute for Senate Committee Substitute for Senate Bill No. 82, with House Amendment Nos. 1, 2, 3, 4, 5, 6, 9, 10, and 11, House Amendment No. 1 to House Amendment No. 12, House Amendment No. 12 as amended, House Amendment Nos. 15, 16, 17, 19, 20, 21, and 22, begs leave to report that we, after free and fair discussion of the differences, have agreed to recommend and do recommend to the respective bodies as follows:

1. That the House recede from its position on House Committee Substitute for Senate Committee Substitute for Senate Bill No. 82, as amended;
2. That the Senate recede from its position on Senate Committee Substitute for Senate Bill No. 82;
3. That the attached Conference Committee Substitute for House Committee Substitute for Senate Committee Substitute for Senate Bill No. 82, be Third Read and Finally Passed.

FOR THE SENATE:

/s/ John Griesheimer
/s/ Bill Stouffer
/s/ Carl Vogel
/s/ Rita Heard Days
/s/ Joan Bray

FOR THE HOUSE:

/s/ Steven Tilley
/s/ Dwight Scharnhorst
/s/ Michael Parson
/s/ Bradley Robinson

[illegible]

Subscribed and sworn to before me this 15th day of May in the year 2007.

/s/ Carrie Young
Notary Public

I, State Representative Scott Muschany, District 87, hereby state and affirm that my vote as recorded on Page 1808 of the House Journal for May 11, 2007 was incorrectly recorded Absent. Pursuant to House Rule 89, I ask that the Journal be corrected to show that I voted Aye. I further state and affirm that I was present in the House Chamber at the time this vote was taken, I did in fact vote, and my vote or absence was incorrectly recorded.

IN WITNESS WHEREOF, I have hereunto subscribed my hand to this affidavit on this 15th day of May 2007.

/s/ Scott Muschany
State Representative

State of Missouri)
) ss.
County of Cole)

Subscribed and sworn to before me this 15th day of May in the year 2007.

/s/ Carrie Young
Notary Public

I, State Representative Jeff Roorda, District 102, hereby state and affirm that my vote as recorded on Page 1711 of the House Journal for May 10, 2007 was incorrectly recorded as Aye. Pursuant to House Rule 89, I ask that the Journal be corrected to show that I voted No. I further state and affirm that I was present in the House Chamber at the time this vote was taken, I did in fact vote, and my vote was incorrectly recorded.

IN WITNESS WHEREOF, I have hereunto subscribed my hand to this affidavit on this 15th day of May 2007.

/s/ Jeff Roorda
State Representative

State of Missouri)
) ss.
County of Cole)

Subscribed and sworn to before me this 15th day of May in the year 2007.

/s/ Carrie Young
Notary Public

I, State Representative Jay Wasson, District 141, hereby state and affirm that my vote as recorded on Page 1896 of the House Journal for May 14, 2007 was incorrectly recorded as Absent. Pursuant to House Rule 89, I ask that the Journal be corrected to show that I voted Aye. I further state and affirm that I was present in the House Chamber at the time this vote was taken, I did in fact vote, and my vote was incorrectly recorded.

IN WITNESS WHEREOF, I have hereunto subscribed my hand to this affidavit on this 15th day of May 2007.

/s/ Jay Wasson
State Representative

State of Missouri)
) ss.
County of Cole)

Subscribed and sworn to before me this 15th day of May in the year 2007.

/s/ Carrie Young
Notary Public

COMMITTEE MEETINGS

CONFERENCE COMMITTEE NOTICE

Wednesday, May 16, 2007, 8:45 a.m. Senate Committee Room No. 2.
Conference Committee on HCS SCS SB 156 AMENDED

CONFERENCE COMMITTEE NOTICE

Wednesday, May 16, 2007, 1:00 p.m. Hearing Room 6.
Conference Committee on SS SCS HB 255.

FISCAL REVIEW

Wednesday, May 16, 2007, 8:00 a.m. Hearing Room 1.
Any bills referred to the Fiscal Review Committee.

FISCAL REVIEW

Thursday, May 17, 2007, 8:00 a.m. Hearing Room 1.
Any bills referred to the Fiscal Review Committee.

FISCAL REVIEW

Friday, May 18, 2007, 8:00 a.m. Hearing Room 1.
Any bills referred to the Fiscal Review Committee.

RULES - PURSUANT TO RULE 25(21)(f)

Wednesday, May 16, 2007, 8:30 a.m. Hearing Room 6.
Any bill referred to the Committee on Rules Pursuant to Rule 25(21)(f).
Executive session may follow. CANCELLED

HOUSE CALENDAR

SEVENTY-SIXTH DAY, WEDNESDAY, MAY 16, 2007

HOUSE JOINT RESOLUTIONS FOR PERFECTION

- 1 HJR 21 - Cooper (120)
- 2 HCS HJR 9 - Dethrow
- 3 HJR 6 - Bruns
- 4 HCS HJR 20 - Bearden
- 5 HCS HJR 31 - Lembke

