

SECOND REGULAR SESSION

[PERFECTED]

HOUSE BILL NO. 2440

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE CHRISTOFANELLI.

4230H.01P

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 303.425, 303.430, 303.440, 374.190, and 379.1640, RSMo, and to enact in lieu thereof nine new sections relating to the regulation of insurance.

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

Section A. Sections 303.425, 303.430, 303.440, 374.190, and 379.1640, RSMo, are
2 repealed and nine new sections enacted in lieu thereof, to be known as sections 303.425,
3 303.430, 303.440, 374.190, 374.192, 375.1183, 379.1640, 380.621, and 380.631, to read as
4 follows:

303.425. 1. (1) There is hereby created within the department of revenue the motor
2 vehicle financial responsibility enforcement and compliance incentive program. The
3 department of revenue may enter into contractual agreements with third-party vendors to
4 facilitate the necessary technology and equipment, maintenance thereof, and associated
5 program management services.

6 (2) The department of revenue or a third-party vendor shall utilize technology to
7 compare vehicle registration information with the financial responsibility information
8 accessible through the system. The department of revenue shall utilize this information to
9 identify motorists who are in violation of the motor vehicle financial responsibility law. The
10 department of revenue may offer offenders under this program the option of pretrial diversion
11 as an alternative to statutory fines or reinstatement fees prescribed under the motor vehicle
12 financial responsibility law as a method of encouraging compliance and discouraging
13 recidivism.

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.

14 (3) The department of revenue or third-party vendors shall not use any data collected
15 from or technology associated with any automated motor vehicle financial responsibility
16 enforcement system. For purposes of this subdivision, "motor vehicle financial responsibility
17 enforcement system" means a device consisting of a camera or cameras and vehicle sensor or
18 sensors installed to record motor vehicle financial responsibility violations.

19 (4) All fees paid to or collected by third-party vendors under sections 303.420 to
20 303.440 may come from violator diversion fees generated by the pretrial diversion option
21 established under this section.

22 2. The department of revenue may authorize law enforcement agencies or third-party
23 vendors to use technology to collect data for the investigation, detection, analysis, and
24 enforcement of the motor vehicle financial responsibility law.

25 3. The department of revenue may authorize traffic enforcement officers or third-
26 party vendors to administer the processing and issuance of notices of violation, the collection
27 of fees for a violation of the motor vehicle financial responsibility law, or the referral of cases
28 for prosecution, under the program.

29 4. Access to the system shall be restricted to qualified agencies and the third-party
30 vendors with which the department of revenue contracts for purposes of the program,
31 provided that any third-party vendor with which a contract is executed to provide necessary
32 technology, equipment, or maintenance for the program shall be authorized as necessary to
33 collaborate for required updates and maintenance of system software.

34 5. For purposes of the program, any data collected and matched to a corresponding
35 vehicle insurance record as verified through the system, and any Missouri vehicle registration
36 database, may be used to identify violations of the motor vehicle financial responsibility law.
37 Such corresponding data shall constitute evidence of the violations.

38 6. Except as otherwise provided in this section, the department of revenue shall
39 suspend, in accordance with section 303.041, the registration of any motor vehicle that is
40 determined under the program to be in violation of the motor vehicle financial responsibility
41 law.

42 7. The department of revenue shall send to an owner whose vehicle is identified under
43 the program as being in violation of the motor vehicle financial responsibility law a notice
44 that the vehicle's registration may be suspended unless the owner, within thirty days, provides
45 proof of financial responsibility for the vehicle or proof, in a form specified by the department
46 of revenue, that the owner has a pending criminal charge for a violation of the motor vehicle
47 financial responsibility law. The notice shall include information on steps an individual may
48 take to obtain proof of financial responsibility and a web address to a page on the department
49 of revenue's website where information on obtaining proof of financial responsibility shall be
50 provided. If proof of financial responsibility or a pending criminal charge is not provided

