

HOUSE _____ **AMENDMENT NO.** _____

Offered By

1 Senate Committee Substitute for Senate Bill No. 66, Section A, Page 1, by inserting after all of
2 said section the following:

3 "354.150. Every health services corporation subject to the provisions of sections 354.010
4 to 354.380 shall pay the following fees to the director [of insurance] for the administration and
5 enforcement of the provisions of this chapter:

6 [Issuance of certificate of authority..... \$150.00

7 Filing articles of amendment..... \$ 20.00

8 Filing each annual statement \$100.00

9 Filing articles of acceptance and issuing a

10 certificate of acceptance.....\$ 20.00

11 Filing any other statement or report \$ 1.00

12 For a certified copy of any document or

13 other paper filed in the office of the director,

14 per page..... \$.35

15 For the certificate and for affixing the seal

16 thereto..... \$ 10.00

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1 For filing statement and pertinent admission
2 papers required of a foreign health
3 services corporation..... \$200.00

4 For copies of papers, records and documents filed
5 in the office of the director, an amount not
6 to exceed, at the director's discretion\$ 1.00
7 per page

8 For each service of process upon the director, on
9 behalf of the health services corporation \$10.00]

10 (1) For filing the declaration required on organization of each domestic company, two
11 hundred fifty dollars;

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

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

18 (4) For filing any paper, document, or report not filed under subdivision (1), (2), or (3) of
19 this section but required to be filed in the office of the director, fifty dollars each;

20 (5) For affixing the seal of office of the director, ten dollars;

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

22 354.180. 1. [(1) The director may issue cease and desist orders whenever it appears to
23 him upon competent and substantial evidence that any person is acting in violation of any law,
24 rule or regulation relating to corporations subject to the provisions of sections 354.010 to 354.380,

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1 or whenever the director has reason to believe that any health services corporation is in such
2 financial condition that the assumption of additional obligations would be hazardous to its
3 members or the general public. Before any cease and desist order shall be issued, a copy of the
4 proposed order together with an order to show cause why such cease and desist order should not
5 be issued shall be served either personally or by certified mail on any person named therein.

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

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

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

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

20 (e) At the hearing the director shall have such powers as are conferred upon him in section
21 354.190.

22 (f) At the conclusion of the hearing, or within ten days thereafter, the director shall issue
23 the cease and desist order as proposed or as subsequently modified or notify the person or
24 corporation subject to the provisions of sections 354.010 to 354.380 that no order shall be issued,

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1 provided that where the director finds that the corporation is in such financial condition that the
2 assumption of additional obligations would be hazardous to its members or the general public, he
3 may order the corporation to cease and desist from making contracts for new members or for the
4 provision of new benefits until the corporation's financial condition is no longer hazardous.

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

9 2. (1) Any person willfully violating any provision of any cease and desist order of the
10 director after it becomes final, while the same is in force, upon conviction thereof shall be guilty
11 of a class A misdemeanor, punishable as provided by law.

12 (2) In addition to any other penalty provided, violation of any cease and desist order shall
13 subject the violator to suspension or revocation of any certificate of authority or license as may be
14 applicable under the laws of this state relating to corporations subject to the provisions of sections
15 354.010 to 354.380.

16 3. (1) When it appears to the director that there is a violation of the law, rule or regulation
17 relating to corporations subject to the provisions of sections 354.010 to 354.380, and that the
18 continuance of the acts or actions of any person as herein defined would produce injury to the
19 public or to any other person in this state, or when it appears that a person is doing or threatening
20 to do some act in violation of the laws of this state relating to corporations subject to the
21 provisions of sections 354.010 to 354.380, the director may file a petition for injunction in the
22 circuit court of Cole County, Missouri, in which he may ask for a temporary injunction or
23 restraining order as well as a permanent injunction to restrain the act or threatened act. In the
24 event the temporary injunction or restraining order or a permanent injunction is issued by the

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1 circuit court of Cole County, Missouri, no person against whom the temporary injunction or
2 restraining order or permanent injunction is granted shall do or continue to do any of the acts or
3 actions complained of in the petition for injunction, unless and until the temporary injunction or
4 restraining order or permanent injunction is vacated, dismissed or otherwise terminated.

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

9 4. The term "person" as used in this section shall include any individual, partnership,
10 corporation, association or trust, or any other legal entity.] If the director determines that a person
11 has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or
12 course of business constituting a violation of sections 354.010 to 354.380 or a rule adopted or
13 order issued pursuant thereto, or a person has materially aided or is materially aiding an act,
14 practice, omission, or course of business constituting a violation of sections 354.010 to 354.380 or
15 a rule adopted or order issued pursuant thereto, the director may issue such administrative orders
16 as authorized under section 374.046, RSMo. A violation of these sections is a level two violation
17 under section 374.049, RSMo, except for any violation of sections 354.320 and 354.350, which is
18 a level three violation.

19 2. If the director believes that a person has engaged, is engaging in, or has taken a
20 substantial step toward engaging in an act, practice or course of business constituting a violation
21 of sections 354.010 to 354.380 or a rule adopted or order issued pursuant thereto, or that a person
22 has materially aided or is materially aiding an act, practice, omission, or course of business
23 constituting a violation of sections 354.010 to 354.380 or a rule adopted or order issued pursuant
24 thereto, the director may maintain a civil action for relief authorized under section 374.048,

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1 RSMo. A violation of these sections is a level two violation under section 374.049, RSMo,
2 except for any violation of sections 354.320 and 354.350, which is a level three violation.

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

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

18 354.350. 1. [When upon investigation the director finds that any] It is unlawful for any
19 corporation subject to the provisions of sections 354.010 to 354.380 transacting business in this
20 state [has conducted] to:

21 _____ (1) Conduct its business fraudulently[, is not carrying];

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

23 _____ (3) Habitually and as a matter of business practice [compelling] compel claimants under

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1 policies or liability judgment creditors of its members to either accept less than the amount due
2 under the terms of the policy or resort to litigation against the corporation to secure payment of
3 the amount due[, and that a proceeding in respect thereto would be in the interest of the public, he
4 shall issue and serve upon the corporation a statement of the charges in that respect and a notice of
5 a hearing thereon].

6 2. [If after the hearing the director shall determine that the corporation subject to the
7 provisions of sections 354.010 to 354.380 has fraudulently conducted its business as defined in
8 this section, he shall order the corporation to cease and desist from the fraudulent practice and
9 may suspend the corporation's certificate of authority for a period not to exceed thirty days and
10 may in addition order a forfeiture to the state of Missouri of a sum not to exceed one thousand
11 dollars, which forfeiture may be recovered by a civil action brought by and in the name of the
12 director of insurance. The civil action may be brought in the circuit court of Cole County or, at
13 the option of the director of insurance, in another county which has venue of an action against the
14 corporation under other provisions of law] If the director determines that a person has engaged, is
15 engaging in, or has taken a substantial step toward engaging in an act, practice or course of
16 business constituting a violation of this section or a rule adopted or order issued pursuant thereto
17 or that a person has materially aided or is materially aiding an act, practice, omission, or course of
18 business constituting a violation of this section or a rule adopted or order issued pursuant thereto,
19 the director may issue such administrative orders as authorized under section 374.046, RSMo.
20 Each practice in violation of this section is a level two violation under section 374.049, RSMo.
21 Each act as a part of a practice does not constitute a separate violation under section 374.049,
22 RSMo. The director [of insurance] may also suspend or revoke the license or certificate of
23 authority of a corporation subject to the provisions of sections 354.010 to 354.380 or enrollment

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1 representative for any such willful violation.

2 3. If the director believes that a person has engaged, is engaging in, or has taken a
3 substantial step toward engaging in an act, practice or course of business constituting a violation
4 of this section or a rule adopted or order issued pursuant thereto or that a person has materially
5 aided or is materially aiding an act, practice, omission, or course of business constituting a
6 violation of this section or a rule adopted or order issued pursuant thereto, the director may
7 maintain a civil action for relief authorized under section 374.048, RSMo. Each practice in
8 violation of this section is a level two violation under section 374.049, RSMo. Each act as a part
9 of a practice does not constitute a separate violation under section 374.049, RSMo.

10 354.400. As used in sections 354.400 to [354.535] 354.636, the following terms shall
11 mean:

12 (1) "Basic health care services", health care services which an enrolled population might
13 reasonably require in order to be maintained in good health, including, as a minimum, emergency
14 care, inpatient hospital and physician care, and outpatient medical services;

15 (2) "Community-based health maintenance organization", a health maintenance
16 organization which:

17 (a) Is wholly owned and operated by hospitals, hospital systems, physicians, or other
18 health care providers or a combination thereof who provide health care treatment services in the
19 service area described in the application for a certificate of authority from the [department of
20 insurance] director;

21 (b) Is operated to provide a means for such health care providers to market their services
22 directly to consumers in the service area of the health maintenance organization;

23 (c) Is governed by a board of directors that exercises fiduciary responsibility over the
24 operations of the health maintenance organization and of which a majority of the directors consist

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1 of equal numbers of the following:

2 a. Physicians licensed pursuant to chapter 334, RSMo;

3 b. Purchasers of health care services who live in the health maintenance organization's
4 service area;

5 c. Enrollees of the health maintenance organization elected by the enrollees of such
6 organization; and

7 d. Hospital executives, if a hospital is involved in the corporate ownership of the health
8 maintenance organization;

9 (d) Provides for utilization review, as defined in section 374.500, RSMo, under the
10 auspices of a physician medical director who practices medicine in the service area of the health
11 maintenance organization, using review standards developed in consultation with physicians who
12 treat the health maintenance organization's enrollees;

13 (e) Is actively involved in attempting to improve performance on indicators of health
14 status in the community or communities in which the health maintenance organization is
15 operating, including the health status of those not enrolled in the health maintenance organization;

16 (f) Is accountable to the public for the cost, quality and access of health care treatment
17 services and for the effect such services have on the health of the community or communities in
18 which the health maintenance organization is operating on a whole;

19 (g) Establishes an advisory group or groups comprised of enrollees and representatives of
20 community interests in the service area to make recommendations to the health maintenance
21 organization regarding the policies and procedures of the health maintenance organization;

22 (h) Enrolls fewer than fifty thousand covered lives;

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

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1 (4) "Director", the director of the department of insurance, financial and professional
2 regulation;

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

- 7 (a) Placing the person's health in significant jeopardy;
- 8 (b) Serious impairment to a bodily function;
- 9 (c) Serious dysfunction of any bodily organ or part;
- 10 (d) Inadequately controlled pain; or
- 11 (e) With respect to a pregnant woman who is having contractions:
 - 12 a. That there is inadequate time to effect a safe transfer to another hospital before
 - 13 delivery; or
 - 14 b. That transfer to another hospital may pose a threat to the health or safety of the woman
 - 15 or unborn child;

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

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

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

24 (9) "Health care services", any services included in the furnishing to any individual of

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1 medical or dental care or hospitalization, or incident to the furnishing of such care or
2 hospitalization, as well as the furnishing to any person of any and all other services for the
3 purpose of preventing, alleviating, curing, or healing human illness, injury, or physical disability;

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

7 (11) "Health maintenance organization plan", any arrangement whereby any person
8 undertakes to provide, arrange for, pay for, or reimburse any part of the cost of any health care
9 services and at least part of such arrangement consists of providing and assuring the availability of
10 basic health care services to enrollees, as distinguished from mere indemnification against the cost
11 of such services, on a prepaid basis through insurance or otherwise, and as distinguished from the
12 mere provision of service benefits under health service corporation programs;

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

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

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

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

24 (a) Which is composed of health professionals licensed to practice medicine or osteopathy

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1 and of such other licensed health professionals (including dentists, chiropractors, pharmacists,
2 optometrists, and podiatrists) as are necessary for the provisions of health services for which the
3 group is responsible;

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

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

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

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

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

21 354.435. 1. Every health maintenance organization shall annually, on or before March
22 first, file a report, verified by at least two principal officers, with the director, covering its
23 preceding calendar year.

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

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

3 (2) Any material changes in the information submitted pursuant to subsection 3 of section
4 354.405;

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

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

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

12 354.444. 1. [Notwithstanding any other provisions of chapter 354,] If the director [may,
13 after a hearing, order a forfeiture to the state of Missouri a sum not to exceed one hundred dollars
14 for each violation by any person knowingly violating any provision] determines that a person has
15 engaged, is engaged in, or has taken a substantial step toward engaging in an act, practice or
16 course of business constituting a violation of sections 354.400 to 354.636 [for which no specific
17 punishment is provided, or order a specific punishment in accordance with such sections. Such
18 forfeiture may be recovered by a civil action brought by and in the name of the department of
19 insurance. The civil action may be brought in the county which has venue for an action against
20 the person or corporation], or a rule adopted or order issued pursuant thereto or that a person has
21 materially aided or is materially aiding an act, practice, omission, or course of business
22 constituting a violation of sections 354.400 to 354.636 or a rule adopted or order issued pursuant
23 thereto, the director may issue such administrative orders as authorized under section 374.046,

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1 RSMo. A violation of any of these sections is a level one violation under section 374.049, RSMo.

2 2. [Nothing contained in this section shall be construed to prohibit the director and the
3 corporation or its enrollment representative from agreeing to a voluntary forfeiture of the sum
4 mentioned herein without civil proceedings being instituted. Any payment under this section shall
5 be paid into the school fund as provided by article IX, section 7 of the Missouri Constitution for
6 fines and penalties] If the director believes that a person has engaged, is engaging in, or has taken
7 a substantial step toward engaging in an act, practice or course of business constituting a violation
8 of sections 354.400 to 354.636, or a rule adopted or order issued pursuant thereto or that a person
9 has materially aided or is materially aiding an act, practice, omission, or course of business
10 constituting a violation of sections 354.400 to 354.636 or a rule adopted or order issued pursuant
11 thereto, the director may maintain a civil action for relief authorized under section 374.048,

12 RSMo. A violation of any of these sections is a level one violation under section 374.049, RSMo.

13 354.455. Unless otherwise provided in sections 354.400 to [354.550] 354.636, each health
14 maintenance organization shall deposit with the director, or with any organization or trustee
15 acceptable to him through which a custodial or controlled account is utilized, cash, securities, or
16 any combination of these or other measures acceptable to him, in the amount set forth in section
17 354.410.

18 354.460. No health maintenance organization, or representative thereof, may cause or
19 knowingly permit the use of advertising which is untrue or misleading, solicitation which is
20 untrue or misleading, or any form of evidence of coverage which is deceptive. For purposes of
21 sections 354.400 to [354.550] 354.636:

22 (1) A statement or item of information shall be deemed to be untrue if it does not conform
23 to fact in any respect which is or may be significant to an enrollee of, or person considering

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1 enrollment with, a health maintenance organization;

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

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

12 354.464. No health maintenance organization, unless licensed as an insurer, may use in its
13 name, contracts, or literature any of the words "insurance", "casualty", "surety", "mutual", or any
14 other words descriptive of the insurance, casualty, or surety business or deceptively similar to the
15 name or description of any insurance or surety corporation doing business in this state when such
16 words are deceptive or misleading. No person, if not in possession of a valid certificate of
17 authority issued pursuant to sections 354.400 to [354.550] 354.636, may use the phrase "health
18 maintenance organization" or "HMO" in the course of its operation.

19 354.475. 1. An insurance company licensed in this state, or a health services corporation
20 authorized to do business in this state, may directly or through a subsidiary or affiliate, organize
21 and operate a health maintenance organization under the provisions of sections 354.400 to
22 [354.550] 354.636 so long as they comply with the provisions of section 354.410 as applicable
23 thereto. Notwithstanding any other law to the contrary, any two or more such insurance
24 companies, health services corporations, or subsidiaries or affiliates thereof, may jointly organize

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1 and operate a health maintenance organization.

2 2. Notwithstanding any other provision of law pertaining to insurance and health services
3 corporations to the contrary, an insurer or a health services corporation may contract with a health
4 maintenance organization to provide insurance or similar protection against the cost of care
5 provided through health maintenance organizations and to provide coverage in the event of the
6 failure of the health maintenance organization to meet its obligations. The enrollees of a health
7 maintenance organization shall be deemed to constitute a permissible group under such laws.

8 Among other things, under such contracts, the insurer or health services corporation may make
9 benefit payments to health maintenance organizations for health care services rendered by
10 providers.

11 354.485. The director may promulgate such reasonable rules and regulations in
12 accordance with chapter 536, RSMo, as are necessary or proper to carry out the provisions of
13 sections 354.400 to [354.550] 354.636.

