

SECOND REGULAR SESSION

# HOUSE BILL NO. 1376

98TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE MILLER.

4555H.011

D. ADAM CRUMBLISS, Chief Clerk

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## AN ACT

To repeal section 379.930, RSMo, and to enact in lieu thereof one new section relating to small employer health insurance.

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

Section A. Section 379.930, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 379.930, to read as follows:

379.930. 1. Sections 379.930 to 379.952 shall be known and may be cited as the "Small Employer Health Insurance Availability Act".

2. For the purposes of sections 379.930 to 379.952, the following terms shall mean:

(1) "Actuarial certification", a written statement by a member of the American Academy of Actuaries or other individual acceptable to the director that a small employer carrier is in compliance with the provisions of section 379.936, based upon the person's examination, including a review of the appropriate records and of the actuarial assumptions and methods used by the small employer carrier in establishing premium rates for applicable health benefit plans;

(2) "Affiliate" or "affiliated", any entity or person who directly or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, a specified entity or person;

(3) "Base premium rate", for each class of business as to a rating period, the lowest premium rate charged or that could have been charged under the rating system for that class of business, by the small employer carrier to small employers with similar case characteristics for health benefit plans with the same or similar coverage;

(4) "Board" [means] , the board of directors of the program established pursuant to sections 379.942 and 379.943;

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.

- 18 (5) "Bona fide association", an association which:  
19 (a) Has been actively in existence for at least five years;  
20 (b) Has been formed and maintained in good faith for purposes other than obtaining  
21 insurance;  
22 (c) Does not condition membership in the association on any health status-related factor  
23 relating to an individual (including an employee of an employer or a dependent of an employee);  
24 (d) Makes health insurance coverage offered through the association available to all  
25 members regardless of any health status-related factor relating to such members (or individuals  
26 eligible for coverage through a member);  
27 (e) Does not make health insurance coverage offered through the association available  
28 other than in connection with a member of the association; and  
29 (f) Meets all other requirements for an association set forth in subdivision (5) of  
30 subsection 1 of section 376.421 that are not inconsistent with this subdivision;  
31 (6) "Carrier" or "health insurance issuer", any entity that provides health insurance or  
32 health benefits in this state. For the purposes of sections 379.930 to 379.952, carrier includes  
33 an insurance company, health services corporation, fraternal benefit society, health maintenance  
34 organization, multiple employer welfare arrangement specifically authorized to operate in the  
35 state of Missouri, or any other entity providing a plan of health insurance or health benefits  
36 subject to state insurance regulation;  
37 (7) "Case characteristics", demographic or other objective characteristics of a small  
38 employer that are considered by the small employer carrier in the determination of premium rates  
39 for the small employer, provided that claim experience, health status and duration of coverage  
40 since issue shall not be case characteristics for the purposes of sections 379.930 to 379.952;  
41 (8) "Church plan", the meaning given such term in Section 3(33) of the Employee  
42 Retirement Income Security Act of 1974;  
43 (9) "Class of business", all or a separate grouping of small employers established  
44 pursuant to section 379.934;  
45 (10) "Committee", the health benefit plan committee created pursuant to section  
46 379.944;  
47 (11) "Control" shall be defined in manner consistent with chapter 382;  
48 (12) "Creditable coverage", with respect to an individual:  
49 (a) Coverage of the individual under any of the following:  
50 a. A group health plan;  
51 b. Health insurance coverage;  
52 c. Part A or Part B of Title XVIII of the Social Security Act;

