

SECOND REGULAR SESSION

# HOUSE BILL NO. 2560

## 94TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE AULL.

Read 1st time April 1, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

5593L.01I

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### AN ACT

To amend chapter 379, RSMo, by adding thereto nineteen new sections relating to flood insurance.

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

Section A. Chapter 379, RSMo, is amended by adding thereto nineteen new sections, to  
2 be known as sections 379.1200, 379.1203, 379.1206, 379.1209, 379.1212, 379.1215, 379.1218,  
3 379.1221, 379.1224, 379.1227, 379.1230, 379.1233, 379.1236, 379.1239, 379.1242, 379.1245,  
4 379.1248, 379.1251, and 379.1254, to read as follows:

**379.1200. Sections 379.1200 to 379.1254 shall be known and may be cited as the**  
2 **"Missouri Man-made Spring River Rise Flood Insurance Act".**

**379.1203. As used in sections 379.1200 to 379.1254, the following terms mean:**

2 (1) **"Authority", the Missouri man-made spring river rise flood insurance**  
3 **authority;**

4 (2) **"Bond resolution", any indenture, resolution or other financing document**  
5 **under which revenue bonds, notes or other forms of indebtedness of the authority are**  
6 **issued or secured;**

7 (3) **"Department", the Missouri department of insurance, financial institutions and**  
8 **professional registration;**

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

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

11           (5) "Flood insurance", the coverage against direct loss due to flooding caused by  
12 man-made spring river rises to real and tangible personal property at a fixed location. Any  
13 contract, as defined in section 375.918, RSMo, of the Missouri man-made spring river rise  
14 flood insurance authority shall be subject to the provisions of section 375.918, RSMo;

15           (6) "Insurer", any insurance company, reciprocal or interinsurance exchange or  
16 other organization licensed and authorized by the director to write flood insurance in this  
17 state;

18           (7) "Man-made spring river rise flooding", flooding caused by a rise in river levels  
19 as a direct result of actions taken by a person or persons, including but not limited to  
20 release of water upstream, artificial redirection of water flow, or diversion of water;

21           (8) "Person" includes any individual or group of individuals, corporation,  
22 partnership, or association, or any other organized group of persons;

23           (9) "Property owner", with respect to any real, personal, or mixed real and  
24 personal property, means any person having an insurable interest in such property.

          379.1206. In order to assure that all property owners in areas subject to flooding  
2 due to man-made spring river rises have access to flood insurance, there is hereby created  
3 a body politic and corporate to be known as the "Missouri Man-made Spring River Rise  
4 Flood Insurance Authority". The authority is hereby constituted a public instrumentality  
5 and body corporate, and the exercise by the authority of the powers conferred by sections  
6 379.1200 to 379.1254 shall be deemed to be the performance of an essential public function.  
7 The authority shall consist of seven members, six of whom shall be appointed by the  
8 governor by and with the advice and consent of the senate, each of whom shall be a  
9 resident of the state, and the director of the department of insurance, financial institutions  
10 and professional registration. Two of the appointed members shall be representatives of  
11 affected property owners in Missouri, two of the appointed members shall be  
12 representatives of insurers offering flood insurance policies in Missouri, and two of the  
13 appointed members shall be representative of the public. The members of the authority  
14 first appointed by the governor shall be appointed to serve staggered terms of two and four  
15 years from the date of appointment, or until their successors shall have been appointed and  
16 shall have qualified, with one member from each of the categories listed in this section  
17 appointed to a two-year term and one member appointed to a four-year term. The initial  
18 term of each member is to be designated by the governor at the time of making the  
19 appointment. Upon the expiration of the initial terms of office, successor members shall  
20 be appointed for terms of four years and shall serve until their successors shall have been  
21 appointed and shall have qualified. Any member shall be eligible for reappointment. The  
22 governor shall fill any vacancy in the authority for the members the governor appoints for

23 the remainder of the unexpired term. Any member of the authority may be removed by  
24 the governor for misfeasance, malfeasance, willful neglect of duty, or other cause after  
25 notice and a public hearing unless the notice or hearing shall be expressly waived in  
26 writing.