14 354.495. Every health maintenance organization subject to sections 354.400 to [354.550]
15 354.636 shall pay to the director the following fees:

- 16 [(1) Issuance or renewal of certificate of
- 17 authority \$ 150.00
- 18 (2) Filing of articles of amendment 1.00
- 19 (3) Filing each annual statement 100.00
- 20 (4) Filing articles of acceptance and issuing
- 21 a certificate of acceptance 20.00
- 22 (5) Filing any other statement or report..... 20.00
- 23 (6) For the certification of any document, and
- 24 affixing the seal thereto 10.00

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- 1 (7) For filing statement and pertinent admission
 2 papers required of a foreign health
 3 maintenance organization200.00
- 4 (8) For each appointment of an agent by the
 5 health maintenance organization 5.00
- 6 (9) For copies of papers, records and documents
 7 filed in the office of the director, an
 8 amount not to exceed, at the director's
 9 discretion 1.00
 10 per page
- 11 (10) For each service of process upon the
 12 director, on behalf of the health
 13 maintenance organization 10.00]
- 14 (1) For filing the declaration required on organization of each domestic company, two
 15 hundred fifty dollars;
- 16 (2) For filing statement and certified copy of charter required of foreign companies, two
 17 hundred fifty dollars;
- 18 (3) For filing application to renew certificate of authority, along with all required annual
 19 reports, including the annual statement, actuarial statement, risk based capital report, report of
 20 valuation of policies or other obligations of assurance, and audited financial report of any
 21 company doing business in this state, one thousand five hundred dollars;
- 22 (4) For filing any paper, document, or report not filed under subdivision (1), (2), or (3) of
 23 this section but required to be filed in the office of the director, fifty dollars each;
- 24 (5) For affixing the seal of office of the director, ten dollars;

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

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

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

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

21 354.510. Unless otherwise provided, all applications, filings, and reports required under
22 sections 354.400 to [354.550] 354.636 shall be treated as public documents.

23 354.530. If any section, term, or provision of sections 354.400 to [354.550] 354.636 shall

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

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

11 354.545. The provisions of sections 354.400 to [354.550] 354.636 shall not apply to any
12 labor organization's health plan providing services established and maintained solely for its
13 members and their dependents, and facilities of not-for-profit corporations in existence on
14 October 1, 1980, subject either to the provisions and regulations of section 302 of the
15 Labor-Management Relations Act, 29 U.S.C. 186 or the Labor-Management Reporting and
16 Disclosure Act, 29 U.S.C. 401-538.

17 354.550. The provisions of sections 354.400 to [354.550] 354.636 shall not apply to
18 community health corporations as defined by Public Law 94-63 so long as such corporations limit
19 their activities to those described in Public Law 94-63.

20 354.600. For purposes of sections 354.600 to 354.636 the following terms shall mean:

- 21 (1) ["Covered benefit" or "benefit", a health care service to which an enrollee is entitled
22 under the terms of a health benefit plan;
23 (2) "Director", the director of the department of insurance;

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

- 5 (a) Placing the person's health in significant jeopardy;
- 6 (b) Serious impairment to a bodily function;
- 7 (c) Serious dysfunction of any bodily organ or part;
- 8 (d) Inadequately controlled pain; or
- 9 (e) With respect to a pregnant woman who is having contractions:

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

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

14 (4) "Emergency service", a health care item or service furnished or required to screen and
15 stabilize an emergency medical condition, which may include, but shall not be limited to, health
16 care services that are provided in a licensed hospital's emergency facility by an appropriate
17 provider;

18 (5) "Enrollee", a policyholder, subscriber, covered person or other individual participating
19 in a health benefit plan;

20 (6) "Facility", an institution providing health care services or a health care setting,
21 including but not limited to, hospitals and other licensed inpatient centers, ambulatory surgical or
22 treatment centers, skilled nursing facilities, residential treatment centers, diagnostic, laboratory
23 and imaging centers, and rehabilitation and other therapeutic health settings;

24 [(7)] (2) "Health benefit plan", a policy, contract, certificate or agreement entered into,

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1 offered or issued by a health carrier to provide, deliver, arrange for, pay for or reimburse any of
2 the costs of health care services;

3 [(8)] (3) "Health care professional", a physician or other health care practitioner licensed,
4 accredited or certified by the state of Missouri to perform specified health services;

5 [(9)] (4) "Health care provider" or "provider", a health care professional or a facility;

6 [(10)] "Health care service", a service for the diagnosis, prevention, treatment, cure or
7 relief of a health condition, illness, injury or disease;

8 [(11)] (5) "Health carrier", a health maintenance organization established pursuant to
9 sections 354.400 to 354.636;

10 [(12)] (6) "Health indemnity plan", a health benefit plan that is not a managed care plan;

11 [(13)] (7) "Intermediary", a person authorized to negotiate and execute provider contracts
12 with health carriers on behalf of health care providers or on behalf of a network;

13 [(14)] (8) "Managed care plan", a health benefit plan that either requires an enrollee to
14 use, or creates incentives, including financial incentives, for an enrollee to use health care
15 providers managed, owned, under contract with or employed by the health carrier;

16 [(15)] (9) "Network", the group of participating providers providing services to a
17 managed care plan;

18 [(16)] (10) "Participating provider", a provider who, under a contract with the health
19 carrier or with its contractor or subcontractor, has agreed to provide health care services to
20 enrollees with an expectation of receiving payment, other than coinsurance, co-payments or
21 deductibles, directly or indirectly from the health carrier;

22 [(17)] "Person", an individual, a corporation, a partnership, an association, a joint venture,
23 a joint stock company, a trust, an unincorporated organization, any similar entity or any

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1 combination of the foregoing; and

2 (18)] (11) "Primary care professional" or "primary care provider", a participating health
3 care professional designated by the health carrier to supervise, coordinate or provide initial care or
4 continuing care to an enrollee, and who may be required by the health carrier to initiate a referral
5 for specialty care and maintain supervision of health care services rendered to the enrollee.

6 354.722. 1. The director may suspend or revoke any certificate of authority issued to a
7 prepaid dental plan corporation pursuant to sections 354.700 to 354.723 if he finds that any of the
8 following conditions exist:

9 (1) The prepaid dental plan corporation is operating substantially in contravention of its
10 basic organizational document or is not fulfilling its contracts;

11 (2) [The prepaid dental plan corporation issues a contract, contract certificate or
12 amendment which has not been filed with the director and approved or deemed approved by the
13 director;

14 (3)] The prepaid dental plan corporation is no longer financially responsible and may
15 reasonably be expected to be unable to meet its contractual obligations to enrollees, or prospective
16 enrollees;

17 [(4)] (3) The prepaid dental plan corporation, or any person on its behalf, has advertised
18 or merchandised its prepaid dental benefits in an untrue, misrepresentative, misleading, deceptive
19 or unfair manner;

20 [(5)] (4) The continued operation of the prepaid dental plan corporation would be
21 hazardous to its enrollees; or

22 [(6)] (5) The prepaid dental plan corporation has failed to substantially comply with the
23 provisions of sections 354.700 to 354.723 or any rules or regulations promulgated thereunder.

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1 2. [When the director believes that grounds for the suspension or revocation of the
2 corporation's certificate of authority exists, he shall notify the corporation in writing, stating the
3 grounds and fixing a date and time for a hearing. At least twenty days' notice of such hearing
4 shall be given. The hearing and any appeals therefrom shall be in accordance with chapter 536,
5 RSMo.

6 3. The director may, in lieu of the suspension or revocation of the corporation's
7 certification of authority, file suit in circuit court to seek a civil penalty in an amount not less than
8 one hundred dollars nor more than one thousand dollars.

9 4.] If the director determines that a person has engaged, is engaging in, or has taken a
10 substantial step toward engaging in an act, practice or course of business constituting a violation
11 of sections 354.700 to 354.723 or a rule adopted or order issued pursuant thereto or that a person
12 has materially aided or is materially aiding an act, practice, omission, or course of business
13 constituting a violation of sections 354.700 to 354.723 or a rule adopted or order issued pursuant
14 thereto, the director may issue such administrative orders as authorized under section 374.046,
15 RSMo. A violation of this section is a level two violation under section 374.049, RSMo. The
16 director may also suspend or revoke the certificate of authority of a corporation for any such
17 willful violation.

18 3. When the certificate of authority of a prepaid dental plan corporation is suspended, the
19 prepaid dental plan corporation shall not, during the period of such suspension, enroll any
20 additional enrollees except newborn children or other newly acquired dependent of existing
21 enrollees and shall not engage in any advertising or solicitation whatsoever.

22 [5.] 4. When the certificate of authority of a prepaid dental plan corporation is revoked,
23 such corporation shall proceed, immediately following the effective date of the order of
24 revocation, to wind up its affairs and shall conduct no further business except as may be essential

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1 to the orderly conclusion of the affairs of such corporation. It shall engage in no further
2 advertising or solicitation whatsoever.

3 374.051. 1. Any applicant refused a license or the renewal of a license by order of the
4 director under sections 374.755, 374.787, and 375.141, RSMo, may file a petition with the
5 administrative hearing commission alleging that the director has refused the license. The
6 administrative hearing commission shall conduct hearings and make findings of fact and
7 conclusions of law in determining whether the applicant may be disqualified by statute.
8 Notwithstanding section 621.120, RSMo, the director shall retain discretion in refusing a license
9 or renewal and such discretion shall not transfer to the administrative hearing commission.

10 2. If a proceeding is instituted to revoke or suspend a license of any person under sections
11 374.755, 374.787, and 375.141, RSMo, the director shall refer the matter to the administrative
12 hearing commission by directing the filing of a complaint. The administrative hearing
13 commission shall conduct hearings and make findings of fact and conclusions of law in such
14 cases. The director shall have the burden of proving cause for discipline. If cause is found, the
15 administrative hearing commission shall submit its findings of fact and conclusions of law to the
16 director, who may determine appropriate discipline.

17 3. Hearing procedures before the director or the administrative hearing commission and
18 judicial review of the decisions and orders of the director and of the administrative hearing
19 commission, and all other procedural matters under this chapter, shall be governed by the
20 provisions of chapter 536, RSMo. Hearings before the administrative hearing commission shall
21 also be governed by the provisions of chapter 621, RSMo.

22 374.055. 1. Except as otherwise provided, any interested person aggrieved by any order
23 of the director under the laws of this state relating to insurance in this chapter, chapter 354,
24 RSMo, and chapters 375 to 385, RSMo, or a rule adopted by the director, or by any refusal or

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1 failure of the director to make an order pursuant to any of said provisions, shall be entitled to a
2 hearing before the director in accordance with the provisions of chapter 536, RSMo. A final order
3 issued by the director is subject to judicial review in accordance with the provisions of chapter
4 536, RSMo. However, any findings of fact or conclusions of law in any order regarding the actual
5 costs of the investigation or proceedings under section 374.046, or the classification of any
6 violation under section 374.049, shall be subject to de novo review.

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

9 3. Notwithstanding any other provision of law to the contrary, no person or entity shall
10 impose an accident response service fee on or from an insurance company, the driver or owner of
11 a motor vehicle, or any other person. As used in this section, the term "accident response service
12 fee" means a fee imposed for the response or investigation by a local law enforcement agency of a
13 motor vehicle accident.

14 374.150. 1. All fees due the state under the provisions of the insurance laws of this state
15 shall be paid to the director of revenue and deposited in the state treasury to the credit of the
16 insurance [department] dedicated fund unless otherwise provided for in subsection 2 of this
17 section.

18 2. There is hereby established in the state treasury a special fund to be known as the
19 "[Department of] Insurance Dedicated Fund". The fund shall be subject to appropriation of the
20 general assembly and shall be devoted solely to the payment of expenditures incurred by the
21 department [of insurance] attributable to duties performed by the department for the regulation of
22 the business of insurance, regulation of health maintenance organizations and the operation of the
23 division of consumer affairs as required by law which are not paid for by another source of funds.

24 Other provisions of law to the contrary notwithstanding, beginning on January 1, 1991, all fees

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1 charged under any provision of chapter 325, 354, 374, 375, 376, 377, 378, 379, 380, 381, 382,
2 383, 384 or 385, RSMo, due the state shall be paid into this fund. The state treasurer shall invest
3 moneys in this fund in the same manner as other state funds and any interest or earnings on such
4 moneys shall be credited to the [department of] insurance dedicated fund. The provisions of
5 section 33.080, RSMo, notwithstanding, moneys in the fund shall not lapse, be transferred to or
6 placed to the credit of the general revenue fund unless and then only to the extent to which the
7 unencumbered balance at the close of the biennium year exceeds two times the total amount
8 appropriated, paid, or transferred to the fund during such fiscal year.

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

13 374.160. 1. The expenses of examinations, valuations or proceedings against any
14 company, and for dissolving or settling the affairs of companies are to be paid by the company, or
15 as provided by law. The state shall not be responsible in any manner for the payment of any such
16 expenses, or any charges connected therewith.

17 2. At the request of the director, every domestic insurance company or health maintenance
18 organization subject to an order of conservation, rehabilitation, or liquidation shall reimburse the
19 insurance dedicated fund for administrative services rendered by state employees to the company.
20 Reimbursement shall include that portion of the employee's salary, state benefits, and expenses
21 that specifically relates to the services rendered on behalf of the company.

22 3. All other expenses of the department of insurance, financial institutions and
23 professional registration now or hereafter incurred and unpaid, or that may be hereafter incurred,
24 including the salaries of the director and deputy director, shall be paid out of the state treasury in

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1 the manner provided by law.

2 [3.] 4. The director shall assess the expenses of any examination against the company
3 examined and shall order that the examination expenses be paid into the insurance examiners fund
4 created by section 374.162. [The director shall also assess an additional amount equal to fifteen
5 percent of the total expenses of examination, to be paid for the supervision and support of the
6 examiners. The insurance examiner's sick leave fund created by sections 374.261 to 374.267 shall
7 be combined with the insurance examiners fund.] This assessment shall include the costs of
8 compensation, including benefits, for the examiners, analysts, actuaries, and attorneys directly
9 contributing to the examination of the company, any reasonable travel, lodging, and meal
10 expenses related to an on-site examination, and other expenses related to the examination of the
11 company, including an allocation for examiners' office space, supplies, and equipment, but not
12 expenses associated with attending a course, seminar, or meeting, unless solely related to the
13 examination of the company assessed. The director shall pay from the insurance examiners fund
14 the compensation of insurance examiners [pursuant to section 374.115, any expenses to be paid
15 from such sick leave fund under sections 374.261 to 374.267], analysts, actuaries, and attorneys,
16 including standard benefits afforded to state employees, for performance of any such examination
17 and other expenses [incurred for supervision and support of the examiners] covered in the
18 assessment. The general assembly shall annually provide appropriations sufficient to distribute all
19 receipts into the insurance examiners fund. The provisions of section 33.080, RSMo, relating to
20 the transfer of unexpended balances to the general revenue fund shall not apply to the insurance
21 examiners fund.

22 [4.] 5. If any company shall refuse to pay the expenses of any examination, valuation or
23 proceeding assessed by the director pursuant to this section, the company shall be liable for double

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1 the amount of such expenses and all costs of collection, including attorney's fees. The company
2 shall not be entitled to a credit, pursuant to section 148.400, RSMo, for any fees, expenses or
3 costs ordered pursuant to this subsection other than in the amount of the expenses originally
4 assessed by the director. All amounts collected pursuant to this subsection shall be credited to the
5 insurance examiners fund.

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

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

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

23 (2) Maximizing uniformity in regulatory standards; and

24 (3) Minimizing burdens on the business of insurance, without adversely affecting

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1 essentials of consumer protection.

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

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

7 (2) Encouraging insurance companies and producers to implement electronic filing
8 through a central electronic depository;

9 (3) Developing and maintaining uniform forms;

10 (4) Conducting joint market conduct examinations and other investigations through
11 collaboration and cooperation with other insurance regulators;

12 (5) Holding joint administrative hearings;

13 (6) Instituting and prosecuting joint civil or administrative enforcement proceedings;

14 (7) Sharing and exchanging personnel;

15 (8) Coordinating licensing under section 375.014, RSMo;

16 (9) Formulating rules, statements of policy, guidelines, forms, no action determinations,
17 and bulletins; and

18 (10) Formulating common systems and procedures.

19 374.208. The director shall study and recommend to the General Assembly changes to
20 avoid unnecessary duplication of market conduct activities and to implement uniform processes
21 and procedures for market analysis and market conduct examinations which will more effectively
22 utilize resources to protect insurance consumers. The study shall be completed and
23 recommendations provided by January 1, 2008.

