

House _____ Amendment NO. _____

Offered By

1 AMEND House Bill No. 2440, Page 1, Section A, Line 2, by inserting after all of said section and
2 line the following:

3
4 "374.190. 1. The director shall examine and inquire into all violations of the insurance laws
5 of the state, and inquire into and investigate the business of insurance transacted in this state by any
6 insurance agent, broker, agency or insurance company.

7 2. He or any of his duly appointed agents may compel the attendance before him, and may
8 examine, under oath, the directors, officers, agents, employees, solicitors, attorneys or any other
9 person, in reference to the condition, affairs, management of the business, or any matters relating
10 thereto. He may administer oaths or affirmations, and shall have power to summon and compel the
11 attendance of witnesses, and to require and compel the production of records, books, papers,
12 contracts or other documents, if necessary.

13 3. The director may make and conduct the investigation in person, or he may appoint one or
14 more persons to make and conduct the same for him. If made by another than the director in person,
15 the person duly appointed by the director shall have the same powers as above granted to the
16 director. A certificate of appointment, under the official seal of the director, shall be sufficient
17 authority and evidence thereof for the person or persons to act. For the purpose of making the
18 investigations, or having the same made, the director may employ the necessary clerical, actuarial
19 and other assistance.

20 4. Notwithstanding any provision of law to the contrary, the confidentiality provisions of
21 section 374.205, including subdivision (5) of subsection 3 of section 374.205, and subsection 4 of
22 section 374.205, shall apply to all reports, working papers, recorded information, documents, and
23 copies thereof, produced by, obtained by, or disclosed to the director or any other person in the
24 course of any market conduct investigation or market conduct action.

25 374.192. 1. Notwithstanding any provision of law to the contrary, a regulated entity shall
26 have not less than thirty calendar days to submit any record or material requested by the department.
27 This subsection shall not apply to requests for records or materials by the division of consumer
28 affairs.

29 2. Notwithstanding any provision of law to the contrary, any record or document, regardless
30 of physical form or characteristic, maintained beyond the record retention period specified in section

Action Taken _____ Date _____

1 374.205 shall not be subject to request or review by the director unless the director has substantial
2 and competent evidence that the regulated entity has willfully engaged in an act or omission
3 constituting a level four or five violation of the laws of this state relating to insurance, including this
4 chapter, chapter 354, and chapters 375 to 385, or has been convicted of any felony related to the
5 business of insurance, in which case the director may request or review records or documents
6 maintained beyond the record retention period specified in section 374.205 that directly relate to the
7 violation or conviction."; and

8
9 Further amend said bill, Page 6, Section 375.1183, Line 184, by inserting after all of said section
10 and line the following:

11
12 "380.621. 1. This section shall be known and may be cited as the "Protecting Missouri's
13 Mutual Insurance Companies Act".

14 2. As used in this section, the following terms mean:

15 (1) "Adequate reinsurance", commercially available reinsurance, as deemed appropriate by
16 the board of directors of the company;

17 (2) "Unlimited aggregate reinsurance", aggregate reinsurance coverage where the losses
18 covered by the reinsurer are not limited including, but not limited to, the annual aggregate
19 reinsurance amount set forth in subdivision (1) of section 20 CSR 200-12.030.

20 3. Notwithstanding any law to the contrary, the authority expressly granted in this section
21 shall be the sole authority granted to the department over any Missouri mutual insurance company
22 operating under the provisions of this chapter, provided however that any provisions regarding
23 premium taxation set forth in chapter 148 that are applicable to Missouri mutual insurance
24 companies shall remain applicable to Missouri mutual insurance companies and further provided
25 however that chapter 382, as amended, shall remain applicable to any Missouri mutual insurance
26 company which is a member of, or is seeking to become a member of, an "insurance holding
27 company system," as that term is defined in section 382.010, as amended, provided however that
28 any examination authorized by chapter 382 shall comply with subsection 6 below where a Missouri
29 mutual insurance company owns, in whole or part, an affiliate subject to examination. The
30 department shall not require any company operating under the provisions of this chapter to waive
31 any rights, benefits, or requirements in this chapter, nor shall it confer favorable treatment in
32 exchange for, nor condition the granting of any exception upon, any company conceding additional
33 regulatory oversight by the department. If the department and any company operating under the
34 provisions of this chapter have entered into any agreement in which the department has received
35 concessions including, but not limited to, additional regulatory oversight beyond the authority
36 expressly granted in this chapter, such agreement as it relates to the department's authority is void
37 upon the enactment of this section, but such agreement shall remain in full force and effect for the
38 stated duration of the agreement as it relates to the grant of any benefits, allowances, or exemptions
39 granted to the company by the agreement.