51 within the time allotted, the department of revenue shall provide a notice of suspension and
52 suspend the vehicle's registration in accordance with section 303.041, or shall send a notice of
53 vehicle registration suspension, clearly specifying the reason and statutory grounds for the
54 suspension and the effective date of the suspension, the right of the vehicle owner to request a
55 hearing, the procedure for requesting a hearing, and the date by which that request for a
56 hearing must be made, as well as informing the owner that the matter will be referred for
57 prosecution if a satisfactory response is not received in the time allotted, informing the owner
58 that the minimum penalty for the violation is three hundred dollars [~~and four license points~~],
59 and offering the owner participation in a pretrial diversion option to preclude referral for
60 prosecution and registration suspension under sections 303.420 to 303.440. The notice of
61 vehicle registration suspension shall give a period of thirty-three days from mailing for the
62 vehicle owner to respond, and shall be deemed received three days after mailing. If no
63 request for a hearing or agreement to participate in the diversion option is received by the
64 department of revenue prior to the date provided on the notice of vehicle registration
65 suspension, the director shall suspend the vehicle's registration, effective immediately, and
66 refer the case to the appropriate prosecuting attorney. If an agreement by the vehicle owner to
67 participate in the diversion option is received by the department of revenue prior to the
68 effective date provided on the notice of vehicle registration suspension, then upon payment of
69 a diversion participation fee not to exceed two hundred dollars, agreement to secure proof of
70 financial responsibility within the time provided on the notice of suspension, and agreement
71 that such financial responsibility shall be maintained for a minimum of two years, no points
72 shall be assessed to the vehicle owner's driver's license under section 302.302 and the
73 department of revenue shall not take further action against the vehicle owner under sections
74 303.420 to 303.440, subject to compliance with the terms of the pretrial diversion option. The
75 department of revenue shall suspend the vehicle registration of, and shall refer the case to the
76 appropriate prosecuting attorney for prosecution of, participating vehicle owners who violate
77 the terms of the pretrial diversion option. If a request for hearing is received by the
78 department of revenue prior to the effective date provided on the notice of vehicle registration
79 suspension, then for all purposes other than eligibility for participation in the diversion
80 option, the effective date of the suspension shall be stayed until a final order is issued
81 following the hearing. The department of revenue shall suspend the registration of vehicles
82 determined under the final order to have violated the motor vehicle financial responsibility
83 law, and shall refer the case to the appropriate prosecuting attorney for prosecution. Notices
84 under this subsection shall be mailed to the vehicle owner at the last known address shown on
85 the department of revenue's records. The department of revenue or its third-party vendor
86 shall issue receipts for the collection of diversion participation fees. Except as otherwise
87 provided in subsection 1 of this section, all such fees shall be deposited into the motor vehicle

88 financial responsibility verification and enforcement fund established in section 303.422. A
89 vehicle owner whose registration has been suspended under sections 303.420 to 303.440 may
90 obtain reinstatement of the registration upon providing proof of financial responsibility and
91 payment to the department of revenue of a nonrefundable reinstatement fee equal to the fee
92 that would be applicable under subsection 2 of section 303.042 if the registration had been
93 suspended under section 303.041.

94 8. Data collected or retained under the program shall not be used by any entity for
95 purposes other than enforcement of the motor vehicle financial responsibility law. Data
96 collected and stored by law enforcement under the program shall be considered evidence if
97 noncompliance with the motor vehicle financial responsibility law is confirmed. The
98 evidence, and an affidavit stating that the evidence and system have identified a particular
99 vehicle as being in violation of the motor vehicle financial responsibility law, shall constitute
100 probable cause for prosecution and shall be forwarded in accordance with subsection 7 of this
101 section to the appropriate prosecuting attorney.

102 9. Owners of vehicles identified under the program as being in violation of the motor
103 vehicle financial responsibility law shall be provided with options for disputing such claims
104 which do not require appearance at any state or local court of law, or administrative facility.
105 Any person who presents timely proof that he or she was in compliance with the motor
106 vehicle financial responsibility law at the time of the alleged violation shall be entitled to
107 dismissal of the charge with no assessment of fees or fines. Proof provided by a vehicle
108 owner to the department of revenue that the vehicle was in compliance at the time of the
109 suspected violation of the motor vehicle financial responsibility law shall be recorded in the
110 system established by the department of revenue under section 303.430.