379.1209. Four members of the authority shall constitute a quorum for the purpose  
2 of conducting business and exercising the powers of the authority. Action may be taken  
3 by the authority upon the affirmative vote of at least four of its members. Members may  
4 participate in a meeting by means of conference telephone or similar communications  
5 equipment whereby all persons participating in or attending the meeting can communicate  
6 with each other, and participation in a meeting in this manner shall constitute presence in  
7 person at the meeting for all purposes. Each meeting of the authority for any purpose  
8 whatsoever shall be open to the public. Notice of meetings shall be given as provided in the  
9 bylaws of the authority. The proceedings and actions of the authority shall comply with  
10 all statutory requirements respecting the conduct of public business by a public agency.  
11 Members of the authority shall receive no compensation for services but shall be entitled  
12 to reimbursement for necessary expenses, including traveling and lodging expenses,  
13 incurred in the discharge of their duties. Any payment for expenses shall be paid from  
14 funds of the authority.

379.1212. 1. The director of the department of insurance, financial institutions and  
2 professional registration shall call and convene the initial organizational meeting of the  
3 authority and shall serve as its chair pro tem. At the initial meeting and annually  
4 thereafter, the authority shall elect one of its members as chair and one as vice chair. In  
5 addition, at the initial meeting and annually thereafter, the authority shall appoint a  
6 secretary and a treasurer either of whom may be a member of the authority and, if not a  
7 member of the authority, shall receive such compensation as shall be fixed from time to  
8 time by action of the authority. The authority may appoint an executive director who shall  
9 not be a member of the authority and who shall serve at its pleasure. If an executive  
10 director is appointed, he or she shall receive such compensation as shall be fixed from time  
11 to time by action of the authority. The authority may designate the secretary to act in lieu  
12 of the executive director. The secretary shall keep a record of the proceedings of the  
13 authority and shall be the custodian of all books, documents, and papers filed with the  
14 authority, the minute books or journal thereof, and its official seal. The secretary may  
15 cause copies to be made of all minutes and other records and documents of the authority  
16 and may give certificates under the official seal of the authority to the effect that the copies  
17 are true and correct copies, and all persons dealing with the authority may rely on such

18 certificates. The authority, by resolution, shall fix the powers and duties of its executive  
19 director as it may from time to time deem proper and necessary.

20       2. The executive director, with approval of the authority, may hire such additional  
21 employees as may be needed to carry out the functions and purposes of the authority. Such  
22 employees shall receive such compensation as shall be fixed from time to time by action of  
23 the authority.

      379.1215. Notwithstanding any other provision of the law to the contrary, it shall  
2 not be or constitute a conflict of interest for a trustee, director, officer, or employee of any  
3 insurer to serve as a member of the authority, provided such trustee, director, officer, or  
4 employee shall abstain from deliberation, action, and vote by the authority in each instance  
5 where the business affiliation of any such trustee, director, officer, or employee is involved.

      379.1218. The authority shall have the following powers, together with all powers  
2 incidental thereto or necessary for the performance thereof:

- 3       (1) To have perpetual succession as a body politic and corporate;
- 4       (2) To adopt bylaws for the regulation of its affairs and the conduct of its business;
- 5       (3) To sue and be sued and to prosecute and defend, at law or in equity, in any  
6 court having jurisdiction of the subject matter and of the parties;
- 7       (4) To have and to use a corporate seal and to alter the same at pleasure;
- 8       (5) To maintain an office at such place or places in the state of Missouri as it may  
9 designate;
- 10       (6) To issue bonds or other forms of indebtedness to obtain moneys to purchase or  
11 otherwise make available flood insurance policies for property owners affected by man-  
12 made spring river rise flooding. Such bonds or other forms of indebtedness shall be  
13 payable from and secured by a pledge of revenues derived from or by reason of the  
14 payment of premiums by property owners and investment income or shall be payable from  
15 and secured as may be designated in a bond resolution authorized by the authority. Such  
16 bonds or other forms of indebtedness shall not constitute a debt or liability of the state of  
17 Missouri or of any political subdivision thereof;
- 18       (7) To cause proceeds of any bond or any other form of indebtedness to be used to  
19 purchase or otherwise make available flood insurance for property owners affected by  
20 man-made spring river rise flooding;
- 21       (8) To accept appropriations, gifts, grants, bequests, and devises and to utilize or  
22 dispose of the same to carry out its purpose;
- 23       (9) To make and execute contracts, releases, compromises, and other instruments  
24 necessary or convenient for the exercise of its powers, or to carry out its purpose;