1 4. Notwithstanding any law to the contrary, nothing in this chapter nor any regulation
2 promulgated by the department including, but not limited to, any regulation promulgated under
3 sections 374.045, 380.021, 380.271, and 380.561, shall require or be construed to require any
4 company operating under the provisions of this chapter to acquire or carry reinsurance greater than
5 adequate reinsurance including, but not limited to, unlimited aggregate reinsurance. Nothing in this
6 section shall be construed to limit the option of an offer of unlimited aggregate reinsurance.

7 5. Notwithstanding any law to the contrary including, but not limited to, the provisions of
8 section 380.321, the director shall not have the authority to hold a hearing regarding a proposed
9 merger of companies operating under the provisions of this chapter unless the director has
10 substantial and competent evidence to believe the proposed merger will prejudice the interests of the
11 policyholders of the companies. The director shall have fifteen business days to review the petition
12 for merger and, upon substantial and competent evidence to believe the proposed merger will
13 prejudice the interests of the policyholders of the companies, send a written notice of a hearing
14 regarding the proposed merger. The written notice of hearing shall itemize the reasons why the
15 director believes the proposed merger will prejudice the policyholders of the companies and it shall
16 include a hearing date regarding the proposed merger no earlier than thirty days and no later than
17 sixty days after the notice of hearing is received by the companies involved in the proposed merger.

18 6. (1) Notwithstanding the provisions of section 380.491, the department shall not charge a
19 rate exceeding a reasonable fee. A reasonable fee is determined by the average market rate typically
20 charged by third-party vendors for such services. All working papers, recorded information,
21 documents, and copies thereof produced by, obtained by, or disclosed to the department or any other
22 person in the course of an examination made under this chapter shall be given confidential treatment
23 and are not subject to subpoena and shall not be made public by the department or to any other
24 person, except as follows:

25 (a) Upon adoption, the director may open the final examination report for public inspection;

26 (b) The director may disclose the content of an examination report, preliminary examination
27 report or results, or any matter relating thereto, to the insurance department of this or any other state
28 or country, or to law enforcement officials of this or any other state or agency of the federal
29 government at any time, so long as such agency or office receiving the report or matters relating
30 thereto agrees in writing to hold it confidential and in a manner consistent with this section; and

31 (c) In the event the director determines that legal or regulatory action is appropriate as a
32 result of any examination, he or she may initiate any proceedings or actions as provided by law.

33 (2) At any time after notification of the commencement of an examination and through its
34 completion, a company may request a scheduling conference with the department to discuss the
35 following:

36 (a) The purpose and scope of the examination;

37 (b) The estimated costs of the examination;

38 (c) The types of information that the company will be asked to produce;

39 (d) The most efficient means of conducting the examination; and

1 (e) Any alternative approaches in conducting the examination that would be more
 2 convenient, less burdensome, or less expensive for the company while still providing for an
 3 effective examination by the department.

4 (3) (a) No more than thirty days after the scheduling conference, the department shall
 5 provide the company with a detailed written budget estimate for the examination that, for each
 6 forthcoming phase of the examination, accomplishes the following:

7 a. Identifies the individuals or firms performing the examination and their daily or hourly
 8 rates;

9 b. Estimates of travel, lodging, meal, and other administrative or supply costs;

10 c. Estimates the length of time to conduct on-site and off-site examination activities.

11 (b) Within fifteen days of receipt of a budget estimate under paragraph (a) of this
 12 subdivision, the company and the department shall have an additional discussion regarding the most
 13 efficient means of conducting the examination and producing information. If necessary, revisions of
 14 the budget estimate shall be made.

15 (c) The time periods under paragraphs (a) and (b) of this subdivision may be extended if the
 16 company and the department mutually agree to the extension.

17 (d) At any time during the examination, the department shall hold another scheduling
 18 conference with the company in accordance with the provisions of this subsection and provide a
 19 revised budget estimate as set forth in paragraph (a) of this subdivision if:

20 a. The department determines that the cost of the examination will exceed the stated
 21 estimated budget by more than ten percent; or

22 b. There is a material change in staffing.

23 380.631. 1. This section applies to any company operating under the provisions of this
 24 chapter.

25 2. A company operating under the provisions of chapter 380 is "insolvent" if it is unable to
 26 pay its obligations when they are due, or if its admitted assets do not exceed its liabilities plus the
 27 reserve fund or adequate guaranty fund required by section 380.021 or 380.271, as applicable.

28 3. Notwithstanding any provision of law to the contrary, including but not limited to the
 29 specific exception in subdivision (1) of subsection 2 of section 375.1150, as amended, the
 30 proceedings authorized by sections 375.1150 to 375.1246 may be applied to all companies operating
 31 under the provisions of chapter 380, except that such companies shall not be subject to sections
 32 375.1160 to 375.1164. Sections 375.570 to 375.750, as amended, shall apply to such proceedings.";

33 and

34
 35 Further amend said bill by amending the title, enacting clause, and intersectional references
 36 accordingly.