111 10. The collection of data pursuant to this section shall be done in a manner that
112 prohibits any bias towards a specific community, race, gender, or socioeconomic status of
113 vehicle owner.

114 11. Law enforcement agencies, third-party vendors, or other entities authorized to
115 operate under the program shall not sell data collected or retained under the program for any
116 purpose or share it for any purpose not expressly authorized in this section. All data shall be
117 secured and any third-party vendor or other entity authorized to operate under the program
118 may be liable for any data security breach.

119 12. The department of revenue shall not take action under sections 303.420 to
120 303.440 against vehicles registered as fleet vehicles under section 301.032, or against
121 vehicles known to the department of revenue to be insured under a policy of commercial auto
122 coverage, as such term is defined in subdivision (10) of subsection 2 of section 303.430.

123 13. Following one year after the implementation of the program, and every year
124 thereafter **for a period of five years**, the department of revenue shall provide a report to the

125 president pro tempore of the senate, the speaker of the house of representatives, the chairs of
126 the house and senate committees with jurisdictions over insurance or transportation matters,
127 and the chairs of the house budget and senate appropriations committees. The report shall
128 include an evaluation of program operations, information as to the costs of the program
129 incurred by the department of revenue, insurers, and the public, information as to the
130 effectiveness of the program in reducing the number of uninsured motor vehicles, and
131 anonymized demographic information including the race and zip code of vehicle owners
132 identified under the program as being in violation of the motor vehicle financial responsibility
133 law, and may include any additional information and recommendations for improvement of
134 the program deemed appropriate by the department of revenue. The department of revenue
135 may, by rule, require the state, counties, and municipalities to provide information in order to
136 complete the report.

137 14. The department of revenue may promulgate rules as necessary for the
138 implementation of this section. Any rule or portion of a rule, as that term is defined in section
139 536.010, that is created under the authority delegated in this section shall become effective
140 only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable,
141 section 536.028. This section and chapter 536 are nonseverable and if any of the powers
142 vested with the general assembly pursuant to chapter 536 to review, to delay the effective
143 date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant
144 of rulemaking authority and any rule proposed or adopted after August 28, 2023, shall be
145 invalid and void.

303.430. 1. The department of revenue shall establish and maintain a web-based
2 system for the verification of motor vehicle financial responsibility, shall provide access to
3 insurance reporting data and vehicle registration and financial responsibility data, and shall
4 require motor vehicle insurers to establish functionality for the verification system, as
5 provided in sections 303.420 to 303.440. The verification system, including any exceptions
6 as provided for in sections 303.420 to 303.440 or in the implementation guide developed to
7 support the program, shall supersede any existing verification system, and shall be the sole
8 system used for the purpose of verifying financial responsibility required under this chapter.

9 2. The system established pursuant to subsection 1 of this section shall be subject to
10 the following:

11 (1) The verification system shall transmit requests to insurers for verification of
12 motor vehicle insurance coverage via web services established by the insurers through the
13 internet in compliance with the specifications and standards of the Insurance Industry
14 Committee on Motor Vehicle Administration, or "IICMVA". Insurance company systems
15 shall respond to each request with a prescribed response upon evaluation of the data provided
16 in the request. The system shall include appropriate protections to secure its data against

17 unauthorized access, and the department of revenue shall maintain a historical record of the
18 system data for a period of no more than twelve months from the date of all requests and
19 responses. The system shall be used for verification of the financial responsibility required
20 under this chapter. The system shall be accessible to authorized personnel of the department
21 of revenue, the courts, law enforcement personnel, and other entities authorized by the state
22 as permitted by state or federal privacy laws, and it shall be interfaced, wherever appropriate,
23 with existing state systems. The system shall include information enabling the department of
24 revenue to submit inquiries to insurers regarding motor vehicle insurance which are
25 consistent with insurance industry and IICMVA recommendations, specifications, and
26 standards by using the following data elements for greater matching accuracy: insurer
27 National Association of Insurance Commissioners, or "NAIC", company code; vehicle
28 identification number; policy number; verification date; or as otherwise described in the
29 specifications and standards of the IICMVA. The department of revenue shall promulgate
30 rules to offer insurers who insure one thousand or fewer vehicles within this state an
31 alternative method for verifying motor vehicle insurance coverage in lieu of web services, and
32 to provide for the verification of financial responsibility when financial responsibility is
33 proven to the department to be maintained by means other than a policy of motor vehicle
34 insurance. Insurers shall not be required to verify insurance coverage for vehicles registered
35 in other jurisdictions;