24 374.210. 1. It is unlawful for, any person [testifying falsely in reference to any matter

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1 material to the investigation, examination or inquiry shall be deemed guilty of perjury.] in any
2 investigation, examination, inquiry, or other proceeding under this chapter, chapter 354, RSMo,
3 and chapters 375 to 385, RSMo, to:

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

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

12 (1) Knowingly make or cause to be made a false statement upon oath or affirmation or in
13 any record that is submitted to the director or used in any proceeding under this chapter, chapter
14 354, RSMo, and chapters 375 to 385, RSMo; or

15 (2) Make any false certificate or entry or memorandum upon any of the books or papers of
16 any insurance company, or upon any statement or exhibit offered, filed or offered to be filed in the
17 [insurance] department, or used in the course of any examination, inquiry, or investigation[, with
18 intent to deceive the director or any person employed or appointed by him to make any
19 examination, inquiry or investigation, shall, upon conviction, be punished by a fine not exceeding
20 one thousand dollars, and by imprisonment not less than two months in the county or city jail, nor
21 more than five years in the penitentiary] under this chapter, chapter 354, RSMo, and chapters 375
22 to 385, RSMo.

23 2. If a person does not appear or refuses to testify, file a statement, produce records, or
24 otherwise does not obey a subpoena as required by the director, the director may apply to the

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1 circuit court of any county of the state or any city not within a county, or a court of another state to
2 enforce compliance. The court may:

3 (1) Hold the person in contempt;

4 (2) Order the person to appear before the director;

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

6 (4) Order the production of records;

7 (5) Grant injunctive relief;

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

9 (7) Grant any other necessary or appropriate relief.

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

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

16 4. A person is not excused from attending, testifying, filing a statement, producing a
17 record or other evidence, or obeying a subpoena of the director under an action or proceeding
18 instituted by the director on the grounds that the required testimony, statement, record, or other
19 evidence, directly or indirectly, may tend to incriminate the individual or subject the individual to
20 a criminal fine, penalty, or forfeiture. If the person refuses to testify, file a statement, or produce a
21 record or other evidence on the basis of the individual's privilege against self-incrimination, the
22 director may apply to the circuit court of any county of the state or any city not within a county to
23 compel the testimony, the filing of the statement, the production of the record, or the giving of
24 other evidence. The testimony, record, or other evidence compelled under such an order may not

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1 be used as evidence against the person in a criminal case, except in a prosecution for perjury or
2 contempt or otherwise failing to comply with the order.

3 5. If the director determines that a person has engaged, is engaging in, or has taken a
4 substantial step toward engaging in an act, practice or course of business constituting a violation
5 of this section, or a rule adopted or order issued pursuant thereto, or that a person has materially
6 aided or is materially aiding an act, practice, omission, or course of business constituting a
7 violation of this section or a rule adopted or order issued pursuant thereto, the director may issue
8 such administrative orders as authorized under section 374.046. A violation of subsection 1 of
9 this section is a level four violation under section 374.049. The director may also suspend or
10 revoke the license or certificate of authority of such person for any willful violation.

11 6. If the director believes that a person has engaged, is engaging in, or has taken a
12 substantial step toward engaging in an act, practice or course of business constituting a violation
13 of this section or a rule adopted or order issued pursuant thereto, or that a person has materially
14 aided or is materially aiding an act, practice, omission, or course of business constituting a
15 violation of this section or a rule adopted or order issued pursuant thereto, the director may
16 maintain a civil action for relief authorized under section 374.048. A violation of subsection 1 of
17 this section is a level four violation under section 374.049.

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

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

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

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

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

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

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

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1 of authority of such person for any willful violation.

2 3. If the director believes that a person has engaged, is engaging in, or has taken a
3 substantial step toward engaging in an act, practice or course of business constituting a violation
4 of this section or a rule adopted or order issued pursuant thereto, or that a person has materially
5 aided or is materially aiding an act, practice, omission, or course of business constituting a
6 violation of this section or a rule adopted or order issued pursuant thereto, the director may
7 maintain a civil action for relief authorized under section 374.048. A violation of this section is a
8 level two violation under section 374.049.

9 374.230. Every insurance company doing business in this state shall pay to the director of
10 revenue the following fees:

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

14 (2)] For filing the declaration required on organization of each domestic company, two
15 hundred fifty dollars;

16 [(3)] (2) For filing statement and certified copy of charter required of foreign companies,
17 two hundred fifty dollars;

18 [(4)] (3) For filing application to renew certificate of authority, along with all required
19 annual reports, including the annual statement, actuarial statement, risk based capital report, report
20 of valuation of policies or other obligations of assurance, and audited financial report annual
21 statement of any company doing business in this state, [two hundred fifty] one thousand five
22 hundred dollars;

23 [(5)] (4) For filing supplementary annual statement of any company doing business in this
24 state, [ten] fifty dollars;

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1 [(6)] (5) For filing any [other] paper, document, or report not filed under subdivision (1),
2 (2), or (3), but required to be filed in the office of the director [of the department of insurance],
3 fifty dollars each;

4 [(7)] (6) For [each agent's] a copy of [his] a company's certificate of authority or producer
5 or agent license, [two] ten dollars;

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

8 (9)] (7) For affixing the seal of office of the director [of the department of insurance], ten
9 dollars;

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

11 374.280. 1. [Notwithstanding any other provisions of chapters 374, 375, 376, 377, 378
12 and 379, RSMo,] The director may, after a hearing under section 374.046, order a civil penalty or
13 forfeiture payable to the state of Missouri [a sum not to exceed one hundred dollars for each
14 violation by any person, partnership or corporation knowingly violating any provision of chapters
15 374, 375, 376, 377, 378 and 379, RSMo, or order of the director of insurance made in accordance
16 with those chapters] authorized by section 374.049, which penalty or forfeiture, if unpaid within
17 ten days, may be recovered by a civil action brought by and in the name of the director [of
18 insurance] under section 374.048. The civil action may be brought in the county which has venue
19 of an action against the person, partnership or corporation under other provisions of law. The
20 director [of insurance] may also suspend or revoke the license [of an insurer, agent, broker or
21 agency] or certificate of authority of such person for any willful violation.

22 2. Nothing contained in this section shall be construed to prohibit the director and [the
23 insurer, agent, broker or agency] any person subject to an investigation, examination, or other
24 proceeding from agreeing to a voluntary forfeiture of the sum mentioned herein without civil

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1 proceedings being instituted. Any sum so agreed upon shall be paid into the school fund as
2 provided by law for other fines and penalties.

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

9 374.512. 1. Whenever the director has reason to believe that a utilization review agent
10 subject to sections 374.500 to 374.515 has been or is engaged in conduct which violates the
11 provisions of sections 374.500 to 374.515, the director shall notify the utilization review agent of
12 the alleged violation. The utilization review agent shall have thirty days from the date the notice
13 is received to respond to the alleged violation.

14 2. If the director [believes] determines that the utilization review agent has [violated the
15 provisions of sections 374.500 to 374.515, or is not satisfied that the alleged violation has been
16 corrected, he shall conduct a hearing on the alleged violation, in accordance with chapter 536,
17 RSMo] engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice
18 or course of business constituting a violation of sections 374.500 to 374.515 or a rule adopted or
19 order issued pursuant thereto, or that a person has materially aided or is materially aiding an act,
20 practice, omission, or course of business constituting a violation of sections 374.500 to 374.515 or
21 a rule adopted or order issued pursuant thereto, the director may issue such administrative orders
22 as authorized under section 374.046. A violation of any of these sections is a level two violation
23 under section 374.049. The director may also suspend or revoke the license or certificate of
24 authority of such person for any willful violation.

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1 3. [If, after such hearing, the director determines that the utilization review agent has
2 engaged in violations of sections 374.500 to 374.515, he shall reduce his findings to writing and
3 shall issue and cause to be served upon the utilization review agent a copy of such findings and an
4 order requiring the utilization review agent to cease and desist from engaging in such violations.

5 The director may also, at his discretion, order:

6 (1) Payment of a monetary penalty of not more than ten thousand dollars for a violation
7 which occurred if the utilization review agent consciously disregarded sections 374.500 to
8 374.515 or which occurred with such frequency as to indicate a general business practice; or

9 (2) Suspension or revocation of the authority to do business in this state as a utilization
10 review agent if the utilization review agent knew that it was in violation of sections 374.500 to
11 374.515] If the director believes that a person has engaged, is engaging in, or has taken a
12 substantial step toward engaging in an act, practice or course of business constituting a violation
13 of sections 374.500 to 374.515 or a rule adopted or order issued pursuant thereto, or that a person
14 has materially aided or is materially aiding an act, practice, omission, or course of business
15 constituting a violation of sections 374.500 to 374.515 or a rule adopted or order issued pursuant
16 thereto, the director may maintain a civil action for relief authorized under section 374.048. A
17 violation of any of these sections is a level two violation under section 374.049.

18 375.012. 1. Sections 375.012 to 375.146 may be cited as the "Insurance Producers Act".

19 2. As used in sections 375.012 to 375.158, the following words mean:

20 (1) "Business entity", a corporation, association, partnership, limited liability company,
21 limited liability partnership or other legal entity;

22 (2) "Director", the director of the department of insurance, financial and professional
23 regulation;

24 (3) "Home state", the District of Columbia and any state or territory of the United States

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1 in which the insurance producer maintains his or her principal place of residence or principal
2 place of business and is licensed to act as an insurance producer;

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

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

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

18 (7) "License", a document issued by the director authorizing a person to act as an
19 insurance producer for the lines of authority specified in the document. The license itself shall not
20 create any authority, actual, apparent or inherent, in the holder to represent or commit an
21 insurance company;

22 (8) "Limited line credit insurance", credit life, credit disability, credit property, credit
23 unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage
24 disability, guaranteed automobile protection (GAP) insurance, and any other form of insurance

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1 offered in connection with an extension of credit that is limited to partially or wholly
2 extinguishing that credit obligation that the director determines should be designated a form of
3 limited line credit insurance;

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

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

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

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

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

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

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

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

24 (17) "Terminate", the cancellation of the relationship between an insurance producer and

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1 the insurer or the termination of the authority of the producer to transact the business of insurance;

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

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

7 [2.] 3. All statutory references to "insurance agent" or "insurance broker" shall mean
8 "insurance producer", as that term is defined pursuant to subsection 1 of this section.

9 375.020. 1. Beginning January 1, [1990] 2008, each insurance producer, unless exempt
10 pursuant to section 375.016, licensed to sell insurance in this state shall successfully complete
11 courses of study as required by this section. Any person licensed to act as an insurance producer
12 shall, during each two years, attend courses or programs of instruction or attend seminars
13 equivalent to a minimum of [ten] sixteen hours of instruction [for a life or accident and health
14 license or both a life and an accident and health license and a minimum ten hours of instruction
15 for a property or casualty license or both a property and a casualty license. Sixteen hours of
16 training will suffice for those with a life, health, accident, property and casualty license]. Of the
17 sixteen hours' training required [above] in this subsection, the hours need not be divided equally
18 among the lines of authority in which the producer has qualified. The courses or programs
19 attended by the producer during each two-year period shall include instruction on Missouri law,
20 products offered in any line of authority in which the producer is qualified, producers' duties and
21 obligations to the department, and business ethics, including sales suitability. Course credit shall
22 be given to members of the general assembly as determined by the department.

23 2. Subject to approval by the director, the courses or programs of instruction which shall
24 be deemed to meet the director's standards for continuing educational requirements shall include,

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1 but not be limited to, the following:

2 (1) American College Courses (CLU, ChFC);

3 (2) Life Underwriters Training Council (LUTC);

4 (3) Certified Insurance Counselor (CIC);

5 (4) Chartered Property and Casualty Underwriter (CPCU);

6 (5) Insurance Institute of America (IIA);

7 (6) Any other professional financial designation approved by the director by rule;

8 (7) An insurance-related course taught by an accredited college or university or qualified
9 instructor who has taught a course of insurance law at such institution;

10 [(7)] (8) A course or program of instruction or seminar developed or sponsored by any
11 authorized insurer, recognized producer association or insurance trade association. A local
12 producer group may also be approved if the instructor receives no compensation for services.

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

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

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

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

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

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

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

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

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1 (1) Course content and hour credits: The insurance advisory board established by section
2 375.019 shall be utilized by the director to assist him in determining acceptable content of
3 courses, programs and seminars to include classroom equivalency;

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

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

16 375.143. In order to effectuate and aid in the interpretation of section 375.141, the
17 director, under section 374.045, RSMo, may adopt rules and regulations codifying professional
18 standards of producer competency and trustworthiness in the handling of applications, premium
19 funds, conflicts of interest, record-keeping, supervision of others, and customer suitability.

20 375.145. 1. If the director determines that a person has engaged, is engaging in, or has
21 taken a substantial step toward engaging in an act, practice or course of business constituting a
22 violation of sections 375.012 to 375.144 or a rule adopted or order issued pursuant thereto, or that
23 a person has materially aided or is materially aiding an act, practice, omission, or course of
24 business constituting a violation of sections 375.012 to 375.144, or a rule adopted or order issued

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1 pursuant thereto, the director may issue such administrative orders as authorized under section
2 374.046, RSMo. A violation of sections 375.012 to 375.142 is a level two violation under section
3 374.049, RSMo. A violation of section 375.144 is a level four violation under 374.049, RSMo.

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

12 375.152. 1. [If the director finds after a hearing conducted in accordance with chapter
13 536, RSMo, that any person has violated the provisions of sections 375.147 to 375.153, the
14 director may order:

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

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

20 (3) If the director determines that a person has engaged, is engaging in, or has taken a
21 substantial step toward engaging in an act, practice or course of business constituting a violation
22 of sections 375.147 to 375.153 or a rule adopted or order issued pursuant thereto, or that a person
23 has materially aided or is materially aiding an act, practice, omission, or course of business
24 constituting a violation of sections 375.147 to 375.153 or a rule adopted or order issued pursuant

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1 thereto, the director may issue such administrative orders as authorized under section 374.046,
2 RSMo. A violation of any of these sections is a level two violation under section 374.049, RSMo.

3 2. If the director believes that a person has engaged, is engaging in, or has taken a
4 substantial step toward engaging in an act, practice or course of business constituting a violation
5 of sections 375.147 to 375.153 or a rule adopted or order issued pursuant thereto, or that a person
6 has materially aided or is materially aiding an act, practice, omission, or course of business
7 constituting a violation of sections 375.147 to 375.153 or a rule adopted or order issued pursuant
8 thereto, the director may maintain a civil action for relief authorized under section 374.048,

9 RSMo. A violation under any of these sections is a level two violation under section 374.049,
10 RSMo. In addition to the relief available in this section, the director may also order the managing
11 general agent to reimburse the insurer, the rehabilitator or liquidator of the insurer, for any losses
12 incurred by the insurer caused by a violation of sections 375.147 to 375.153 committed by the
13 managing general agent.

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

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

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

20 375.236. Other provisions of law notwithstanding, the director may suspend or revoke,
21 after a hearing, the certificate of authority or license of any insurance company including a
22 reciprocal or interinsurance exchange for the same reasons and upon the same grounds as set forth
23 in section [375.560] 374.047, RSMo.

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

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

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

20 4. [Any insurance company or agent thereof violating the provisions of this section shall
21 be liable to a fine of not less than fifty dollars nor more than five hundred dollars] If the director
22 determines that a person has engaged, is engaging in, or has taken a substantial step toward
23 engaging in an act, practice or course of business constituting a violation of this section or a rule
24 adopted or order issued pursuant thereto, or that a person has materially aided or is materially

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1 aiding an act, practice, omission, or course of business constituting a violation of this section or a
2 rule adopted or order issued pursuant thereto, the director may issue such administrative orders as
3 authorized under section 374.046, RSMo. A violation of this section is a level two violation
4 under section 374.049, RSMo.

5 5. If the director believes that a person has engaged, is engaging in, or has taken a
6 substantial step toward engaging in an act, practice or course of business constituting a violation
7 of this section or a rule adopted or order issued pursuant thereto, or that a person has materially
8 aided or is materially aiding an act, practice, omission, or course of business constituting a
9 violation of this section or a rule adopted or order issued pursuant thereto, the director may
10 maintain a civil action for relief authorized under section 374.048, RSMo. A violation of this
11 section is a level two violation under section 374.049, RSMo.