25           **(10) To collect reasonable fees and charges in connection with providing or making**  
26 **available such flood insurance. Such fees and charges shall be used to pay the costs of the**  
27 **authority;**

28           **(11) To invest any moneys not required for immediate disbursement in obligations**  
29 **of the state of Missouri or of the United States government or any instrumentality thereof,**  
30 **the principal and interest of which are guaranteed by the state of Missouri, or the United**  
31 **States government or any instrumentality thereof, or certificates of deposit or time deposits**  
32 **of federally insured banks, or federally insured savings and loan associations or of insured**  
33 **credit unions, or, with respect to moneys pledged or held under a trust estate or otherwise**  
34 **available for the owners of bonds or other forms of indebtedness, any investment**  
35 **authorized under the bond resolution governing the security and payment of such**  
36 **obligations or repurchase agreements for the specified investments;**

37           **(12) To acquire, hold and dispose of personal property for its purposes;**

38           **(13) To enter into agreements or other transactions with any federal or state**  
39 **agency, any person and any domestic or foreign partnership, corporation, association or**  
40 **organization;**

41           **(14) To take any necessary actions to be qualified to issue tax-exempt bonds or**  
42 **other forms of tax-exempt indebtedness under the applicable provisions of the Internal**  
43 **Revenue Code of 1986, as amended;**

44           **(15) To take any necessary actions to be qualified to issue bonds or other forms of**  
45 **indebtedness, the interest on which is not exempt from federal income taxation.**

**379.1221. The authority shall not, under any circumstances, be the insurer for**  
2 **purposes of issuance of any flood insurance policy under sections 379.1200 to 379.1254.**

**379.1224. Bonds of the authority may be issued as serial bonds, as term bonds, or**  
2 **as a combination of both types. All such bonds issued by the authority shall be payable**  
3 **solely from and secured by a pledge of revenues derived from or by reason of the payment**  
4 **of premiums by property owners and investment income or as may be designated in a bond**  
5 **resolution authorized by the authority. Such bonds may be executed and delivered by the**  
6 **authority at any time and from time to time, may be in such form and denomination or**  
7 **denominations and of such terms and maturities, may be in fully registered form or in**  
8 **bearer form, registrable either as to principal or interest or both, may bear such**  
9 **conversion privileges, may be payable in such installment or installments and at such time**  
10 **or times not exceeding forty years from the date of the issuance thereof, may be payable**  
11 **at such place or places whether within or without the state of Missouri, may bear interest**  
12 **at such rate or rates per annum as determined by the authority without regard to section**  
13 **108.170, RSMo, may be made payable at such time or times and at such place or places,**

14 may be evidenced in such manner, may be executed by such officers of the authority, may  
15 have attached thereto, in the case of bearer bonds or bonds registrable as to principal only,  
16 interest coupons bearing the facsimile signature of the secretary of the authority, and may  
17 contain such provisions not inconsistent herewith, all as shall be provided in the bond  
18 resolution or resolutions of the authority whereunder the bonds shall be authorized to be  
19 issued. If deemed advisable by the authority, there may be retained in the bond resolution  
20 under which any bonds of the authority are authorized to be issued an option to call for  
21 redemption in advance of maturity all or any part of such bonds as may be specified in the  
22 bond resolution, at such price or prices, upon the giving of such notice or notices, and upon  
23 such terms and conditions as may be set forth in the bond resolution and as may be recited  
24 on the face of the bonds, but nothing in this section shall be construed to confer upon the  
25 authority the right or option to call for redemption in advance of maturity any bonds  
26 except as may be provided in the bond resolution under which they shall be issued. The  
27 bonds of the authority may be sold at public or private sale for such price, in such manner,  
28 and from time to time as may be determined by the authority notwithstanding the  
29 provisions of section 108.170, RSMo, and the authority may pay all expenses, premiums,  
30 and commissions which it may deem necessary or advantageous in connection with the  
31 issuance thereof from the proceeds of the bonds. Other forms of indebtedness issued by  
32 the authority shall have such terms as may be provided in a bond resolution authorized by  
33 the authority. Any such indebtedness may bear interest at such rates and be sold in such  
34 manner as may be determined by the authority notwithstanding the provisions of section  
35 108.170, RSMo, and the authority may pay all expenses, premiums and commissions which  
36 it may deem necessary or advantageous in connection with the issuance thereof from  
37 proceeds therefrom or from other funds of the authority.