36 (2) The verification system shall respond to each request within a time period
37 established by the department of revenue. An insurer's system shall respond within the time
38 period prescribed by the IICMVA's specifications and standards. Insurer systems shall be
39 permitted reasonable system downtime for maintenance and other work with advance notice
40 to the department of revenue. Insurers shall not be subject to enforcement fees or other
41 sanctions under such circumstances, or when systems are not available because of emergency,
42 outside attack, or other unexpected outages not planned by the insurer and reasonably outside
43 its control;

44 (3) The system shall assist in identifying violations of the motor vehicle financial
45 responsibility law in the most effective way possible. Responses to individual insurance
46 verification requests shall have no bearing on whether insurance coverage is determined to be
47 in force at the time of a claim. Claims shall be individually investigated to determine the
48 existence of coverage. Nothing in sections 303.420 to 303.440 shall prohibit the department
49 of revenue from contracting with a third-party vendor or vendors who have successfully
50 implemented similar systems in other states to assist in establishing and maintaining this
51 verification system;

52 (4) The department of revenue shall consult with representatives of the insurance
53 industry and may consult with third-party vendors to determine the objectives, details, and

54 deadlines related to the system by establishment of an advisory council. **Members of the**
55 **advisory council shall serve in an advisory capacity in matters pertaining to the**
56 **administration of sections 303.420 to 303.440, as the department of revenue may**
57 **request. The advisory council shall expire one year after implementation of the**
58 **program.** The advisory council shall consist of voting members comprised of:

59 (a) The director of the department of commerce and insurance, or his or her designee,
60 who shall serve as chair;

61 (b) Two representatives of the department of revenue, to be appointed by the director
62 of the department of revenue;

63 (c) One representative of the department of commerce and insurance, to be appointed
64 by the director of the department of commerce and insurance;

65 (d) Three representatives of insurance companies, to be appointed by the director of
66 the department of commerce and insurance;

67 (e) One representative from the Missouri Insurance Coalition;

68 (f) One representative chosen by the National Association of Mutual Insurance
69 Companies;

70 (g) One representative chosen by the American Property and Casualty Insurance
71 Association;

72 (h) One representative chosen by the Missouri Independent Agents Association; and

73 (i) Such other representatives as may be appointed by the director of the department
74 of commerce and insurance;

75 (5) The department of revenue shall publish for comment, and then issue, a detailed
76 implementation guide for its online verification system;

77 (6) The department of revenue and its third-party vendors, if any, shall each maintain
78 a contact person for insurers during the establishment, implementation, and operation of the
79 system;

80 (7) If the department of revenue has reason to believe a vehicle owner does not
81 maintain financial responsibility as required under this chapter, it may also request an insurer
82 to verify the existence of such financial responsibility in a form approved by the department
83 of revenue. In addition, insurers shall cooperate with the department of revenue in
84 establishing and maintaining the verification system established under this section, and shall
85 provide motor vehicle insurance policy status information as provided in the rules
86 promulgated by the department of revenue;

87 (8) Every property and casualty insurance company licensed to issue motor vehicle
88 insurance or authorized to do business in this state shall comply with sections 303.420 to
89 303.440, and corresponding rules promulgated by the department of revenue, for the
90 verification of such insurance for every vehicle insured by that company in this state;

91 (9) Insurers shall maintain a historical record of insurance data for a minimum period
92 of six months from the date of policy inception or policy change for the purpose of historical
93 verification inquiries;

94 (10) For the purposes of this section, "commercial auto coverage" shall mean any
95 coverage provided to an insured, regardless of number of vehicles or entities covered, under a
96 commercial coverage form and rated from a commercial manual approved by the department
97 of commerce and insurance. Sections 303.420 to 303.440 shall not apply to vehicles insured
98 under commercial auto coverage; however, insurers of such vehicles may participate on a
99 voluntary basis, and vehicle owners may provide proof at or subsequent to the time of vehicle
100 registration that a vehicle is insured under commercial auto coverage, which the department
101 of revenue shall record in the system;