12 375.310. 1. It is unlawful for any person, association of individuals, [and] or any
13 corporation [transacting] to transact in this state any insurance business[, without being] unless the
14 person, association, or corporation is duly authorized by the director [of the insurance department
15 of this state so to do, or after the authority so to do has been suspended, revoked, or has expired,
16 shall be subject to suit by the director who may institute proceedings in the circuit court of the
17 county or city in which said company was organized, or in which it has, or last had, its principal or
18 chief office or place of business, or in the county of Cole, to enjoin said company from the further
19 transaction of its business, either temporarily or perpetually, and for such other decrees and relief
20 as the court shall deem advisable; or said association of individuals or corporation shall be liable
21 to a penalty of two hundred and fifty dollars for each offense, which penalty may be recovered by
22 ordinary civil action in the name of the state, and shall, when recovered, become part of the school
23 fund, as by law provided for other fines and penalties; suit for said penalty may be brought by the
24 attorney general, the director of the insurance department, or any county, circuit or prosecuting

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1 attorney, in either the city or county in which the policy was delivered, or in which the money was
2 paid to any agent of such association or corporation, or in which the receipt was delivered, or in
3 any county or city in which an attorney for service or any agent of said association or corporation
4 may be found; and if the plaintiff recover, an attorney fee to be allowed by the court for each
5 cause of action upon which recovery is had shall be taxed as and added to the costs; service shall
6 be made of process in any such action, either as in other civil actions or as provided in sections
7 375.010 to 375.920 for service on insurance companies] under a certificate of authority or
8 appropriate licensure, or is an insurance company exempt from certification under section
9 375.786.

10 2. If the director determines that a person has engaged, is engaging in, or has taken a
11 substantial step toward engaging in an act, practice or course of business constituting a violation
12 of this section or a rule adopted or order issued pursuant thereto, or that a person has materially
13 aided or is materially aiding an act, practice, omission, or course of business constituting a
14 violation of this section or a rule adopted or order issued pursuant thereto, the director may issue
15 such administrative orders as authorized under section 374.046, RSMo. A violation of this
16 section is a level four violation under section 374.049, RSMo.

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

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

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

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

8
9 Further amend said bill, Section 375.345, Pages 4 through 9, by inserting after all of said section
10 the following:

11 "375.445. 1. [When upon investigation the director finds that] It is unlawful for any
12 insurance company transacting business [in] under the laws of this state [has conducted] to:

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

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

15 (3) Habitually and as a matter of business practice compelling claimants under policies or
16 liability judgment creditors of the insured to either accept less than the amount due under the
17 terms of the policy or resort to litigation against the company to secure payment of the amount
18 due[, and that a proceeding in respect thereto would be in the interest of the public, he shall issue
19 and serve upon the company a statement of the charges in that respect and a notice of a hearing
20 thereon].

21 2. [If after the hearing the director shall determine that the company has fraudulently
22 conducted its business as defined in this section, he shall order the company to cease and desist
23 from the fraudulent practice and may suspend the company's certificate of authority for a period
24 not to exceed thirty days and may in addition order a forfeiture to the state of Missouri of a sum

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1 not to exceed one thousand dollars, which forfeiture may be recovered by a civil action brought by
2 and in the name of the director of insurance. The civil action may be brought in the circuit court
3 of Cole County or, at the option of the director of insurance, in another county which has venue of
4 an action against the person, partnership or corporation under other provisions of law] If the
5 director determines that a person has engaged, is engaging in, or has taken a substantial step
6 toward engaging in an act, practice or course of business constituting a violation of this section or
7 a rule adopted or order issued pursuant thereto, or that a person has materially aided or is
8 materially aiding an act, practice, omission, or course of business constituting a violation of this
9 section or a rule adopted or order issued pursuant thereto, the director may issue such
10 administrative orders as authorized under section 374.046, RSMo. Each practice in violation of
11 this section is a level two violation under section 374.049, RSMo. Each act as a part of a practice
12 does not constitute a separate violation under section 374.049, RSMo. The director [of insurance]
13 may also suspend or revoke the license [of an insurer or agent] or certificate of authority of such
14 person for any [such] willful violation.

15 3. If the director believes that a person has engaged, is engaging in, or has taken a
16 substantial step toward engaging in an act, practice or course of business constituting a violation
17 of this section or a rule adopted or order issued pursuant thereto, or that a person has materially
18 aided or is materially aiding an act, practice, omission, or course of business constituting a
19 violation of this section or a rule adopted or order issued pursuant thereto, the director may
20 maintain a civil action for relief authorized under section 374.048, RSMo. Each practice violation
21 of this section is a level two violation under section 374.049, RSMo. Each act as part of a
22 practice does not constitute a separate violation under section 374.049, RSMo."; and
23

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1 Further amend said bill, Section 375.534, Pages 10 and 11, by inserting after all of said section the
2 following:

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

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

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

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

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

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

10 375.777. 1. The director shall:

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

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

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

19 2. The director may[:

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

23 and

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

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

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

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

19 5. If the director believes that a person has engaged, is engaging in, or has taken a
20 substantial step toward engaging in an act, practice or course of business constituting a violation
21 of this section or a rule adopted or order issued pursuant thereto, or that a person has materially
22 aided or is materially aiding an act, practice, omission, or course of business constituting a
23 violation of this section or a rule adopted or order issued pursuant thereto, the director may

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1 maintain a civil action for relief authorized under section 374.048, RSMo. A violation of this
2 section is a level two violation under section 374.049, RSMo.

3 375.780. [Every violation of] 1. A person commits a crime if he or she willfully violates
4 any of the provisions of [sections 375.010 to 375.920] this chapter. If not otherwise specifically
5 provided for [shall be deemed a misdemeanor, and shall subject the individual, association of
6 individuals or corporation violating the same to a penalty of not less than fifty nor more than five
7 hundred dollars for each offense; such penalty may be recovered and sued for against corporations
8 or associations in the manner provided and by any of the officers designated in section 375.310,
9 and against individuals by civil action, by information or by indictment, and an attorney's fee of
10 twenty-five dollars shall be taxed as costs against the defendant, as in said section; all fines and
11 penalties recovered under sections 375.010 to 375.920 shall be turned into the school fund, as
12 provided by law for other fines and penalties], the crime is a class B misdemeanor.

13 2. The director may refer such evidence as is available concerning violations of this
14 section to the proper prosecuting attorney, who with or without a criminal reference, or the
15 attorney general under section 27.030, RSMo, may institute the appropriate criminal proceedings.

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

18 375.786. 1. It [shall be] is unlawful for any insurance company to transact insurance
19 business in this state, as set forth in subsection 2, without a certificate of authority from the
20 director; provided, however, that this section shall not apply to:

- 21 (1) The lawful transaction of insurance as provided in chapter 384, RSMo;
22 (2) The lawful transaction of reinsurance by insurance companies;
23 (3) Transactions in this state involving a policy lawfully solicited, written and delivered
24 outside of this state covering only subjects of insurance not resident, located or expressly to be

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1 performed in this state at the time of issuance, and which transactions are subsequent to the
2 issuance of such policy;

3 (4) Attorneys acting in the ordinary relation of attorney and client in the adjustment of
4 claims or losses;

5 (5) Transactions in this state involving group life and group sickness and accident or
6 blanket sickness and accident insurance or group annuities where the master policy of such groups
7 was lawfully issued and delivered in and pursuant to the laws of a state in which the insurance
8 company was authorized to do an insurance business, to a group organized for purposes other than
9 the procurement of insurance, and where the policyholder is domiciled or otherwise has a bona
10 fide situs;

11 (6) Transactions in this state involving any policy of insurance or annuity contract issued
12 prior to August 13, 1972;

13 (7) Transactions in this state relative to a policy issued or to be issued outside this state
14 involving insurance on vessels, craft or hulls, cargoes, marine builder's risk, marine protection and
15 indemnity or other risk, including strikes and war risks commonly insured under ocean or wet
16 marine forms of policy;

17 (8) Except as provided in chapter 384, RSMo, transactions in this state involving
18 contracts of insurance issued to one or more industrial insureds; provided that nothing herein shall
19 relieve an industrial insured from taxation imposed upon independently procured insurance. An
20 "industrial insured" is hereby defined as an insured:

21 (a) Which procures the insurance of any risk or risks other than life, health and annuity
22 contracts by use of the services of a full-time employee acting as an insurance manager or buyer or
23 the services of [a regularly and continuously retained qualified insurance consultant] an insurance
24 producer whose services are wholly compensated by such insured and not by the insurer;

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1 (b) Whose aggregate annual premiums for insurance excluding workers' compensation
2 insurance premiums total at least [twenty-five] one hundred thousand dollars; and

3 (c) Which has at least twenty-five full-time employees;

4 (9) Transactions in this state involving life insurance, health insurance or annuities
5 provided to educational or religious or charitable institutions organized and operated without
6 profit to any private shareholder or individual for the benefit of such institutions and individuals
7 engaged in the service of such institutions, provided that any company issuing such contracts
8 under this paragraph shall:

9 (a) File a copy of any policy or contract issued to Missouri residents with the director;

10 (b) File a copy of its annual statement prepared pursuant to the laws of its state of
11 domicile, as well as such other financial material as may be requested, with the director; and

12 (c) Provide, in such form as may be acceptable to the director, for the appointment of the
13 director as its true and lawful attorney upon whom may be served all lawful process in any action
14 or proceeding against such company arising out of any policy or contract it has issued to, or which
15 is currently held by, a Missouri citizen, and process so served against such company shall have the
16 same form and validity as if served upon the company;

17 (10) Transactions in this state involving accident, health, personal effects, liability or any
18 other travel or auto-related products or coverages provided or sold by a rental company after
19 January 1, 1994, to a renter in connection with and incidental to the rental of motor vehicles.

20 2. Any of the following acts in this state effected by mail or otherwise by or on behalf of
21 an unauthorized insurance company is deemed to constitute the transaction of an insurance
22 business in this state: (The venue of an act committed by mail is at the point where the matter
23 transmitted by mail is delivered and takes effect. Unless otherwise indicated, the term "insurance
24 company" as used in sections 375.786 to 375.790 includes all corporations, associations,

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1 partnerships and individuals engaged as principals in the business of insurance and also includes
2 interinsurance exchanges and mutual benefit societies.)

3 (1) The making of or proposing to make an insurance contract;

4 (2) The making of or proposing to make, as guarantor or surety, any contract of guaranty
5 or suretyship as a vocation and not merely incidental to any other legitimate business or activity of
6 the guarantor or surety;

7 (3) The taking or receiving of any application for insurance;

8 (4) The receiving or collection of any premium, commission, membership fees,
9 assessments, dues or other consideration for any insurance or any part thereof;

10 (5) The issuance or delivery of contracts of insurance to residents of this state or to
11 persons authorized to do business in this state;

12 (6) Directly or indirectly acting as an agent for or otherwise representing or aiding on
13 behalf of another any person or insurance company in the solicitation, negotiation, procurement or
14 effectuation of insurance or renewals thereof or in the dissemination of information as to coverage
15 or rates, or forwarding of applications, or delivery of policies or contracts, or inspection of risks, a
16 fixing of rates or investigation or adjustment of claims or losses or in the transaction of matters
17 subsequent to effectuation of the contract and arising out of it, or in any other manner representing
18 or assisting a person or insurance company in the transaction of insurance with respect to subjects
19 of insurance resident, located or to be performed in this state. The provisions of this subsection
20 shall not operate to prohibit full-time salaried employees of a corporate insured from acting in the
21 capacity of an insurance manager or buyer in placing insurance in behalf of such employer;

22 (7) The transaction of any kind of insurance business specifically recognized as
23 transacting an insurance business within the meaning of the statutes relating to insurance;

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1 (8) The transacting or proposing to transact any insurance business in substance
2 equivalent to any of the foregoing in a manner designed to evade the provisions of the statutes.

3 3. (1) The failure of an insurance company transacting insurance business in this state to
4 obtain a certificate of authority shall not impair the validity of any act or contract of such
5 insurance company and shall not prevent such insurance company from defending any action at
6 law or suit in equity in any court of this state, but no insurance company transacting insurance
7 business in this state without a certificate of authority shall be permitted to maintain an action in
8 any court of this state to enforce any right, claim or demand arising out of the transaction of such
9 business until such insurance company shall have obtained a certificate of authority.

10 (2) In the event of failure of any such unauthorized insurance company to pay any claim
11 or loss within the provisions of such insurance contract, any person who assisted or in any manner
12 aided directly or indirectly in the procurement of such insurance contract shall be liable to the
13 insured for the full amount of the claim or loss in the manner provided by the provisions of such
14 insurance contract.

15 4. If the director determines that a person has engaged, is engaging in, or has taken a
16 substantial step toward engaging in an act, practice or course of business constituting a violation
17 of this section or a rule adopted or order issued pursuant thereto, or that a person has materially
18 aided or is materially aiding an act, practice, omission, or course of business constituting a
19 violation of this section or a rule adopted or order issued pursuant thereto, the director may issue
20 such administrative orders as authorized under section 374.046, RSMo. A violation of this
21 section is a level four violation under section 374.049, RSMo.

22 5. If the director believes that a person has engaged, is engaging in, or has taken a
23 substantial step toward engaging in an act, practice or course of business constituting a violation
24 of this section or a rule adopted or order issued pursuant thereto, or that a person has materially

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1 aided or is materially aiding an act, practice, omission, or course of business constituting a
2 violation of this section or a rule adopted or order issued pursuant thereto, the director may
3 maintain a civil action for relief authorized under section 374.048, RSMo. A violation of this
4 section is a level four violation under section 374.049, RSMo.

5 _____ 6. Any person who transacts insurance business without a certificate of authority, as
6 provided in this section, is guilty of a class C felony.

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

10 _____ 8. Nothing in this section shall limit the power of the state to punish any person for any
11 conduct that constitutes a crime in any other state statute.

12 375.881. [1.] The director may revoke or suspend the certificate of authority of a foreign
13 insurance company [or may by order require the insurance company to pay to the people of the
14 state of Missouri a penalty in a sum not exceeding five hundred dollars and upon failure of the
15 insurance company to pay the penalty within twenty days after the mailing of the order, postage
16 prepaid, certified, and addressed to the last known place of business of the insurance company,
17 unless the order is stayed by an order of a court of competent jurisdiction, the director of insurance
18 may revoke or suspend the license of the insurance company for any period of time] under section
19 374.047, RSMo, or issue such administrative orders as appropriate under section 374.046, RSMo,
20 whenever he finds that the company

21 (1) Is insolvent;

22 (2) Fails to comply with the requirements for admission in respect to capital, the
23 investment of its assets or the maintenance of deposits in this or other state or fails to maintain the

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1 surplus which similar domestic companies transacting the same kinds of business are required to
2 maintain;

3 (3) Is in such a financial condition that its further transaction of business in this state
4 would be hazardous to policyholders and creditors in this state and to the public;

5 (4) Has refused or neglected to pay a valid final judgment against the company within
6 thirty days after the rendition of the judgment;

7 (5) Has refused to submit to the jurisdiction of a court of this state upon the grounds of
8 diversity of citizenship in a cause of action arising out of business transacted, acts done, or
9 contracts made in this state by the foreign insurance company;

10 (6) Has violated any law of this state or has in this state violated its charter or exceeded its
11 corporate powers;

12 (7) Has refused to submit its books, papers, accounts, records, or affairs to the reasonable
13 inspection or examination of the director, his actuaries, deputies or examiners;

14 (8) Has an officer who has refused upon reasonable demand to be examined under oath
15 touching its affairs;

16 (9) Fails to file its annual statement within thirty days after the date when it is required by
17 law to file the statement;

18 (10) Fails to file with the director a copy of an amendment to its charter or articles of
19 association within thirty days after the effective date of the amendment;

20 (11) Fails to file with the director copies of the agreement and certificate of merger and
21 the financial statements of the merged companies, if required, within thirty days after the effective
22 date of the merger;

23 (12) Fails to pay any fees, taxes or charges prescribed by the laws of this state within
24 thirty days after they are due and payable; provided, however, that in case of objection or legal

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1 contest the company shall not be required to pay the tax until thirty days after final disposition of
2 the objection or legal contest;

3 (13) Fails to file any report for the purpose of enabling the director to compute the taxes
4 to be paid by the company within thirty days after the date when it is required by law to file the
5 report;

6 (14) Has had its corporate existence dissolved or its certificate of authority revoked in the
7 state or country in which it was organized;

8 (15) Has had all its risks reinsured in their entirety in another company; or

9 (16) Has ceased to transact the business of insurance in this state for a period of one year.

10 [2. The director shall not revoke or suspend the certificate of authority of a foreign
11 insurance company until he has given the company at least twenty days' notice of the revocation or
12 suspension and of the grounds therefor and has afforded the company an opportunity for a
13 hearing.]