379.1227. Issuance by the authority of one or more series of bonds or other forms  
2 of indebtedness shall not preclude it from issuing other bonds or other forms of  
3 indebtedness in connection with the same purpose or any other purpose hereunder, but the  
4 bond resolution whereunder any subsequent bonds or other forms of indebtedness may be  
5 issued shall recognize and protect any prior pledge made for any prior issue of bonds or  
6 other forms of indebtedness. Any issue of bonds or other forms of indebtedness of the  
7 authority at any time outstanding may be refunded at any time and from time to time by  
8 the authority by the issuance of its refunding bonds or other forms of indebtedness in such  
9 amount as the authority may deem necessary, but not exceeding the amount sufficient to  
10 refund the principal of the bonds or other forms of indebtedness so to be refunded together  
11 with any unpaid interest thereon and any premiums, commissions, service fees, and other  
12 expenses necessary to be paid in connection with the refunding. Any such refunding may

13 be effected whether the bonds or other forms of indebtedness to be refunded then shall  
14 have matured or thereafter shall mature, either by sale of the refunding bonds or other  
15 forms of indebtedness and the application of the proceeds thereof to the payment of the  
16 bonds or other forms of indebtedness being refunded or by the exchange of the refunding  
17 bonds or other forms of indebtedness for the bonds or other forms of indebtedness being  
18 refunded with the consent of the holder or holders of the bonds or other forms of  
19 indebtedness being refunded, regardless of whether or not the bonds or other forms of  
20 indebtedness being refunded were issued for the same purpose or any other purpose  
21 hereunder and regardless of whether or not the bonds or other forms of indebtedness  
22 proposed to be refunded shall be payable on the same date or different dates or shall be  
23 due serially or otherwise.

379.1230. All bonds or other forms of indebtedness of the authority and the interest  
2 coupons applicable thereto are hereby made and shall be construed to be negotiable  
3 instruments.

379.1233. The principal of and interest on any bonds issued by the authority shall  
2 be secured by a pledge of the revenues derived from or by reason of the payment of  
3 premiums by property owners and investment income or such other funds as may be  
4 designated in a bond resolution authorized by the authority. The bond resolution under  
5 which the bonds are authorized to be issued may contain any agreements and provisions  
6 respecting the purchase of flood insurance policies, the creation and maintenance of special  
7 funds from such revenues or receipts, and the rights and remedies available in the event  
8 of default on the payment of premiums, including the designation of a trustee, all as the  
9 authority shall deem advisable and not in conflict with the provisions hereof. The  
10 principal of and interest on any other form of indebtedness issued by the authority shall  
11 be secured in such manner as may be set forth in the bond resolution authorizing such  
12 indebtedness and such bond resolutions may contain such other agreements and provisions  
13 as the authority may determine. Each pledge, agreement, and indenture made for the  
14 benefit or security of any of the bonds or other forms of indebtedness of the authority shall  
15 continue effective until the principal of and interest thereon for the benefit of which the  
16 same were made shall have been fully paid or provisions for such payment duly made. In  
17 the event of a default in the payment or in any agreement of the authority made as a part  
18 of the bond resolution under which the bonds or other forms of indebtedness were issued  
19 or secured, the payment or agreement may be enforced by suit, mandamus, the  
20 appointment of a receiver in equity, or any one or more of these remedies.