102 (11) Insurers shall provide commercial or fleet automobile customers with evidence
103 reflecting that the vehicle is insured under a commercial or fleet automobile liability policy.
104 Sufficient evidence shall include an insurance identification card clearly marked with a
105 suitable identifier such as "commercial auto insurance identification card", "fleet auto
106 insurance identification card", or other clear identification that the vehicle is insured under a
107 fleet or commercial policy;

108 (12) Notwithstanding any provision of sections 303.420 to 303.440, insurers shall be
109 immune from civil and administrative liability for good faith efforts to comply with the terms
110 of sections 303.420 to 303.440;

111 (13) Nothing in this section shall prohibit an insurer from using the services of a
112 third-party vendor for facilitating the verification system required under sections 303.420 to
113 303.440.

114 3. The department of revenue shall promulgate rules as necessary for the
115 implementation of sections 303.420 to 303.440. Any rule or portion of a rule, as that term
116 is defined in section 536.010, that is created under the authority delegated in this section shall
117 become effective only if it complies with and is subject to all of the provisions of chapter 536
118 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any
119 of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the
120 effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then
121 the grant of rulemaking authority and any rule proposed or adopted after August 28, 2023,
122 shall be invalid and void.

303.440. The verification system established under section 303.430 shall be installed
2 and fully operational [~~on January 1, 2025~~] **no later than December 31, 2027, or as soon as**
3 **technologically possible following the development and maintenance of a modernized,**
4 **integrated system for the titling of vehicles, issuance and renewal of vehicle**
5 **registrations, issuance and renewal of driver's licenses and identification cards, and**

6 **perfection and release of liens and encumbrances on vehicles, to be funded by the motor**
7 **vehicle administration technology fund as created in section 301.558**, following an
8 appropriate testing or pilot period of not less than nine months. Until the successful
9 completion of the testing or pilot period in the judgment of the director of the department of
10 revenue, no enforcement action shall be taken based on the system, including but not limited
11 to action taken under the program established under section 303.425.

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

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

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

17 4. **Notwithstanding any provision of law to the contrary, the confidentiality**
18 **provisions of section 374.205, including subdivision (5) of subsection 3 of section**
19 **374.205, and subsection 4 of section 374.205, shall apply to all reports, working papers,**
20 **recorded information, documents, and copies thereof, produced by, obtained by, or**
21 **disclosed to the director or any other person in the course of any market conduct**
22 **investigation or market conduct action.**

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

5 2. **Notwithstanding any provision of law to the contrary, any record or**
6 **document, regardless of physical form or characteristic, maintained beyond the record**
7 **retention period specified in section 374.205 shall not be subject to request or review by**
8 **the director unless the director has substantial and competent evidence that the**
9 **regulated entity has willfully engaged in an act or omission constituting a level four or**

10 five violation of the laws of this state relating to insurance, including this chapter,
11 chapter 354, and chapters 375 to 385, or has been convicted of any felony related to the
12 business of insurance, in which case the director may request or review records or
13 documents maintained beyond the record retention period specified in section 374.205
14 that directly relate to the violation or conviction.

375.1183. 1. Contracts reinsuring policies of life or health insurance or annuities
2 referred to in section 375.1178 issued by a ceding insurer that has been placed in
3 conservation or rehabilitation proceedings under sections 375.1150 to 375.1246 shall be
4 continued or terminated under the terms and conditions of each contract and the
5 provisions of this section.

6 2. Contracts reinsuring policies of life or health insurance or annuities referred
7 to in section 375.1178 issued by a ceding insurer that has been placed into liquidation
8 under sections 375.1150 to 375.1246 shall be continued, subject to the provisions of this
9 section, unless:

10 (1) The contracts were terminated pursuant to their terms prior to the date of
11 the order of liquidation; or

12 (2) The contracts were terminated pursuant to the order of liquidation, in which
13 case the provisions of subsection 9 of this section shall apply.