14 375.940. [1.] Whenever the director shall have reason to believe that any person or
15 insurer has been engaged or is engaging in this state in any unfair method of competition or any
16 unfair or deceptive act or practice in violation of sections 375.930 to 375.948, and that a
17 proceeding by [him] the director in respect thereto would be to the interest of the public, [he] the
18 director shall issue and serve upon such person or insurer a statement of the charges [in that
19 respect and a notice of hearing thereon to be held at a time and place fixed in the notice which
20 shall not be less than twenty days after the date of service thereof.

21 2. At the time and place fixed for such hearing, such person or insurer shall have an
22 opportunity to be heard to show cause why an order should not be made by the director requiring
23 such person or insurer to cease and desist from the acts, methods or practices so complained of.
24 Upon good cause shown, the director shall permit any person to intervene, appear and be heard at

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1 such hearing by counsel or in person. Nothing herein shall preclude the informal disposition of
2 any case by stipulation, consent order, or default, or by agreed settlement where such settlement is
3 in conformity with law.

4 3. Nothing contained in sections 375.930 to 375.948 shall require the observance at any
5 such hearing of formal rules of pleading or evidence.

6 4. Upon such hearing, the director shall have power to examine and cross-examine
7 witnesses, receive oral and documentary evidence, administer oaths, subpoena witnesses and
8 compel their attendance, and require the production of books, papers, records, correspondence and
9 all other written instruments or documents which he deems relevant to the inquiry. The director,
10 upon any such hearing, shall cause to be made a record of all the evidence and all the proceedings
11 had at such hearing. In case of a refusal of any person to comply with any subpoena issued
12 hereunder or to testify with respect to any matter concerning which he may be lawfully
13 interrogated, the circuit court of Cole County or the county where such party resides, or may be
14 found, on application of the director, may issue an order requiring such person to comply with
15 such subpoena and to testify; and any failure to obey any such order of the court may be punished
16 by the court as a contempt thereof.

17 5. Statements of charges, notices, orders, and other processes of the director under
18 sections 375.930 to 375.948 may be served by anyone duly authorized by the director either in the
19 manner provided by law for service of process in civil actions, or by registering or certifying and
20 mailing a copy thereof to the person affected by such statement, notice, order, or other process at
21 his or its residence or principal office or place of business. The verified return by the person so
22 serving such statement, notice, order or other process, setting forth the manner of such service,
23 shall be proof of the same, and the return postcard receipt for such statement, notice, order or

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1 other process, registered and mailed as aforesaid, shall be proof of the service of the same] under
2 the procedures set forth in section 374.046, RSMo.

3 375.942. 1. [If, after such hearing, the director determines that the person charged has
4 engaged in an unfair method of competition or in an unfair or deceptive act or practice prohibited
5 by section 375.934 or 375.937, he shall reduce his findings to writing and shall issue and cause to
6 be served upon the person charged with the violation a copy of such findings and an order
7 requiring such person to cease and desist from engaging in such method of competition, act or
8 practice, and thereafter the director may, at his discretion, order one or more of the following:

9 (1) Payment of a monetary penalty of not more than one thousand dollars for each
10 violation but not to exceed an aggregate penalty of one hundred thousand dollars in any
11 twelve-month period unless the violation was committed flagrantly and in conscious disregard of
12 section 375.934 or 375.937, in which case the penalty shall be not more than twenty-five thousand
13 dollars for each violation but not to exceed an aggregate penalty of two hundred fifty thousand
14 dollars in any twelve-month period;

15 (2) Suspension or revocation of the insurer's license if such insurer knew or reasonably
16 should have known it was in violation of section 375.934 or 375.937.

17 2. Until the expiration of the time allowed under section 375.944 for filing a petition for
18 judicial review, if no such petition has been duly filed within such time or, if a petition for review
19 has been filed within such time, then until the transcript of the record in the proceeding has been
20 filed in the circuit court of Cole County, the director may at any time, upon such notice and in
21 such manner as he shall deem proper, modify or set aside in whole or in part any order issued by
22 him under this section.

23 3. After the expiration of the time allowed for filing such a petition for review, if no such
24 petition has been duly filed within such time, the director may at any time, after notice and

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1 opportunity for hearing, reopen and alter, modify or set aside, in whole or in part, any order issued
2 by him under this section, whenever in his opinion conditions of fact or of law have so changed as
3 to require such action or if the public interest shall so require.

4 4. Nothing contained in sections 375.930 to 375.948 shall be construed to prohibit the
5 director and the person from agreeing to a voluntary forfeiture with or without proceedings being
6 instituted. Any sum so agreed upon shall be paid into the school fund as provided by law for
7 other fines and penalties] If the director determines that an insurer has engaged, is engaging, or
8 has taken a substantial step toward engaging in an act, practice, or course of business constituting
9 a violation of sections 375.930 to 375.948 or a rule adopted or order issued pursuant thereto, or
10 that a person has materially aided or is materially aiding a practice constituting a violation of
11 sections 375.930 to 375.948 or a rule adopted or order issued pursuant thereto, the director may
12 issue such administrative orders as authorized under section 374.046, RSMo. Each practice in
13 violation of section 375.934 is a level two violation under section 374.049, RSMo. Each act as
14 part of a trade practice does not constitute a separate violation under section 374.049, RSMo. The
15 director may also suspend or revoke the license or certificate of authority of an insurer for any
16 willful violation.

17 2. If the director believes that an insurer has engaged, is engaging in, or has taken a
18 substantial step toward engaging in an act, practice or course of business constituting a violation
19 of sections 375.930 to 375.948 or a rule adopted or order issued pursuant thereto, or that a person
20 has materially aided or is materially aiding an act, practice, omission, or course of business
21 conduct constituting a violation of sections 375.930 to 375.948 or a rule adopted or order issued
22 pursuant thereto, the director may maintain a civil action for relief authorized under section
23 374.048, RSMo. Each practice in violation of section 375.934 is a level two violation under

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1 section 374.049, RSMo. Each act as part of a trade practice does not constitute a separate
2 violation under section 374.049, RSMo.

3 375.946. [Any person who violates] It is unlawful for any person to violate any provision
4 of a cease and desist order of the director under section 375.942[, while such order is in effect,
5 may, after notice and hearing, and upon order of the director, be subject to either or both of the
6 following:

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

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

13 375.994. 1. Department investigators shall have the power to serve subpoenas issued for
14 the examination, investigation, and trial of all offenses determined by their investigations.

15 2. It is unlawful for any person to interfere, either by abetting or assisting such resistance
16 or otherwise interfering, with department investigators in the duties imposed upon them by law or
17 department rule.

18 3. Any moneys, or other property which is awarded to the department as costs of
19 investigation, or as a fine, shall be credited to the [department of] insurance dedicated fund
20 created by section 374.150, RSMo.

21 4. If the director determines that a person has engaged, is engaging in, or has taken a
22 substantial step toward engaging in an act, practice or course of business constituting a violation
23 of section 375.991 or a rule adopted or order issued pursuant thereto, or that a person has
24 materially aided or is materially aiding an act, practice, omission, or course of business

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1 constituting a violation of section 375.991 or a rule adopted or order issued pursuant thereto, the
2 director may issue such administrative orders as authorized under section 374.046, RSMo. A
3 violation of any of these sections is a level two violation under section 374.049, RSMo. The
4 director may also suspend or revoke the license or certificate of authority of such person for any
5 willful violation.

6 5. If the director believes that a person has engaged, is engaging in, or has taken a
7 substantial step toward engaging in an act, practice or course of business constituting a violation
8 of section 375.991 or a rule adopted or order issued pursuant thereto, or that a person has
9 materially aided or is materially aiding an act, practice, omission, or course of business
10 constituting a violation of section 375.991 or a rule adopted or order issued pursuant thereto, the
11 director may maintain a civil action for relief authorized under section 374.048, RSMo. A
12 violation of any of these sections is a level two violation under section 374.049, RSMo.

13 6. Nothing in this section shall be construed as prohibiting the department of insurance
14 from regulating unfair or fraudulent trade practices as provided for in sections 375.930 to
15 375.948.

16 [5. In the event] 7. If the director determines that a person regulated under this chapter
17 has conducted its business fraudulently with respect to sections 375.991 to 375.994, or has as a
18 matter of business practice abused its rights under said sections, such conduct shall [be
19 considered] constitute either an unfair trade practice under the provisions of sections 375.930 to
20 375.948 or an unfair claims settlement practice under the provisions of sections 375.1000 to
21 375.1018. [The director shall have the power and authority, pursuant to the unfair trade practices
22 act and the unfair claims settlement practices act to subject such persons to the monetary penalty
23 or suspend or revoke such person's license or certificate of authority, under such acts.]

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1 375.1010. 1. [Whenever the director shall have reason to believe that any insurer has
2 been engaged or is engaging in this state in any improper claims practice, and that a proceeding by
3 him in respect thereto would be to the interest of the public, he shall issue and serve upon such
4 person or insurer a statement of the charges in that respect and a notice of hearing thereon to be
5 held at a time and place fixed in the notice which shall not be less than twenty days after the date
6 of service thereof.

7 2. At the time and place fixed for such hearing, such insurer shall have an opportunity to
8 be heard to show cause why an order should not be made by the director requiring such insurer to
9 cease and desist from the acts, methods or practices so complained of. Upon good cause shown,
10 the director shall permit any person to intervene, appear and be heard at such hearing by counsel
11 or in person. Nothing in sections 375.1000 to 375.1018 shall preclude the informal disposition of
12 any case by stipulation, consent order, or default, or by agreed settlement where such settlement is
13 in conformity with law.

14 3. Nothing contained in sections 375.1000 to 375.1018 shall require the observance at any
15 such hearing of formal rules of pleading or evidence.

16 4. Upon such hearing, the director may examine and cross-examine witnesses, receive
17 oral and documentary evidence, administer oaths, subpoena witnesses and compel their
18 attendance, and require the production of books, papers, records, correspondence and all other
19 written instruments or documents which he deems relevant to the inquiry. The director, upon any
20 such hearing, shall cause to be made a record of all the evidence and all the proceedings had at
21 such hearing. In case of a refusal of any person to comply with any subpoena issued hereunder or
22 to testify with respect to any matter concerning which he may be lawfully interrogated, the circuit
23 court of Cole County or the county where such party resides, or may be found, on application of
24 the director, may issue an order requiring such person to comply with such subpoena and to

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1 testify; and any failure to obey any such order of the court may be punished by the court as a
2 contempt thereof.

3 5. Statements of charges, notices, orders, and other processes of the director under
4 sections 375.1000 to 375.1018 may be served by anyone duly authorized by the director either in
5 the manner provided by law for service of process in civil actions, or by registering or certifying
6 and mailing a copy thereof to the person affected by such statement, notice, order, or other process
7 at his or its residence or principal office or place of business. The verified return by the person so
8 serving such statement, notice, order or other process, setting forth the manner of such service,
9 shall be proof of the same, and the return postcard receipt for such statement, notice, order or
10 other process, registered and mailed as aforesaid, shall be proof of the service of the same] If the
11 director determines that a person has engaged, is engaging in, or has taken a substantial step
12 toward engaging in an act, practice or course of business constituting a violation of sections
13 375.1000 to 375.1018 or a rule adopted or order issued pursuant thereto, or that a person has
14 materially aided or is materially aiding an act, practice, omission, or course of business
15 constituting a violation of sections 375.1000 to 375.1018 or a rule adopted or order issued
16 pursuant thereto, the director may issue such administrative orders as authorized under section
17 374.046, RSMo. Each practice in violation of section 375.1005 is a level two violation under
18 section 374.049, RSMo. Each act as part of a claims settlement practice does not constitute a
19 separate violation under section 374.049, RSMo. The director may also suspend or revoke the
20 license or certificate of authority of an insurer for any willful violation.

21 2. If the director believes that an insurer has engaged, is engaging in, or has taken a
22 substantial step toward engaging in an act, practice or course of business constituting a violation
23 of sections 375.1000 to 375.1018 or a rule adopted or order issued pursuant thereto, or that a
24 person has materially aided or is materially aiding an act, practice, omission, or course of business

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1 constituting a violation of sections 375.1000 to 375.1018 or a rule adopted or order issued
2 pursuant thereto, the director may maintain a civil action for relief authorized under section
3 374.048, RSMo. Each practice in violation of section 375.1005 is a level two violation under
4 section 374.049, RSMo. Each act as part of a claims settlement practice does not constitute a
5 separate violation under section 374.049, RSMo.

6 375.1014. 1. [Any person, including any person who has been permitted to intervene,
7 who is aggrieved by a final order or decision of the director shall be entitled to judicial review
8 thereof.

9 2. The court shall make and enter upon the pleadings evidence and proceedings set forth
10 in the transcript a degree modifying, affirming or reversing the order of the director, in whole or in
11 part. To the extent that the order of the director is affirmed, the court shall thereupon issue its
12 own order commanding obedience to the terms of such order of the director. If either party shall
13 apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the
14 court that such additional evidence is material and that there were reasonable grounds for the
15 failure to adduce such evidence in the proceeding before the director, the court may order such
16 additional evidence to be taken before the director and to be adduced upon the hearing in such
17 manner and upon such terms and conditions as the court may deem proper. The director may
18 modify his findings of fact, or make new findings by reason of the additional evidence so taken,
19 and he shall file such modified or new findings which are supported by evidence on the record and
20 his recommendation, if any, for the modification or setting aside of his original order, with the
21 return of such additional evidence.

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

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

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

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

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

12 375.1016. [Any person who violates] It is unlawful for any person to violate any provision
13 of a cease and desist order of the director under section 375.1012, [while such order is in effect,
14 may, after notice and hearing, and upon order of the director, be subject to either or both of the
15 following:

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

19 (2) Suspension or revocation of such person's license or certificate of authority] and the
20 director may institute an action under sections 374.046 and 374.047, RSMo, as necessary to
21 enforce any such order."; and

22
23 Further amend said bill, Section 375.1075, Pages 11 and 12, by inserting after all of said section
24 the following:

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

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

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

7 (3) If the director determines that a reinsurance intermediary, insurer, or reinsurer has
8 engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or
9 course of business constituting a violation of sections 375.1110 to 375.1140 or a rule adopted or
10 order issued pursuant thereto, or that a person has materially aided or is materially aiding an act,
11 practice, omission, or course of business constituting a violation of sections 375.1110 to 375.1140
12 or a rule adopted or order issued pursuant thereto, the director may issue such administrative
13 orders as authorized under section 374.046, RSMo. A violation of any of these sections is a level
14 two violation under section 374.049, RSMo. The director may also suspend or revoke the license
15 or certificate of authority of a reinsurance intermediary, insurer, or reinsurer for any willful
16 violation.

17 2. If the director believes that a reinsurance intermediary, insurer, or reinsurer has
18 engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or
19 course of business constituting a violation of sections 375.1110 to 375.1140 or a rule adopted or
20 order issued pursuant thereto, or that a person has materially aided or is materially aiding an act,
21 practice, omission, or course of business constituting a violation of sections 375.1110 to 375.1140
22 or a rule adopted or order issued pursuant thereto, the director may maintain a civil action for
23 relief authorized under section 374.048, RSMo. A violation of any of these sections is a level two
24 violation under section 374.049, RSMo.

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1 3. In addition to any other relief authorized by sections 374.046 and 374.047, RSMo, if a
2 violation was committed by the reinsurance intermediary, such reinsurance intermediary shall
3 make restitution to the insurer, reinsurer, rehabilitator or liquidator of the insurer or reinsurer for
4 the net losses incurred by the insurer or reinsurer attributable to such violation.

5 [2. The decision, determination or order of the director pursuant to subsection 1 of this
6 section shall be subject to judicial review pursuant to sections 536.100 to 536.140, RSMo.

7 3. Nothing contained in this section shall affect the right of the director to impose any
8 other penalties provided by law.]

9 4. Nothing contained in sections 375.1110 to 375.1140 is intended to or shall in any
10 manner limit or restrict the rights of policyholders, claimants, creditors or other third parties or
11 confer any rights to such persons.

12 375.1156. 1. Any officer, manager, director, trustee, owner, employee or agent of any
13 insurer, or any other persons with authority over or in charge of any segment of the insurer's
14 affairs, shall cooperate with the director or any receiver in any proceeding under sections
15 375.1150 to 375.1246 or any investigation preliminary to the proceeding. The term "person" as
16 used in this section, shall include any person who exercises control directly or indirectly over
17 activities of the insurer through any holding company or other affiliate of the insurer. "To
18 cooperate" shall include, but shall not be limited to, the following:

19 (a) To reply promptly in writing to any inquiry from the director requesting such a reply;
20 and

21 (b) To make available to the director any books, accounts, documents, or other records or
22 information or property of or pertaining to the insurer and in its possession, custody or control.