HOUSE BILLS FOR PERFECTION

- 1 HCS HB 90, HA 1, pending - St. Onge
- 2 HCS HB 889 - Emery
- 3 HCS HB 111, as amended, HA 2, pending - Cunningham (145)
- 4 HCS HB 466 - Schaaf

- 5 HCS HB 771 - Bearden
- 6 HCS HBs 180, 396 & 615 - Day
- 7 HCS HB 238 - Yates
- 8 HB 360, HSA 1 for HA 1, HA 1, pending - Robb
- 9 HCS HB 788 - Cooper (155)
- 10 HCS HB 218 - Stevenson
- 11 HCS HB 811 - Schad
- 12 HB 412 - Emery
- 13 HB 432 - Schaaf
- 14 HCS HB 699 - Tilley
- 15 HCS HB 768 - St. Onge
- 16 HCS HB 122 - Nance
- 17 HCS HB 487 - Cooper (120)
- 18 HCS HB 493 - Baker (123)
- 19 HCS HB 512 - Pratt
- 20 HCS HB 261, as amended - Yates
- 21 HB 746 - Franz
- 22 HB 882 - Page
- 23 HCS HB 1002 - Fisher
- 24 HCS HB 124 - Nance
- 25 HCS HB 765, HA 1, pending - Dempsey
- 26 HCS HBs 807 & 690 - Baker (123)
- 27 HCS HB 121 - Nance
- 28 HB 249 - Moore
- 29 HCS HB 252 - Robb
- 30 HCS HB 417 - Cunningham (86)
- 31 HCS HB 478 - Dethrow
- 32 HCS HB 490 - Baker (123)
- 33 HCS HB 508 - Schaaf
- 34 HCS HB 709 - Dethrow
- 35 HB 821, HA 1, pending - Onder
- 36 HCS HB 995 - Hobbs
- 37 HCS#2 HB 85 - Kraus
- 38 HCS HB 399 - Walton
- 39 HCS HB 624 - Wilson (119)
- 40 HCS#2 HB 752 - Sutherland
- 41 HCS HB 1000 - Storch
- 42 HCS HB 1044 - Deeken
- 43 HCS HB 244 - Wells
- 44 HCS HB 587 - Tilley
- 45 HCS HB 628 - Loehner
- 46 HCS HB 629 - Hunter
- 47 HCS HB 872 - Cooper (158)
- 48 HCS HB 913 - Cooper (120)
- 49 HB 932 - Grill
- 50 HCS HB 1089 - Stevenson
- 51 HCS HB 347 - Munzlinger
- 52 HB 439 - Hunter
- 53 HCS HB 630 - Schlottach
- 54 HB 646 - Young
- 55 HCS HB 919 - Schneider
- 56 HCS HB 944 - Cooper (120)
- 57 HCS HB 1264 - Page
- 58 HCS HB 425 - Pearce

59 HCS HB 429 - Jones (117)
60 HCS HB 716 - Davis
61 HCS HB 95 - Sater
62 HB 479 - Darrough
63 HB 733 - Page
64 HCS HB 769 - Bruns
65 HCS HB 802, *HA 2 to HA 1, HA 1, pending - Page
66 HB 1155 - Wright-Jones
67 HCS HB 442 - Kingery
68 HB 727 - Portwood
69 HB 888 - Grisamore
70 HCS HB 923 - Kratky
71 HB 1251 - Komo
72 HCS HB 331 - Lipke
73 HCS#2 HB 735 - Cooper (158)
74 HCS HB 833 - Wasson
75 HB 1104 - Hughes
76 HCS HBs 112, 26, 37, 78, 79 & 154 - Pearce
77 HCS HB 886 - Schlottach
78 HCS HB 869 - Holsman
79 HB 1052 - Brown (50)
80 HCS HB 1272 - El-Amin
81 HCS HB 1023 - Quinn (7)
82 HCS HB 1108 - Pratt
83 HCS#2 HBs 406 & 726 - Cox
84 HCS HB 968 - Bivins
85 HB 1034 - Emery

HOUSE CONCURRENT RESOLUTION FOR THIRD READING

HCR 49, (4-23-07, Pages 1277-1278) - Portwood

HOUSE BILL FOR THIRD READING

HCS HBs 365, 804 & 805, (Fiscal Review 4-03-07) - Ervin

HOUSE BILL FOR THIRD READING - CONSENT

HB 910 - Fares

HOUSE CONCURRENT RESOLUTIONS

1 HCR 28, (2-27-07, Pages 438-439) - Walton
2 HCS HCR 21, (3-29-07, Pages 852-853) - Dethrow
3 HCR 33, (3-30-07, Pages 872-873) - Guest
4 HCR 43, (4-12-07, Pages 1081-1082) - Page
5 HCS HCR 26, (3-14-07, Pages 686-688) - El-Amin
6 HCR 54, (4-18-07, Pages 1202-1203) - Sutherland
7 HCR 38, (4-19-07, Page 1248) - Wright
8 HCR 44, (4-24-07, Page 1314) - Smith (14)
9 HCS HCR 45, (4-25-07, Page 1347) - Roorda
10 HCS HCR 5, (5-08-07, Pages 1618-1619) - Burnett