- 53 d. Title XIX of the Social Security Act, other than coverage consisting solely of benefits  
54 under Section 1928 of such act;
- 55 e. Chapter 55 of Title 10, United States Code;
- 56 f. A medical care program of the Indian Health Service or of a tribal organization;
- 57 g. A state health benefits risk pool;
- 58 h. A health plan offered under Chapter 89 of Title 5, United States Code;
- 59 i. A public health plan, as defined in federal regulations authorized by Section  
60 2701(c)(1)(I) of the Public Health Services Act, as amended by Public Law 104-191; and
- 61 j. A health benefit plan under Section 5(e) of the Peace Corps Act (22 U.S.C. 2504(e));
- 62 (b) Creditable coverage shall not include coverage consisting solely of excepted benefits;
- 63 (13) "Dependent", a spouse or an unmarried child under the age of nineteen years; an  
64 unmarried child who is a full-time student under the age of twenty-three years and who is  
65 financially dependent upon the parent; or an unmarried child of any age who is medically  
66 certified as disabled and dependent upon the parent;
- 67 (14) "Director", the director of the department of insurance, financial institutions and  
68 professional registration of this state;
- 69 (15) "Eligible employee", an employee who works on a full-time basis and has a normal  
70 work week of thirty or more hours. The term includes a sole proprietor, a partner of a  
71 partnership, and an independent contractor, if the sole proprietor, partner or independent  
72 contractor is included as an employee under a health benefit plan of a small employer, but does  
73 not include an employee who works on a part-time, temporary or substitute basis. For purposes  
74 of sections 379.930 to 379.952, a person, his spouse and his minor children shall constitute only  
75 one eligible employee when they are employed by the same small employer;
- 76 (16) "Established geographic service area", a geographical area, as approved by the  
77 director and based on the carrier's certificate of authority to transact insurance in this state, within  
78 which the carrier is authorized to provide coverage;
- 79 (17) "Excepted benefits":
- 80 (a) Coverage only for accident (including accidental death and dismemberment)  
81 insurance;
- 82 (b) Coverage only for disability income insurance;
- 83 (c) Coverage issued as a supplement to liability insurance;
- 84 (d) Liability insurance, including general liability insurance and automobile liability  
85 insurance;
- 86 (e) Workers' compensation or similar insurance;
- 87 (f) Automobile medical payment insurance;
- 88 (g) Credit-only insurance;

- 89 (h) Coverage for on-site medical clinics;
- 90 (i) Other similar insurance coverage, as approved by the director, under which benefits  
91 for medical care are secondary or incidental to other insurance benefits;
- 92 (j) If provided under a separate policy, certificate or contract of insurance, any of the  
93 following:
- 94 a. Limited scope dental or vision benefits;
- 95 b. Benefits for long-term care, nursing home care, home health care, community-based  
96 care, or any combination thereof;
- 97 c. Other similar, limited benefits as specified by the director.
- 98 (k) If provided under a separate policy, certificate or contract of insurance, any of the  
99 following:
- 100 a. Coverage only for a specified disease or illness;
- 101 b. Hospital indemnity or other fixed indemnity insurance.
- 102 (l) If offered as a separate policy, certificate or contract of insurance, any of the  
103 following:
- 104 a. Medicare supplemental coverage (as defined under Section 1882(g)(1) of the Social  
105 Security Act);
- 106 b. Coverage supplemental to the coverage provided under Chapter 55 of Title 10, United  
107 States Code;
- 108 c. Similar supplemental coverage provided to coverage under a group health plan;
- 109 (18) "Governmental plan", the meaning given such term under Section 3(32) of the  
110 Employee Retirement Income Security Act of 1974 or any federal government plan;
- 111 (19) "Group health plan", an employee welfare benefit plan as defined in Section 3(1)  
112 of the Employee Retirement Income Security Act of 1974 and Public Law 104-191 to the extent  
113 that the plan provides medical care, as defined in this section, and including any item or service  
114 paid for as medical care to an employee or the employee's dependent, as defined under the terms  
115 of the plan, directly or through insurance, reimbursement or otherwise, but not including  
116 excepted benefits;
- 117 (20) "Health benefit plan" or "health insurance coverage", benefits consisting of medical  
118 care, including items and services paid for as medical care, that are provided directly, through  
119 insurance, reimbursement, or otherwise, under a policy, certificate, membership contract, or  
120 health services agreement offered by a health insurance issuer, but not including excepted  
121 benefits or a policy that is individually underwritten;
- 122 (21) "Health status-related factor", any of the following:
- 123 (a) Health status;
- 124 (b) Medical condition, including both physical and mental illnesses;