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1 2. [No person shall] It is unlawful for any person included in subsection 1 of this section
2 to obstruct or interfere with the director in the conduct of any delinquency proceeding or any
3 investigation preliminary or incidental thereto.

4 3. This section shall not be construed to abridge otherwise existing legal rights, including
5 the right to resist a petition for liquidation or other delinquency proceedings, or other orders.

6 4. [Any person included within subsection 1 of this section who fails to cooperate with the
7 director, or any person who knowingly obstructs or interferes with the director in the conduct of
8 any delinquency proceeding or any investigation preliminary or incidental thereto, or who
9 knowingly violates any order the director issued validly under sections 375.1150 to 375.1246 shall
10 be guilty of a class A misdemeanor, and, in addition thereto, after a hearing, shall be subject to the
11 imposition by the director of an administrative penalty not to exceed ten thousand dollars for each
12 occurrence or violation and shall be subject further to the revocation or suspension of any
13 insurance licenses issued by the director. Moneys collected pursuant to the imposition of such
14 administrative penalties shall be transferred to the state treasurer and deposited to the general
15 revenue fund.

16 5.] In any proceeding under sections 375.1150 to 375.1246, the director and his deputies
17 shall be responsible on their official bonds for the faithful performance of their duties. If the court
18 deems it desirable for the protection of the assets, it may at any time require an additional bond
19 from the director or his deputies, and such bonds shall be paid for out of the assets of the insurer
20 as a cost of administration.

21 375.1160. 1. As used in this section:

22 (1) "Exceeded its powers" means one or more of the following conditions:

23 (a) The insurer has refused to permit examination of its books, papers, accounts, records
24 or affairs by the director, his deputy, employees or duly commissioned examiners;

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1 (b) A domestic insurer has unlawfully removed from this state or is unable to produce
2 books, papers, accounts or records necessary for an examination of the insurer;

3 (c) The insurer has failed to promptly comply with the applicable financial reporting
4 statutes or rules and requests relating thereto;

5 (d) The insurer has neglected or refused to observe an order of the director to make good,
6 within the time prescribed by law, any prohibited deficiency in its capital, capital stock or surplus;

7 (e) The insurer is continuing to transact insurance or write business after its license has
8 been revoked or suspended by the director;

9 (f) The insurer, by contract or otherwise, has unlawfully or has in violation of an order of
10 the director or has without first having obtained written approval of the director if approval is
11 required by law:

12 a. Totally reinsured its entire outstanding business, or

13 b. Merged or consolidated substantially its entire property or business with another
14 insurer;

15 (g) The insurer engaged in any transaction in which it is not authorized to engage under
16 the laws of this state;

17 (h) A domestic insurer has committed or engaged in, or is about to commit or engage in,
18 any act, practice or transaction that would subject it to delinquency proceedings under sections
19 375.1150 to 375.1246; or

20 (i) The insurer refused to comply with a lawful order of the director;

21 (2) "Consent" means agreement to administrative supervision by the insurer.

22 2. (1) An insurer may be subject to administrative supervision by the director if upon
23 examination or at any other time it appears in the director's discretion that:

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1 (a) The insurer's condition renders the continuance of its business hazardous to the public
2 or to its insureds;

3 (b) The insurer exceeded its powers granted under its certificate of authority and
4 applicable law;

5 (c) The insurer has failed to comply with the laws of this state relating to insurance;

6 (d) The business of the insurer is being conducted fraudulently; or

7 (e) The insurer gives its consent.

8 (2) If the director determines that the conditions set forth in subdivision (1) of this
9 subsection exist, the director shall:

10 (a) Notify in writing the insurer of his determination;

11 (b) Furnish to the insurer a written list of his requirements to rescind his determination;
12 and

13 (c) Notify the insurer that it is under the supervision of the director and that the director is
14 applying and effectuating the provisions of this section.

15 (3) The notice of supervision under this subsection and any order issued pursuant to this
16 section shall be served upon the insurer in writing by registered mail. The notice of supervision
17 shall state the conduct, condition or ground upon which the director bases his order.

18 (4) If placed under administrative supervision, the insurer shall have sixty days, or another
19 period of time as designated by the director, to comply with the requirements of the director
20 subject to the provisions of this section. In the event of such insurer's failure to comply with such
21 time periods, the director may institute proceedings under section 375.1165 or 375.1175 to have a
22 rehabilitator or liquidator appointed, or to extend the period of supervision.

23 (5) If it is determined that none of the conditions giving rise to the supervision exist, the
24 director shall release the insurer from supervision.

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1 3. (1) Except as set forth in this subsection, all proceedings, hearings, notices, orders,
2 correspondence, reports, records and other information in the possession of the director or the
3 department [of insurance] relating to the supervision of any insurer are confidential except as
4 provided by this section.

5 (2) Personnel of the department [of insurance] shall have access to these proceedings,
6 hearings, notices, orders, correspondence, reports, records or information as permitted by the
7 director.

8 (3) The director may open the proceedings or hearings or disclose the notices, orders,
9 correspondence, reports, records or information to a department, agency or instrumentality of this
10 or another state or the United States if the director determines that the disclosure is necessary or
11 proper for the enforcement of the laws of this or another state of the United States.

12 (4) The director may open the proceedings or hearings or make public the notices, orders,
13 correspondence, reports, records or other information if the director deems that it is in the best
14 interest of the public or in the best interest of the insurer, its insureds, creditors or the general
15 public.

16 (5) This subsection does not apply to hearings, notices, correspondence, reports, records
17 or other information obtained upon the appointment of a receiver for the insurer by a court of
18 competent jurisdiction.

19 4. During the period of supervision, the director or his designated appointee shall serve as
20 the administrative supervisor. The director may provide that the insurer shall not do any of the
21 following things during the period of supervision, without the prior approval of the director or the
22 appointed supervisor:

23 (1) Dispose of, convey or encumber any of its assets or its business in force;

24 (2) Withdraw any of its bank accounts;

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- 1 (3) Lend any of its funds;
- 2 (4) Invest any of its funds;
- 3 (5) Transfer any of its property;
- 4 (6) Incur any debt, obligation or liability;
- 5 (7) Merge or consolidate with another company;
- 6 (8) Approve new premiums or renew any policies;
- 7 (9) Enter into any new reinsurance contract or treaty;
- 8 (10) Terminate, surrender, forfeit, convert or lapse any insurance policy, certificate or
- 9 contract, except for nonpayment of premiums due;
- 10 (11) Write any new or renewal business;
- 11 (12) Release, pay or refund premium deposits, accrued cash or loan values, unearned
- 12 premiums, or other reserves on any insurance policy, certificate or contract;
- 13 (13) Make any material change in management; or
- 14 (14) Increase salaries and benefits of officers or directors or the preferential payment of
- 15 bonuses, dividends or other payments deemed preferential.

16 5. Any insurer subject to a supervision order under this section may seek review pursuant
17 to section 536.150, RSMo, of that order within thirty days of the entry of the order of supervision.
18 Such a request for a hearing shall not stay the effect of the order.

19 6. During the period of supervision the insurer may contest an action taken or proposed to
20 be taken by the administrative supervisor specifying the manner in which the action being
21 complained of would not result in improving the condition of the insurer. An insurer may request
22 review pursuant to section 536.150, RSMo, of written denial of the insurer's request to reconsider
23 pursuant to this subsection.

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1 7. If any person has violated any supervision order issued under this section which as to
2 him was still in effect, the director may [impose an administrative penalty in an amount not to
3 exceed ten thousand dollars for each violation. Moneys collected pursuant to the imposition of
4 such penalties shall be transferred to the state treasurer and deposited to the general revenue fund.

5 8. The director or administrative supervisor may apply for, and any court of general
6 jurisdiction may grant, such restraining orders, preliminary and permanent injunctions, and other
7 orders as may be deemed necessary and proper to enforce a supervision order.

8 9.] initiate an action under section 375.1161.

9 _____ 8. In the event that any person, subject to the provisions of sections 375.1150 to 375.1246,
10 including those persons described in subsection 1 of section 375.1156, shall knowingly violate
11 any valid order of the director issued under the provisions of this section and, as a result of such
12 violation, the net worth of the insurer shall be reduced or the insurer shall suffer loss it would not
13 otherwise have suffered, said person shall become personally liable to the insurer for the amount
14 of any such reduction or loss. The director or administrative supervisor is authorized under
15 subsection 1 of section 375.1161 to bring an action on behalf of the insurer in any court of
16 competent jurisdiction to recover the amount of reduction or loss together with any costs.

17 [10.] 9. Nothing contained in sections 375.1150 to 375.1246 shall preclude the director
18 from initiating judicial proceedings to place an insurer in conservation, rehabilitation or
19 liquidation proceedings or other delinquency proceedings, however designated under the laws of
20 this state, regardless of whether the director has previously initiated administrative supervision
21 proceedings under this section against the insurer.

22 [11.] 10. The director may adopt reasonable rules necessary for the implementation of
23 this section.

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1 [12.] 11. Notwithstanding any other provision of law, the director may meet with an
2 administrative supervisor appointed under this section and with the attorney or other
3 representative of the administrative supervisor, without the presence of any other person, at the
4 time of any proceeding or during the pendency of any proceeding held under authority of this
5 section to carry out his duties under this section or for the administrative supervisor to carry out
6 his duties under this section.

7 [13.] 12. There shall be no liability on the part of, and no cause of action of any nature
8 shall arise against, the director or the department of insurance or its employees or agents for any
9 action taken by them in the performance of their powers and duties under this section.

10 375.1161. 1. If the director determines that a person has engaged, is engaging in, or has
11 taken a substantial step toward engaging in an act, practice or course of business constituting a
12 violation of sections 375.1150 to 375.1246 or a rule adopted or order issued pursuant thereto, or
13 that a person has materially aided or is materially aiding an act, practice, omission, or course of
14 business constituting a violation of sections 375.1150 to 375.1246 or a rule adopted or order
15 issued pursuant thereto, the director may issue such administrative orders as authorized under
16 section 374.046, RSMo. A violation of any of these sections is a level four violation under
17 section 374.049, RSMo. The director may also suspend or revoke the license or certificate of
18 authority of such person for any willful violation.

19 2. If the director believes that a person has engaged, is engaging in, or has taken a
20 substantial step toward engaging in an act, practice or course of business constituting a violation
21 of sections 375.1150 to 375.1246 or a rule adopted or order issued pursuant thereto, or that a
22 person has materially aided or is materially aiding an act, practice, omission, or course of business
23 constituting a violation of sections 375.1150 to 375.1246 or a rule adopted or order issued
24 pursuant thereto, the director may maintain a civil action for relief authorized under section

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1 374.048, RSMo. A violation of any of these sections is a level four violation under section

2 374.049, RSMo.

3 375.1204. 1. [An agent, broker,] A producer, premium finance company, or any other
4 person, other than the insured, responsible for the payment of a premium, shall be obligated to pay
5 any unpaid earned premium due the insurer at the time of the declaration of insolvency as shown
6 on the records of the insurer. The liquidator shall also have the right to recover from such person
7 any part of an unearned premium that represents commission of such person. Credits or setoffs or
8 both shall not be allowed to [an agent, broker,] a producer or premium finance company for any
9 amounts advanced to the insurer by the [agent, broker,] producer or premium finance company on
10 behalf of, but in the absence of a payment by the insured. An insured shall be obligated to pay any
11 unpaid earned premium due the insurer at the time of the declaration of insolvency, as shown on
12 the records of the insurer.

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

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

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

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

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1 the accused to appear at such hearing, the director, if he shall find such violation, shall impose
2 such of the penalties under subsection 2 of this section as he deems advisable.

3 4. When the director shall take any action provided by subsection 2 of this section, the
4 party aggrieved may appeal said action to the court within thirty days of the director's decision] If
5 the director determines that a person has engaged, is engaging in, or has taken a substantial step
6 toward engaging in an act, practice or course of business constituting a violation of this section or
7 a rule adopted or order issued pursuant thereto, or that a person has materially aided or is
8 materially aiding an act, practice, omission, or course of business constituting a violation of this
9 section or a rule adopted or order issued pursuant thereto, the director may issue such
10 administrative orders as authorized under section 374.046, RSMo. A violation of this section is a
11 level one violation under section 374.049, RSMo. The director may also suspend, revoke, or
12 refuse to renew any license issued by the director to any offending person for any willful
13 violation.

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

21 375.1306. 1. An employer shall not use any genetic information or genetic test results, as
22 those terms are defined in subdivisions (3) and (4) of section 375.1300, of an employee or
23 prospective employee to distinguish between, discriminate against, or restrict any right or benefit

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1 otherwise due or available to such employee or prospective employee. The requirements of this
2 section shall not prohibit:

3 (1) Underwriting in connection with individual or group life, disability income or
4 long-term care insurance;

5 (2) Any action required or permissible by law or regulation;

6 (3) Action taken with the written permission of an employee or prospective employee or
7 such person's authorized representative; or

8 (4) The use of genetic information when such information is directly related to a person's
9 ability to perform assigned job responsibilities.

10 2. [Any person who violates the provisions of this section shall be fined not more than
11 five hundred dollars for each violation of this section] If the director determines that a person has
12 engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or
13 course of business constituting a violation of this section or a rule adopted or order issued
14 pursuant thereto, or that a person has materially aided or is materially aiding an act, practice,
15 omission, or course of business constituting a violation of this section or a rule adopted or order
16 issued pursuant thereto, the director may issue such administrative orders as authorized under
17 section 374.046, RSMo. A violation of any of these sections is a level two violation under section
18 374.049, RSMo.

19 3. If the director believes that a person has engaged, is engaging in, or has taken a
20 substantial step toward engaging in an act, practice or course of business constituting a violation
21 of this section or a rule adopted or order issued pursuant thereto, or that a person has materially
22 aided or is materially aiding an act, practice, omission, or course of business constituting a
23 violation of this section or a rule adopted or order issued pursuant thereto, the director may

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1 maintain a civil action for relief authorized under section 374.048, RSMo. A violation of any of
2 these sections is a level two violation under section 374.049, RSMo.

3 375.1309. 1. Any person who, in the ordinary course of business, practice of a profession
4 or rendering of a service, creates, stores, receives or furnishes genetic information, as such term is
5 defined in subdivision (3) of section 375.1300, shall hold such information as confidential
6 medical records and shall not disclose such genetic information except pursuant to written
7 authorization of the person to whom such information pertains or to that person's authorized
8 representative. The requirements of this section shall not apply to:

9 (1) Statistical data compiled without reference to the identity of an individual;

10 (2) Health research conducted in accordance with the provisions of the federal common
11 rule protecting the rights and welfare of research participants (45 CFR 46 and 21 CFR 50 and 56),
12 or to health research using medical archives or databases in which the identity of individuals is
13 protected from disclosure by coding or encryption, or by removing all identities;

14 (3) The release of such information pursuant to legal or regulatory process; or

15 (4) The release of such information for body identification.

16 2. [Any person who violates the provisions of this section shall be fined not more than
17 five hundred dollars] If the director determines that a person has engaged, is engaging in, or has
18 taken a substantial step toward engaging in an act, practice or course of business constituting a
19 violation of this section or a rule adopted or order issued pursuant thereto, or that a person has
20 materially aided or is materially aiding an act, practice, omission, or course of business
21 constituting a violation of this section or a rule adopted or order issued pursuant thereto, the
22 director may issue such administrative orders as authorized under section 374.046, RSMo. A
23 violation of any of these sections is a level two violation under section 374.049, RSMo.

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1 3. If the director believes that a person has engaged, is engaging in, or has taken a
2 substantial step toward engaging in an act, practice or course of business constituting a violation
3 of this section or a rule adopted or order issued pursuant thereto, or that a person has materially
4 aided or is materially aiding an act, practice, omission, or course of business constituting a
5 violation of this section or a rule adopted or order issued pursuant thereto, the director may
6 maintain a civil action for relief authorized under section 374.048, RSMo. A violation of any of
7 these sections is a level two violation under section 374.049, RSMo."; and

8
9 Further amend said bill, Section 376.307, Pages 54 through 56, by inserting after all of said
10 section the following:

11 "376.309. 1. As used in this section, "separate account" means an account established by
12 an insurance company, into which any amounts paid to or held by such company under applicable
13 contracts are credited and the assets of which, subject to the provisions of this section, may be
14 invested in such investments as shall be authorized by a resolution adopted by such company's
15 board of directors. The income, if any, and gains and losses, realized or unrealized, on such
16 account shall be credited to or charged against the amounts allocated to such account without
17 regard to other income, gains or losses of the company. If and to the extent so provided under the
18 applicable contracts, that portion of the assets of any such separate account equal to the reserves
19 and other contract liabilities with respect to such account shall not be chargeable with liabilities
20 arising out of any other business the company may conduct.