379.1236. Bonds or other forms of indebtedness issued under the provisions of  
2 sections 379.1200 to 379.1254 shall not be deemed to constitute a debt or liability of the

3 state or of any political subdivision thereof or a pledge of the full faith and credit of the  
4 state or of any such political subdivision, but shall be payable solely from the moneys  
5 provided for in sections 379.1200 to 379.1254. The issuance of bonds or other forms of  
6 indebtedness under the provisions of sections 379.1200 to 379.1254 shall not, directly,  
7 indirectly, or contingently, obligate the state or any political subdivision thereof to levy any  
8 form of taxation therefor or to make any appropriation for their payment. Nothing in this  
9 section shall be construed to authorize the authority to create a debt of the state within the  
10 meaning of the constitution or statutes of the state of Missouri, and each bond or other  
11 form of indebtedness issued by the authority shall be payable and shall state on its face that  
12 it is payable solely from the funds pledged for its payment in accordance with the bond  
13 resolution authorizing its issuance. The state shall not be liable in any event for the  
14 payment of the principal of or interest on any bonds of the authority or for the  
15 performance of any pledge, mortgage, obligation, or agreement of any kind whatsoever  
16 which may be undertaken by the authority. No breach of any such pledge, mortgage,  
17 obligation, or agreement may impose any pecuniary liability upon the state or any charge  
18 upon the general credit or taxing power of the state.

379.1239. The authority is hereby declared to be performing a public function and  
2 to be a separate public instrumentality of the state. Accordingly, the income of the  
3 authority and all properties at any time owned by the authority shall be exempt from all  
4 taxation in the state of Missouri. For the purposes of section 409.402, RSMo, all bonds or  
5 other forms of indebtedness issued by the authority shall be deemed to be securities issued  
6 by a separate public instrumentality of the state of Missouri.

379.1242. All expenses of the authority incurred in carrying out the provisions of  
2 sections 379.1200 to 379.1254 shall be payable solely from funds provided under such  
3 sections, and no liability shall be incurred by the authority beyond the extent to which  
4 moneys shall have been provided; except that, for the purpose of meeting the necessary  
5 expenses of operation until such date as the authority derives moneys from funds provided  
6 hereunder, the authority shall be empowered to borrow such moneys as may be required  
7 for the necessary expenses of operation, or to receive advances from funds to be  
8 appropriated for this purpose by the general assembly. The borrowed moneys shall be  
9 repaid or shall be reimbursed to general revenue within a reasonable time after the  
10 authority receives moneys as provided in sections 379.1200 to 379.1254, and shall be repaid  
11 solely from such moneys. Nothing in sections 379.1200 to 379.1254 shall be construed as  
12 a restriction upon any powers which the authority might otherwise have under any laws  
13 of this state, but shall be construed as cumulative of any such powers. Nothing in sections  
14 379.1200 to 379.1254 shall be construed to deprive the state and its governmental



15 subdivisions of their respective powers over assets of the authority or to impair any power  
16 thereof of any official or agency of the state and its governmental subdivisions which  
17 otherwise may be provided by law.

379.1245. The proceeds of all bonds or other forms of indebtedness issued by the  
2 authority and of all fees permitted to be charged by the authority and of other revenues  
3 derived shall not be considered to be part of the revenue of the state within the meaning  
4 of article III, section 36, of the Constitution of Missouri, shall not be required to be  
5 deposited into the state treasury, and shall not be subject to appropriation by the general  
6 assembly. The proceeds, fees, and revenue shall remain under the exclusive control and  
7 management of the authority to be used as required under sections 379.1200 to 379.1254.  
8 Policies of flood insurance purchased or financed shall not be considered to be public  
9 property.

379.1248. All banks, bankers, trust companies, savings banks and institutions,  
2 building and loan associations, savings and loan associations, investment companies, credit  
3 unions, insurance companies and associations, and all executors, administrators,  
4 guardians, trustees, and other fiduciaries legally may invest any sinking funds, moneys or  
5 other funds belonging to them or within their control in any bonds issued under sections  
6 379.1200 to 379.1254.

379.1251. The bonds and other forms of indebtedness issued under the provisions  
2 of this act, the interest thereon, the proceeds received by a holder from the sale thereof to  
3 the extent of the holder's cost of acquisition, or proceeds received upon redemption prior  
4 to maturity or proceeds received at maturity, and the receipt of such interest and proceeds  
5 shall be exempt from taxation in the state of Missouri for all purposes except the state  
6 estate tax.

379.1254. The authority is assigned to the department of insurance, financial  
2 institutions and professional registration. The authority shall annually file with the  
3 director of the department a report of its previous year's income, expenditures and bonds,  
4 or other forms of indebtedness issued and outstanding.

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