- 125 (c) Claims experience;
- 126 (d) Receipt of health care;
- 127 (e) Medical history;
- 128 (f) Genetic information;
- 129 (g) Evidence of insurability, including a condition arising out of an act of domestic  
130 violence;
- 131 (h) Disability;
- 132 (22) "Index rate", for each class of business as to a rating period for small employers  
133 with similar case characteristics, the arithmetic mean of the applicable base premium rate and  
134 the corresponding highest premium rate;
- 135 (23) "Late enrollee", an eligible employee or dependent who requests enrollment in a  
136 health benefit plan of a small employer following the initial enrollment period for which such  
137 individual is entitled to enroll under the terms of the health benefit plan, provided that such  
138 initial enrollment period is a period of at least thirty days. However, an eligible employee or  
139 dependent shall not be considered a late enrollee if:
- 140 (a) The individual meets each of the following:
- 141 a. The individual was covered under creditable coverage at the time of the initial  
142 enrollment;
- 143 b. The individual lost coverage under creditable coverage as a result of cessation of  
144 employer contribution, termination of employment or eligibility, reduction in the number of  
145 hours of employment, the involuntary termination of the creditable coverage, death of a spouse,  
146 dissolution or legal separation;
- 147 c. The individual requests enrollment within thirty days after termination of the  
148 creditable coverage;
- 149 (b) The individual is employed by an employer that offers multiple health benefit plans  
150 and the individual elects a different plan during an open enrollment period; or
- 151 (c) A court has ordered coverage be provided for a spouse or minor or dependent child  
152 under a covered employee's health benefit plan and request for enrollment is made within thirty  
153 days after issuance of the court order;
- 154 (24) "Medical care", an amount paid for:
- 155 (a) The diagnosis, care, mitigation, treatment or prevention of disease, or for the purpose  
156 of affecting any structure or function of the body;
- 157 (b) Transportation primarily for and essential to medical care referred to in paragraph  
158 (a) of this subdivision; or
- 159 (c) Insurance covering medical care referred to in paragraphs (a) and (b) of this  
160 subdivision;

161 (25) "Network plan", health insurance coverage offered by a health insurance issuer  
162 under which the financing and delivery of medical care, including items and services paid for as  
163 medical care, are provided, in whole or in part, through a defined set of providers under contract  
164 with the issuer;

165 (26) "New business premium rate", for each class of business as to a rating period, the  
166 lowest premium rate charged or offered, or which could have been charged or offered, by the  
167 small employer carrier to small employers with similar case characteristics for newly issued  
168 health benefit plans with the same or similar coverage;

169 (27) "Plan of operation", the plan of operation of the program established pursuant to  
170 sections 379.942 and 379.943;

171 (28) "Plan sponsor", the meaning given such term under Section 3(16)(B) of the  
172 Employee Retirement Income Security Act of 1974;

173 (29) "Premium", all moneys paid by a small employer and eligible employees as a  
174 condition of receiving coverage from a small employer carrier, including any fees or other  
175 contributions associated with the health benefit plan;

176 (30) "Producer", the meaning given such term in section 375.012 and includes an  
177 insurance agent or broker;

178 (31) "Program", the Missouri small employer health reinsurance program created  
179 pursuant to sections 379.942 and 379.943;

180 (32) "Rating period", the calendar period for which premium rates established by a small  
181 employer carrier are assumed to be in effect;

182 (33) "Restricted network provision", any provision of a health benefit plan that  
183 conditions the payment of benefits, in whole or in part, on the use of health care providers that  
184 have entered into a contractual arrangement with the carrier pursuant to section 354.400, et seq.  
185 to provide health care services to covered individuals;

186 (34) "Small employer", in connection with a group health plan with respect to a calendar  
187 year and a plan year, any person, firm, corporation, partnership, association, or political  
188 subdivision that is actively engaged in business that employed an average of at least two but no  
189 more than [fifty] **one hundred** eligible employees on business days during the preceding  
190 calendar year and that employs at least two employees on the first day of the plan year. All  
191 persons treated as a single employer under subsection (b), (c), (m) or (o) of Section 414 of the  
192 Internal Revenue Code of 1986 shall be treated as one employer. Subsequent to the issuance of  
193 a health plan to a small employer and for the purpose of determining continued eligibility, the  
194 size of a small employer shall be determined annually. Except as otherwise specifically  
195 provided, the provisions of sections 379.930 to 379.952 that apply to a small employer shall  
196 continue to apply at least until the plan anniversary following the date the small employer no

197 longer meets the requirements of this definition. In the case of an employer which was not in  
198 existence throughout the preceding calendar year, the determination of whether the employer is  
199 a small or large employer shall be based on the average number of employees that it is reasonably  
200 expected that the employer will employ on business days in the current calendar year. Any  
201 reference in sections 379.930 to 379.952 to an employer shall include a reference to any  
202 predecessor of such employer;

203 (35) "Small employer carrier", a carrier that offers health benefit plans covering eligible  
204 employees of one or more small employers in this state.

205 3. Other terms used in sections 379.930 to 379.952 not set forth in subsection 2 of this  
206 section shall have the same meaning as defined in section 376.450.

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