

SECOND REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 1495

96TH GENERAL ASSEMBLY

5377L.02P

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 375.993, RSMo, and to enact in lieu thereof one new section relating to the reporting of insurance fraud.

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

Section A. Section 375.993, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 375.993, to read as follows:

375.993. 1. The department's papers, documents, reports, or evidence relative to the subject of an investigation under this section shall not be subject to public inspection for so long as the department deems reasonably necessary to complete the investigation and any subsequent legal action. Further, such papers, documents, reports, or evidence relative to the subject of an investigation under sections 375.991 to 375.994 shall not be subject to subpoena until opened for public inspection by the department, unless the department consents, or until, after notice to the department and a hearing, the court determines the department would not be unnecessarily hindered by such subpoena. Department investigators shall not be subject to subpoena in civil actions by any court of this state to testify concerning any matter of which they have knowledge pursuant to a pending insurance fraud investigation by the department.

2. No insurer, employees or agents of any insurer, or any other person acting without malice, shall be subject to civil liability **of any kind, including** for libel [or otherwise] **and slander**, by virtue of the filing of reports or furnishing other information required by sections 375.991 to 375.994 or required by the department of insurance, financial institutions and professional registration as a result of the authority granted in sections 375.991 to 375.994. **In addition, except when a person knowingly and intentionally communicates false**

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

17 **information, no civil cause of action of any nature shall arise against such person for any**
18 **information relating to suspected or anticipated fraudulent insurance acts:**

19 **(1) Furnished to or received from law enforcement officials, and their agents and**
20 **employees;**

21 **(2) Furnished to or received from other persons subject to sections 375.991 to**
22 **375.994; or**

23 **(3) Furnished in reports to a federal or state governmental agency or office, the**
24 **National Association of Insurance Commissioners, the National Insurance Crime Bureau,**
25 **or any other organization established to detect and prevent fraudulent insurance acts, or**
26 **to their agents, employees, or designees, or a recognized comprehensive database system**
27 **recognized by the department.**

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29 **Nothing herein is intended to abrogate or modify in any manner any common law or**
30 **statutory privilege or immunity heretofore enjoyed by any person.**

31 **3. (1) As used in this subsection, "person" means a natural person, company,**
32 **corporation, unincorporated association, partnership, professional corporation, or any**
33 **other entity.**

34 **(2) Any insurer that has been injured in business or property by reason of a**
35 **knowing violation of section 375.991 committed with the intent to defraud may recover**
36 **from the person or persons violating section 375.991 in any appropriate circuit court the**
37 **following:**

38 **(a) Return of any profit, benefit, compensation, or payment received by the person**
39 **or persons violating section 375.991 directly resulting from such violation;**

40 **(b) Reasonable attorney's fees and related legal expenses, including but not limited**
41 **to internal legal expenses and court costs; and**

42 **(c) All other economic damages directly resulting from such violation.**

43 **(3) In addition to any other damages or recovery provided by this section, upon a**
44 **showing by clear and convincing evidence that such violation was committed knowingly**
45 **with an intent to defraud, the insurer shall be entitled to recover up to three times the**
46 **amount of damages awarded in paragraph (c) of subdivision (2) of this subsection.**

47 **(4) Any cause of action under this section shall be brought within five years of the**
48 **commission of the acts constituting such violation, or within two years of the time the**
49 **insurer discovered or with reasonable diligence could have discovered such acts, whichever**
50 **is later.**

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