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

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1 individual or group contract to provide benefits payable in fixed or in variable dollar amounts or
2 in both.

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

13 4. The amounts allocated to any separate account and the accumulations thereon may be
14 invested and reinvested without regard to any requirements or limitations prescribed by the laws
15 of this state governing the investments of life insurance companies, and the investments in such
16 separate account or accounts shall not be taken into account in applying the investment
17 limitations, including but not limited to quantitative restrictions, otherwise applicable to the
18 investments of the company, except that to the extent that the company's reserve liability with
19 regard to benefits guaranteed as to principal amount and duration, and funds guaranteed as to
20 principal amount or stated rate of interest, is maintained in any separate account, a portion of the
21 assets of such separate account at least equal to such reserve liability shall be, except as the
22 director [of insurance] might otherwise approve, invested in accordance with the laws of this state
23 governing the general investment account of any company. As used herein, the expression
24 "general investment account" shall mean all of the funds, assets and investments of the company

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1 which are not allocated in a separate account. The provisions of section 376.170 relating to
2 deposits for registered policies shall not be applicable to funds and investments allocated to
3 separate accounts. No investment in the separate account or in the general investment account of
4 a life insurance company shall be transferred by sale, exchange, substitution or otherwise from
5 one account to another unless, in case of a transfer into a separate account, the transfer is made
6 solely to establish the account or to support the operation of the contracts with respect to the
7 separate account to which the transfer is made or unless the transfer, whether into or from a
8 separate account, is made by a transfer of cash, or by a transfer of other assets having a readily
9 determinable market value, provided that such transfer of other assets is approved by the director
10 [of insurance] and is for assets of equivalent value. Such transfer shall be deemed approved to the
11 extent the assets of a separate account so transferred have been paid to or are being held by the
12 company in connection with a pension, retirement or profit-sharing plan subject to the provisions
13 of the Internal Revenue Code, as amended, and the Employee Retirement Income Security Act of
14 1974, as amended. The director [of insurance] may withdraw such deemed approval by providing
15 written notice to the company that its financial condition or past practices require such
16 withdrawal. The director [of insurance] may approve other transfers among such accounts if the
17 director concludes that such transfers would be equitable.

18 5. Unless otherwise approved by the director [of insurance], assets allocated to a separate
19 account shall be valued at their market value on the date of valuation, or if there is no readily
20 available market, then as provided under the terms of the contract or the rules or other written
21 agreement applicable to such separate account; provided, that the portion of the assets of such
22 separate account at least equal to the company's reserve liability with regard to the guaranteed
23 benefits and funds referred to in subsection 4 of this section, if any, shall be valued in accordance
24 with the rules otherwise applicable to the company's assets.

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1 6. The director [of insurance] shall have the sole and exclusive authority to regulate the
2 issuance and authority to regulate the sale of contracts under which amounts are to be allocated to
3 one or more separate accounts as provided herein, and to issue such reasonable rules, regulations
4 and licensing requirements as [he] the director shall deem necessary to carry out the purposes and
5 provisions of this section; and [such contracts,] the companies [which] that issue [them and the
6 agents or other persons who sell them] such contracts shall not be subject to [sections 409.101 to
7 409.419, RSMo, or amendments thereto, nor to the jurisdiction of the] registration with the
8 commissioner of securities. The director may, subject to the provisions of section 374.185,
9 RSMo, consult and cooperate with the commissioner of securities in investigations arising from
10 the offer and sale of contracts regulated under this section and may request assistance from the
11 commissioner of securities in any proceeding arising from the offer and sale of any such contracts.

12 7. No domestic life insurance company, and no other life insurance company admitted to
13 transact business in this state, shall be authorized to deliver within this state any contract under
14 which amounts are to be allocated to one or more separate accounts as provided herein until said
15 company has satisfied the director [of insurance] that its condition or methods of operation in
16 connection with the issuance of such contracts will not render its operation hazardous to the
17 public or its policyholders in this state. In determining the qualifications of a company requesting
18 authority to deliver such contracts within this state, the director [of insurance] shall consider,
19 among other things:

- 20 (1) The history and financial condition of the company;
- 21 (2) The character, responsibility and general fitness of the officers and directors of the
22 company; and
- 23 (3) In the case of a company other than a domestic company, whether the statutes and
24 regulations of the jurisdiction of its incorporation provide a degree of protection to policyholders

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1 and the public which is substantially equal to that provided by this section and the rules and
2 regulations issued thereunder.

3 8. An authorized life insurance company, whether domestic, foreign or alien, which issues
4 contracts under which amounts are to be allocated to one or more separate accounts as provided
5 herein, and which is a subsidiary of or affiliated through common management or ownership with
6 another life insurance company authorized to do business in this state, may be deemed to have met
7 the provisions of subsection 7 of this section if either it or the parent or affiliated company meets
8 the requirements thereof.

9 9. If the contract provides for payment of benefits in variable amounts, it shall contain a
10 statement of the essential features of the procedure to be followed by the company in determining
11 the dollar amount of such variable benefits. Any such contract, including a group contract, and
12 any certificate issued thereunder, shall state that such dollar amount may decrease or increase and
13 shall contain on its first page a statement that the benefits thereunder are on a variable basis.

14 10. Except as otherwise provided in this section, all pertinent provisions of the insurance
15 laws of this state shall apply to separate accounts and contracts relating thereto.

16 376.620. [In all suits upon policies of insurance on life hereafter issued by any company
17 doing business in this state, to a citizen of this state, it shall be no defense that the insured
18 committed suicide, unless it shall be shown to the satisfaction of the court or jury trying the cause,
19 that the insured contemplated suicide at the time he made his application for the policy, and any
20 stipulation in the policy to the contrary shall be void.] 1. Any life insurance or certificate issued
21 or delivered in this state, may exclude or restrict liability of death as the result of suicide in the
22 event the insured, while sane or insane, dies as a result of suicide within one year from the date of
23 the issue of the policy or certificate. Any such exclusion or restriction shall be clearly stated in
24 the policy or certificate.

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1 2. Any life insurance policy or certificate which contains any exclusion or restriction
2 under subsection 1 of this section shall also provide that in the event the insured dies as a result of
3 suicide within one year from the date of issue of the policy that the insurer shall promptly refund
4 all premiums paid for coverage on such insured.

5 376.889. [In addition to any other applicable penalties, the director may require issuers
6 violating any provision of sections 376.850 to 376.890 or regulations promulgated pursuant to
7 sections 376.850 to 376.890 to cease marketing any Medicare supplement policy or certificate in
8 this state which is related directly or indirectly to a violation, or may require such issuer to take
9 such actions as are necessary to comply with the provisions of sections 376.850 to 376.890, or
10 both] 1. If the director determines that a person has engaged, is engaging in, or has taken a
11 substantial step toward engaging in an act, practice or course of business constituting a violation
12 of sections 376.850 to 376.890 or a rule adopted or order issued pursuant thereto, or that a person
13 has materially aided or is materially aiding an act, practice, omission, or course of business
14 constituting a violation of sections 376.850 to 376.890 or a rule adopted or order issued pursuant
15 thereto, the director may issue such administrative orders as authorized under section 374.046,
16 RSMo. A violation of any of these sections is a level two violation under section 374.049, RSMo.

17 2. If the director believes that a person has engaged, is engaging in, or has taken a
18 substantial step toward engaging in an act, practice or course of business constituting a violation
19 of sections 376.850 to 376.890 or a rule adopted or order issued pursuant thereto, or that a person
20 has materially aided or is materially aiding an act, practice, omission, or course of business
21 constituting a violation of sections 376.850 to 376.890 or a rule adopted or order issued pursuant
22 thereto, the director may maintain a civil action for relief authorized under section 374.048,
23 RSMo. A violation of any of these sections is a level two violation under section 374.049,
24 RSMo."; and

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1 Further amend said bill, Section 376.1012, Pages 56 and 57, by inserting after all of said section
2 the following:

3 "376.1094. 1. The director shall suspend or revoke the certificate of authority of an
4 administrator [shall be suspended or revoked] if the director finds that the administrator:

5 (1) Is in an unsound financial condition;

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

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

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

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

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

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

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

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

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

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

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

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

16 (1) The administrator is insolvent or impaired;

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

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

21 4. [If the director finds that one or more grounds exist for the suspension or revocation of
22 a certificate of authority issued under sections 376.1075 to 376.1095, the director may, in lieu of
23 such suspension or revocation, bring a civil action against the administrator in a court of
24 competent jurisdiction. The court may impose a fine upon the administrator of not more than fifty

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1 thousand dollars, such fine to be payable to the Missouri state school fund] If the director
2 determines that a person has engaged, is engaging in, or has taken a substantial step toward
3 engaging in an act, practice or course of business constituting a violation of sections 376.1075 to
4 376.1095 or a rule adopted or order issued pursuant thereto, or that a person has materially aided
5 or is materially aiding an act, practice, omission, or course of business constituting a violation of
6 sections 376.1075 to 376.1095 or a rule adopted or order issued pursuant thereto, the director may
7 issue such administrative orders as authorized under section 374.046, RSMo. A violation of any
8 of these sections is a level three violation under section 374.049, RSMo.

9 5. If the director believes that a person has engaged, is engaging in, or has taken a
10 substantial step toward engaging in an act, practice or course of business constituting a violation
11 of sections 376.1075 to 376.1095 or a rule adopted or order issued pursuant thereto, or that a
12 person has materially aided or is materially aiding an act, practice, omission, or course of business
13 constituting a violation of sections 376.1075 to 376.1095 or a rule adopted or order issued
14 pursuant thereto, the director may maintain a civil action for relief authorized under section
15 374.048, RSMo. A violation of any of these sections is a level three violation under section
16 374.049, RSMo.

17 376.1500. As used IN sections 376.1500 to 376.1532, the following words or phrases
18 mean:

19 (1) "Director", the director of the department of insurance, financial institutions and
20 professional registration;

21 (2) "Discount card", a card or any other purchasing mechanism or device, which is not
22 insurance, that purports to offer discounts or access to discounts in health-related purchases from
23 health care providers;

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1 (3) "Discount medical plan", a business arrangement or contract in which a person, in
2 exchange for fees, dues, charges, or other consideration, provides access for plan members to
3 providers of medical services and the right to receive medical services from those providers at a
4 discount. The term does not include any product regulated as an insurance product, group health
5 service product or membership in a health maintenance organization in this state or discounts
6 provided by an insurer, group health service, or health maintenance organizations where those
7 discounts are provided at no cost to the insured or member and are offered due to coverage with a
8 licensed insurer, group health service, or health maintenance organization. The term does not
9 include an arrangement where the discounts or prices are sold, rented or otherwise provided to
10 another licensed carrier or to a self-insured or self-funded employer sponsored plan or Taft-
11 Hartley trust;

12 (4) "Discount medical plan organization", means a person or an entity that, in exchange
13 for fees, dues, charges or other consideration, provides access for plan members to providers of
14 medical services and the right to receive medical services from those providers at a discount. It is
15 the person or organization that contracts with providers, provider networks or other discount
16 medical plan organizations to offer access to medical services at a discount and determines the
17 charge to plan members;

18 (5) "Health care provider", any person or entity licensed by this state to provide health
19 care services including, but not limited to physicians, hospitals, home health agencies,
20 pharmacies, and dentists;

21 (6) "Health care provider network", an entity which directly contracts with physicians and
22 hospitals and has contractual rights to negotiate on behalf of those health care providers with a
23 discount medical plan organization to provide medical services to members of the discount
24 medical plan organization;

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1 (7) "Marketer", a person or entity who markets, promotes, sells or distributes a discount
2 medical plan, including a private label entity that places its name on and markets or distributes a
3 discount medical plan but does not operate a discount medical plan;

4 (8) "Medical services", any care, service or treatment of illness or dysfunction of, or injury
5 to, the human body including, but not limited to, physician care, inpatient care, hospital surgical
6 services, emergency services, ambulance services, dental care services, vision care services,
7 mental health services, substance abuse services, chiropractic services, podiatric care services,
8 laboratory services, and medical equipment and supplies. The term does not include
9 pharmaceutical supplies or prescriptions;

10 (9) "Member", any person who pays fees, dues, charges, or other consideration for the
11 right to receive the purported benefits of a discount medical plan; and

12 (10) "Person", an individual, corporation, business trust, estate, trust, partnership,
13 association, joint venture, limited liability company, or any other government or commercial
14 entity.

15 376.1502. 1. It is unlawful to transact business in this state as a discount medical plan
16 organization, unless the organization is a corporation, limited liability corporation, partnership,
17 limited liability partnership or other legal entity organized under the laws of this state or, if a
18 foreign entity, authorized to transact business in this state, and is registered as a discount medical
19 plan organization with the director or duly authorized by the director as an insurance company,
20 licensed health maintenance organization, licensed group health service organization, or licensed
21 third party administrator.

22 2. An individual person, employee, or agent of a registered entity described in subsection
23 1 of this section may also transact business in this state on behalf of such entity.

24 376.1504. 1. To register as a discount medical plan organization, an applicant shall:

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1 (1) File with the director an application on a form approved and adopted by the director;
2 and

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

4 2. A registration is valid for a one-year term and expires one year following the
5 registration date unless it is renewed as provided in this section.

6 3. Before it expires, a registrant may renew the registration for an additional one-year term
7 if the registrant:

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

9 (2) Files with the director a renewal application on a form approved and adopted by the
10 director; and

11 (3) Pays a renewal fee of two hundred fifty dollars.

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

14 5. Nothing in this subsection shall require a provider who provides discounts to his or her
15 own patients to obtain and maintain a registration as a discount medical plan organization.

16 376.1506. 1. If the director has a reason to believe that the discount medical plan
17 organization is not complying with the requirements of sections 376.1500 to 376.1532, the
18 director may examine or investigate the business and affairs of any discount medical plan
19 organization under the authority of sections 374.190 and 374.202 to 374.207, RSMo. The director
20 may require any discount medical plan organization or applicant to produce any records, books,
21 files, advertising and solicitation materials, or other information and may take statements under
22 oath to determine whether the discount medical plan organization or applicant is in violation of
23 the law. Reasonable expenses incurred in conducting any examination shall be paid by the
24 discount medical plan organization under sections 374.202 to 374.207, RSMo.

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

4 376.1508. 1. A discount medical plan organization may charge a reasonable one-time
5 processing fee and a periodic charge as long as the fee is disclosed to the applicant.

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

12 3. The right of cancellation shall be set out in the written membership materials on the
13 first page, in ten-point type or larger.

14 4. If a discount medical plan organization cancels a membership for any reason other than
15 nonpayment of charges by the member, the discount medical plan organization shall make a pro
16 rata reimbursement of all periodic charges to the member.

17 376.1510. A discount medical plan organization shall not:

18 (1) Use in its advertisements, marketing material, brochures, and discount cards the terms
19 "health plan", "coverage", "copay", "copayments", "preexisting conditions", "guaranteed issue",
20 "premium", "PPO", "preferred provider organization", or other terms in a manner that could
21 reasonably mislead a person to believe that the discount medical plan is health insurance;

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

24 (3) Pay providers any fees for medical services;

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1 (4) Collect or accept money from a member for payment to a provider for specific medical
2 services furnished or to be furnished to the member, unless the organization is licensed by the
3 director to act as an administrator; or

4 (5) Except as otherwise provided in sections 376.1500 to 376.1532, as a disclaimer of any
5 relationship between discount medical plan benefits and insurance, or as a description of an
6 insurance product connected with a discount medical plan, use in its advertisements, marketing
7 material, brochures, and discount cards the term "insurance".

8 376.1512. 1. The following disclosures, to be printed in bold and in not less than twelve-
9 point type, shall be made in writing to any prospective member and shall appear on the first
10 content page of any advertisements, marketing materials or brochures relating to a discount
11 medical plan:

12 (1) The plan is not insurance;

13 (2) The plan provides discounts with certain health care providers for medical services;

14 (3) The plan does not make payments directly to the providers of medical services;

15 (4) The plan member is obligated to pay for all health care services but will receive a
16 discount from those health care providers who have contracted with the discount plan

17 organization; and

18 (5) The name and the location of the registered discount medical plan organization,
19 including the current telephone number of the registered discount medical plan organization or
20 other entity responsible for customer service for the plan, if different from the registered discount
21 medical plan organization.

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

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1 3. Each discount card or any other plan identifier issued to a plan member shall state in
2 bold and prominent type on the front face of the card that "THIS IS NOT INSURANCE".