SENATE BILLS FOR THIRD READING

- 1 SB 135 - Kingery
- 2 HCS SCS SB 232 - Cooper (158)
- 3 HCS SCS SB 520 - Hunter
- 4 HCS SB 593 & SCS SB 594 - May
- 5 SB 648 - Kelly
- 6 HCS SS SCS SB 320 - Quinn (7)
- 7 SCS SB 418 - Weter
- 8 HCS SB 218 - Deeken
- 9 HCS SS SB 112 - Faith
- 10 SB 271 - Pearce
- 11 HCS SS#2 SCS SB 161, (Fiscal Review 5-07-07) - Muschany
- 12 HCS SB 315 - Munzlinger
- 13 HCS SCS SB 52, (Fiscal Review 5-07-07), E.C. - St. Onge
(150 minutes debate on Third Reading)
- 14 SB 162 - Deeken
- 15 SB 171 - Wasson
- 16 HCS SCS SB 197 - Yates
- 17 HCS SS SCS SBs 255, 249 & 279, E.C. - Muschany
- 18 SS SB 417 - Parson
- 19 HCS SB 419, (Fiscal Review 5-07-07) - Hobbs
- 20 HCS SCS SB 497 - Wilson (119)
- 21 SCS SB 525 - Wasson
- 22 SCS SB 526 - Wasson
- 23 HCS SS SCS SB 5, E.C. - Cox
- 24 HCS SS SCS SB 85 - Dixon
- 25 SS SCS SB 215, HCA 1 - Yates
- 26 HCS SCS SB 299 & SS SCS SB 616 - Cooper (120)
- 27 HCS SB 323 - Baker (25)
- 28 HCS SB 325 - Yates
- 29 HCS SCS SB 328, (Fiscal Review 5-10-07) - Robb
- 30 SB 481 - Pratt
- 31 SCS SB 482 - Bearden
- 32 HCS SB 582, (Fiscal Review 5-10-07) - Sutherland
(90 minutes date on Third Reading)
- 33 SB 671 - Pratt
- 34 HCS#2 SCS SB 313 - Sutherland
- 35 HCS SB 516, as amended - Pratt
- 36 HCS#2 SCS SB 333 - Cooper (155)
- 37 SS SCS SB 21, E.C. - Schlottach
- 38 HCS SS SB 40, (Fiscal Review 5-14-07) - Ervin
- 39 HCS SCS SBs 45 & 39 - Stevenson
- 40 HCS SCS SB 75 - Day
- 41 HCS#2 SCS SB 163, (Fiscal Review 5-14-07) - Pratt
- 42 HCS SCS SB 368, (Fiscal Review 5-14-07) - Pratt
- 43 HCS SS SCS SB 428, (Fiscal Review 5-14-07), E.C. - Quinn (7)
- 44 SB 605 - St. Onge
- 45 SCS SB 611, (Fiscal Review 5-14-07) - Pratt
- 46 HCS SS SB 654 - Kratky
- 47 SS SCS SB 225 - Munzlinger
- 48 HCS#2 SS SCS SB 3, (Fiscal Review 5-15-07) - Stevenson

HOUSE BILLS WITH SENATE AMENDMENTS

- 1 SS HB 134 - Guest
- 2 SCS HCS HB 298 - Cooper (120)
- 3 SS HB 579, E.C. - Dempsey
- 4 SCS HCR 20, (5-14-07) - Guest
- 5 SS SCS HCS HBs 952 & 674, as amended - Wilson (130)

BILLS CARRYING REQUEST MESSAGES

- 1 HCS SS SCS SB 22, as amended, E.C. - Schneider
(request House recede/grant conference)
- 2 HCS SS SCS SB 429, as amended - Stream
(request House recede/grant conference)
- 3 SS HB 744, as amended - St. Onge
(request Senate recede/grant conference/exceed differences/bind conferees)

BILLS IN CONFERENCE

- 1 CCR HCS SB 30, as amended, E.C. - Stevenson
- 2 CCR HCS SB 81, as amended, E.C. - Schlottach
- 3 CCR HCS SB 25, as amended - Franz
- 4 CCR HB 574, SA 1, SA 3, E.C. - St. Onge
- 5 SS HB 665, as amended - Ervin
- 6 CCR#2 HCS#2 SB 406, as amended - Wallace
- 7 CCR HCS SCS SB 82, as amended - Tilley
- 8 CCR HCS SB 84, as amended - Franz
- 9 CCR HCS SB 416 - Pratt
- 10 HCS SCS SB 156, as amended, E.C. - Quinn (7)
- 11 SS SCS HB 255, as amended, E.C. - Bruns
- 12 HCS SCS SB 86, as amended, E.C. - Sutherland
- 13 HCS SS SCS SB 577, as amended, E.C. - Schaaf
- 14 SCS HCS HB 159, (exceed differences/bind conferees) - Bivins
- 15 SS SCS HCS HB 780, as amended - Wasson
- 16 HCS SCS SB 64, as amended - Wallace
- 17 HCS SCS SB 308, as amended - Wasson