3 376.1514. 1. All providers offering medical services to members under a discount
4 medical plan shall provide such services pursuant to a written agreement. The agreement may be
5 entered into directly by the health care provider or by a health care provider network to which the
6 provider belongs if the provider network has contracts with the health care provider that allow the
7 provider network to contract on behalf of the health care provider.

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

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

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

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

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

16 (1) Contain the terms described in this subsection;

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

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

21 4. A health care provider agreement between a discount medical plan organization and an
22 entity that contracts with a health care provider network shall require that the entity, in its contract
23 with the health care provider network, require the health care provider network to have written
24 agreements with its providers that comply with subsection 3 of this section.

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1 5. The discount medical plan organization shall maintain a copy of each active health care
2 provider agreement into which it has entered.

3 376.1516. 1. Each benefit under the discount medical plan shall be included in the written
4 membership materials between the discount medical plan organization and the member. The
5 written membership materials shall also include a statement notifying the members of their right
6 to cancel under section 376.1508, and such materials shall also list all of the disclosures required
7 by section 376.1512.

8 2. Upon request by the Director, any forms used by a discount medical plan organization,
9 including written membership materials, shall be submitted to the Director.

10 376.1518. 1. Each discount medical plan organization registered pursuant to sections
11 sections 376.1500 to 376.1532, shall at all times maintain a net worth of at least one hundred fifty
12 thousand dollars.

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

15 376.1520. Each discount medical plan organization required to be registered pursuant to
16 this section shall provide the director at least thirty days' advance notice of any change in the
17 discount medical plan organization's name, address, principal business address, or mailing
18 address.

19 376.1522. Each discount medical plan organization shall maintain a current list of the
20 names and addresses of the providers with which it has contracted on a web site page, the address
21 of which shall be prominently displayed on all its advertisements, marketing materials, brochures,
22 and discount cards. This section applies to those providers with whom the discount medical plan
23 organization has contracted directly, as well as those who are members of a provider network with
24 which the discount medical plan organization has contracted.

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1 376.1524. 1. All advertisements, marketing materials, brochures and discount cards used
2 by marketers shall be approved in writing for such use by the discount medical plan organization.

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

6 376.1528. The director under the provisions of section 374.045, RSMo, may promulgate
7 rules to administer and interpret the provisions of sections 376.1500 to 376.1532.

8 376.1530. 1. The director may deny a registration to an applicant or refuse to renew,
9 suspend, or revoke the registration of a registrant if the applicant or registrant, or an officer,
10 director, or employee of the applicant or registrant:

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

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

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

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

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

21 (6) Does not have the minimum net worth as required by sections 376.1500 to 376.1532;
22 or

23 (7) Violates any provision of sections 376.1500 to 376.1532, or any law or regulation of
24 this state relating to insurance or the provision of medical care.

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1 2. If the director has cause to believe that grounds for the suspension or revocation of a
2 registration exist, the director shall notify the discount medical plan organization in writing,
3 specifically stating the grounds for suspension or revocation, and shall provide opportunity for a
4 hearing on the matter before the director.

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

9 376.1532. 1. If the director determines that a person has engaged, is engaging, or has
10 taken a substantial step toward engaging in a violation of sections 376.1500 to 376.1532, or a rule
11 adopted or order issued pursuant thereto, or that a person has materially aided or is materially
12 aiding an act, practice, omission, or course of business constituting a violation of sections
13 376.1500 to 376.1532 or a rule adopted or order issued pursuant thereto, the director may issue
14 such administrative orders as authorized under section 374.046, RSMo. A violation of sections
15 376.1500 to 376.1532 is a level two violation under section 374.049, RSMo. The director of
16 insurance may also suspend or revoke the license or certificate of authority of such person for any
17 willful violation.

18 2. If the director believes that a person has engaged, is engaging, or has taken a substantial
19 step toward engaging in a violation of sections 376.1500 to 376.1532 or a rule adopted or order
20 issued pursuant thereto, or that a person has materially aided or is materially aiding an act,
21 practice, omission or course of business constituting a violation of sections 376.1500 to 376.1532
22 or a rule adopted or order issued pursuant thereto, the director may maintain a civil action for
23 relief authorized under section 374.048, RSMo. A violation of sections 376.1500 to 376.1532 is a
24 level two violation under section 374.049, RSMo."; and

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1 Further amend said bill, Section 377.200, Pages 57 and 58, by inserting after all of said section the
2 following:

3 "379.361. 1. [The director may, if he finds that any insurer or filing organization has
4 violated any provision of section 379.017 and sections 379.316 to 379.361, impose a penalty of
5 not more than five hundred dollars for each violation, but if he finds the violation to be willful, he
6 may impose a penalty of not more than five thousand dollars for each violation. These penalties
7 may be in addition to any other penalty provided by law.

8 2. The director may suspend the license of any rating organization or insurer which fails
9 to comply with an order of the director within the time limited by such order, or any extension
10 thereof which the director may grant. The director shall not suspend the license of any rating
11 organization or insurer for failure to comply with an order until the time prescribed for an appeal
12 therefrom has expired or if an appeal has been taken, until the order has been affirmed. The
13 director may determine when a suspension of license shall become effective and it shall remain in
14 effect for the period fixed by him, unless he modifies or rescinds such suspension or until the
15 order upon which such suspension is based is modified, rescinded or reversed.

16 3. No penalty shall be imposed or no license shall be suspended or revoked except upon a
17 written order of the director, stating his findings, made after a hearing held upon not less than ten
18 days' written notice to such person or organization specifying the alleged violation] If the director
19 determines that any insurer or filing organization has engaged, is engaging in, or has taken a
20 substantial step toward engaging in an act, practice or course of business constituting a violation
21 of section 379.017 and sections 379.316 to 379.361 or a rule adopted or order issued pursuant
22 thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or
23 course of business constituting a violation of section 379.017 and sections 379.316 to 379.361 or
24 a rule adopted or order issued pursuant thereto, the director may issue such administrative orders

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1 as authorized under section 374.046, RSMo. A violation of any of these sections is a level two
2 violation under section 374.049, RSMo. The practice of using a rate not in effect under section
3 379.321, if caused by a single act or omission by the insurer or filing organization, is a level two
4 violation under section 374.049, RSMo. Each act as part of a rating violation does not constitute
5 a separate violation under section 374.049, RSMo. The director may also suspend or revoke the
6 license or certificate of authority of an insurer or filing company for any willful violation.

7 2. If the director believes that a person has engaged, is engaging in, or has taken a
8 substantial step toward engaging in an act, practice or course of business constituting a violation
9 of section 379.017 and sections 379.316 to 379.361 or a rule adopted or order issued pursuant
10 thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or
11 course of business constituting a violation of section 379.017 and sections 379.316 to 379.361 or
12 a rule adopted or order issued pursuant thereto, the director may maintain a civil action for relief
13 authorized under section 374.048, RSMo. A violation of any of these sections is a level two
14 violation under section 374.049, RSMo. The practice of using a rate not in effect under section
15 379.321, if caused by a single act or omission by the insurer or filing organization, is a level two
16 violation under section 374.049, RSMo. Each act as part of a rating violation does not constitute
17 a separate violation under section 374.049, RSMo.

18 379.510. [Any person or organization who willfully violates a final order of the director
19 under sections 379.420 to 379.510 shall be deemed guilty of a misdemeanor and shall upon
20 conviction thereof be punished by a fine not to exceed five hundred dollars for such violation] 1.
21 If the director determines that any person has violated a final order of the director under sections
22 379.420 to 379.510, the director may issue such administrative orders as authorized under section
23 374.046, RSMo. A violation of any of these sections is a level two violation under section
24 374.049, RSMo.

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1 2. If the director believes that a person has violated a final order of the director under
2 sections 379.420 to 379.510, the director may maintain a civil action for relief authorized under
3 section 374.048, RSMo. A violation of any of these sections is a level two violation under section
4 374.049, RSMo.

5 379.790. 1. It is unlawful for any attorney [who shall] to exchange any contracts of
6 indemnity of the kind and character specified in sections 379.650 to 379.790, or directly or
7 indirectly solicit or negotiate any applications for same without first complying with the foregoing
8 provisions], shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be
9 subject to a fine of not less than one hundred dollars nor more than one thousand dollars;
10 provided]. However, [that] the director [of insurance] may, in his discretion and on such terms as
11 he may prescribe, issue a permit for organization purposes, the permit to continue in force or be
12 canceled at the pleasure of the director [of insurance].

13 2. If the director determines that a person has engaged, is engaging in, or has taken a
14 substantial step toward engaging in an act, practice or course of business constituting a violation
15 of this section or a rule adopted or order issued pursuant thereto, or that a person has materially
16 aided or is materially aiding an act, practice, omission, or course of business constituting a
17 violation of this section or a rule adopted or order issued pursuant thereto, the director may issue
18 such administrative orders as authorized under section 374.046, RSMo. A violation of this
19 section is a level one violation under section 374.049, RSMo.

20 3. If the director believes that a person has engaged, is engaging in, or has taken a
21 substantial step toward engaging in an act, practice or course of business constituting a violation
22 of this section or a rule adopted or order issued pursuant thereto, or that a person has materially
23 aided or is materially aiding an act, practice, omission, or course of business constituting a
24 violation of this section or a rule adopted or order issued pursuant thereto, the director may

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1 maintain a civil action for relief authorized under section 374.048, RSMo. A violation of this
2 section is a level one violation under section 374.049, RSMo.

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

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

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

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

16 380.571. 1. [The director may issue cease and desist orders whenever it appears to him
17 upon competent and substantial evidence that any company operating under the provisions of
18 sections 380.201 to 380.591 is acting in violation of those laws or any other applicable laws or
19 any rule or regulation promulgated by the director pursuant thereto. Before any cease and desist
20 order shall be issued, a copy of the proposed order together with an order to show cause why such
21 cease and desist order should not be issued shall be served either personally or by certified mail on
22 the company named therein.

23 2. Upon issuing any order to show cause, the director shall notify the company named
24 therein that it is entitled to a public hearing before the director if a request for a hearing is made in

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1 writing to the director within fifteen days from the day of the service of the order to show cause
2 why the cease and desist order should not be issued. The cease and desist order shall be issued
3 fifteen days after the service of the order to show cause if no request for a public hearing is made
4 as above provided.

5 3. Upon receipt of a request for a hearing, the director shall set a time and place for the
6 hearing which shall not be less than ten days or more than fifteen days from the receipt of the
7 request or as otherwise agreed upon by the parties. Notice of the time and place shall be given by
8 the director not less than five days before the hearing.

9 4. At the hearing the company may be represented by counsel and shall be entitled to be
10 advised of the nature and source of any adverse evidence procured by the director, and shall be
11 given the opportunity to submit any relevant written or oral evidence in its behalf to show cause
12 why the cease and desist order should not be issued.

13 5. At the hearing the director shall have such powers as are conferred upon him by the
14 provisions of section 374.190, RSMo.

15 6. At the conclusion of the hearing, or within ten days thereafter, the director shall issue
16 the cease and desist order as proposed or as subsequently modified, or notify the company that no
17 order will be issued.

18 7. The circuit court of Cole County shall have jurisdiction to review any cease and desist
19 order of the director under the provisions of sections 536.100 to 536.150, RSMo; and, if any
20 company against whom an order is issued fails to request judicial review, or if, after judicial
21 review, the director's cease and desist order is upheld, the order shall become final.

22 8. If any company willfully violates any provision of any cease and desist order of the
23 director after it becomes final, it may be penalized by the director by a fine of not more than one
24 thousand dollars.

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1 9. The director of insurance may in addition to a monetary fine, suspend or revoke the
2 certificate of authority of any company violating a cease and desist order] If the director
3 determines that any person has engaged, is engaging in, or has taken a substantial step toward
4 engaging in an act, practice or course of business constituting a violation of sections 380.201 to
5 380.611 or a rule adopted or order issued pursuant thereto, or that a person has materially aided or
6 is materially aiding an act, practice, omission, or course of business constituting a violation of
7 sections 380.201 to 380.611 or a rule adopted or order issued pursuant thereto, the director may
8 issue such administrative orders as authorized under section 374.046, RSMo. A violation of any
9 of these sections is a level two violation under section 374.049, RSMo, except a violation of
10 section 380.391 is a level four violation under section 374.049, RSMo. The director may also
11 suspend or revoke the certificate of authority of such person for any willful violation.

12 2. If the director believes that a person has engaged, is engaging in, or has taken a
13 substantial step toward engaging in an act, practice or course of business constituting a violation
14 of sections 380.201 to 380.611 or a rule adopted or order issued pursuant thereto, or that a person
15 has materially aided or is materially aiding an act, practice, omission, or course of business
16 constituting a violation of sections 380.201 to 380.611 or a rule adopted or order issued pursuant
17 thereto, the director may maintain a civil action for relief authorized under section 374.048,
18 RSMo. A violation of any of these sections is a level two violation under section 374.049, RSMo,
19 except a violation of section 380.391 is a level four violation under section 374.049, RSMo."; and
20

21 Further amend said bill, Section 381.068, Page 58, by inserting after all of said section the
22 following:

23 "384.054. Any tax imposed by sections 384.011 to 384.071 which is delinquent in
24 payment shall be subject to a penalty of one percent of the tax per diem up to ten percent of the

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1 tax. Any delinquent tax shall bear interest at the rate determined under section 32.065, RSMo,
2 from the time such tax is due.

3 384.071. 1. If the director determines that a person has engaged, is engaging in, or has
4 taken a substantial step toward engaging in an act, practice or course of business constituting a
5 violation of sections 384.011 to 384.071 or a rule adopted or order issued pursuant thereto, or that
6 a person has materially aided or is materially aiding an act, practice, omission, or course of
7 business constituting a violation of sections 384.011 to 384.071 or a rule adopted or order issued
8 pursuant thereto, the director may issue such administrative orders as authorized under section
9 374.046, RSMo. A violation of any of these sections is a level three violation under section
10 374.049, RSMo.

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

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

22 [2. In addition to any other penalty provided for herein or otherwise provided by law,
23 including any suspension, revocation or refusal to renew a license, any person, firm, association or
24 corporation violating any provision of sections 384.011 to 384.071 shall be liable to a penalty not

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1 exceeding one thousand dollars for the first offense, and not exceeding two thousand dollars for
2 each succeeding offense.

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

5
6 Further amend said bill, Section 409.950, Page 58, by inserting after all of said section the
7 following:

8 "[374.261. As used in sections 374.261 to 374.269, the following words mean:

9 (1) "Director", the director of the department of insurance;

10 (2) "Examiners", nonsalaried employees of the department of insurance
11 conducting an examination pursuant to section 374.190;

12 (3) "Sick leave", those days of leave taken during the conduct of an examination
13 during which an examiner is prevented from conducting an examination due to
14 illness or injury.]

15
16 [374.263. There is hereby created in the state treasury a fund to be known as the
17 "Insurance Examiner's Sick Leave Fund", hereinafter referred to as the "fund". The
18 fund shall be used to pay the daily wages of department of insurance examiners
19 who are temporarily unable to continue an examination of an insurance company
20 or companies pursuant to section 374.190, because of illness or injury suffered or
21 sustained by the examiner during the course of the examination which the
22 examiner is conducting.]

23
24 [374.265. 1. There shall be an amount assessed against those domestic insurers
25 which are subject to premium tax and are engaged in the business of insurance
26 within this state, which amount shall be no less than one hundred and fifty nor
27 greater than five hundred dollars.

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

33
34 [374.267. 1. The director of the department of insurance, his agents or appointees
35 shall be empowered to make assessments pursuant to section 374.265, and to
36 administer the fund.

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1 2. The director, his agents or appointees shall compensate an examiner out of the
2 fund only after the examiner has satisfied the director, his agents or appointees
3 that:
4 (1) The examiner was employed by the department of insurance to conduct an
5 examination of an insurance company or companies pursuant to section 374.190 at
6 the time of the illness or injury for which daily wages are claimed; and
7 (2) The examiner was prevented from conducting the examination due to illness or
8 injury.
9 3. The amount paid by the director, his agents or appointees to an examiner from
10 the fund shall not exceed the amount of the examiner's daily wages times the
11 number of days during which the examiner was prevented from conducting an
12 examination as result of illness or injury, but in no event shall any examiner be
13 paid for more than one and one-fourth days times the number of months for which
14 he has been employed by the department of insurance as an examiner, nor shall an
15 examiner be paid for or receive credit for sick leave after August 13, 1988, for or
16 on the basis of any month, months or portion thereof before August 13, 1988.]" ;
17 and
18
19

20 Further amend said bill by amending the title, enacting clause, and intersectional references
21 accordingly.
22
23

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