14 3. (1) At any time within one hundred eighty days of the date of the order of
15 liquidation, a guaranty association covering policies of life or health insurance or
16 annuities referred to in section 375.1178, in whole or in part, may elect to assume the
17 rights and obligations of the ceding insurer that relate to the policies or annuities under
18 any one or more reinsurance contracts between the ceding insurer and its reinsurers.
19 Any such assumption shall be effective as of the date of the order of liquidation. The
20 election shall be made by the guaranty association or the National Organization of Life
21 and Health Insurance Guaranty Associations on its behalf by sending written notice,
22 return receipt requested, to the affected reinsurers.

23 (2) To facilitate the decision, the receiver and each affected reinsurer shall make
24 available upon request to the guaranty association or to the National Organization of
25 Life and Health Insurance Guaranty Associations on its behalf:

26 (a) Copies of in-force reinsurance contracts and all related files and records
27 relevant to the determination of whether such contracts should be assumed; and

28 (b) Notices of any defaults under the reinsurance contracts or any known event
29 or condition which with the passage of time could become a default under the
30 reinsurance contracts.

31 (3) Paragraphs (a) through (d) of this subdivision shall apply to reinsurance
32 contracts so assumed by a guaranty association:

33 **(a) The guaranty association shall be responsible for all unpaid premiums due**
34 **under the reinsurance contracts, for periods both before and after the date of the order**
35 **of liquidation, and shall be responsible for the performance of all other obligations to be**
36 **performed after the date of the order of liquidation;**

37 **(b) The guaranty association shall be entitled to any amounts payable by the**
38 **reinsurer under the reinsurance contracts with respect to losses or events that occur in**
39 **periods on or after the date of the order of liquidation;**

40 **(c) Within thirty days following the date of the guaranty association's election to**
41 **assume a reinsurance contract, the guaranty association and the reinsurer shall**
42 **calculate the balance due to or from the guaranty association under each reinsurance**
43 **contract as of the date of such election, and the guaranty association or reinsurer shall**
44 **pay any remaining balance due the other within thirty five days of the date of such**
45 **election. Any disputes over the amounts due to either the guaranty association or the**
46 **reinsurer shall be resolved by arbitration pursuant to the terms of the affected**
47 **reinsurance contract or, if the contract contains no arbitration clause, pursuant to the**
48 **provisions of subdivision (3) of subsection 9 of this section; and**

49 **(d) If the guaranty association, or receiver on behalf of such guaranty**
50 **association, within sixty days of the date of the guaranty association's election to assume**
51 **a reinsurance contract, pays the unpaid premiums due for periods both before and after**
52 **the date of such election that are due pursuant to the reinsurance contract, the reinsurer**
53 **shall not be entitled to terminate the reinsurance contract for failure to pay premiums,**
54 **and shall not be entitled to set off any unpaid amounts due under other contracts, or**
55 **unpaid amounts due from parties other than the guaranty association, against amounts**
56 **due such guaranty association.**

57 **4. If a receiver continues policies of life or health insurance or annuities referred**
58 **to in section 375.1178 in force following an order of liquidation, and the policies or**
59 **annuities are not covered in whole or in part by one or more guaranty associations, the**
60 **receiver may, within one hundred eighty days of the date of the order of liquidation,**
61 **elect to assume the rights and obligations of the ceding insurer under any one or more of**
62 **the reinsurance contracts that relate to the policies or annuities, provided the contracts**
63 **have not been terminated as set forth in subsection 2 of this section. The election shall**
64 **be made by sending written notice, return receipt requested, to the affected reinsurers.**
65 **In that event, payment of premiums on the reinsurance contracts for the policies and**
66 **annuities, for periods both before and after the date of the order of liquidation, shall be**
67 **chargeable against the estate as a class 1 administrative expense. Amounts paid by the**
68 **reinsurer on account of losses on the policies and annuities shall be to the estate of the**
69 **ceding insurer.**

70 **5. During the period from the date of the order of liquidation until the date the**
71 **guaranty association or the receiver elects to assume the rights and obligations of the**
72 **ceding insurer under any one or more of the reinsurance contracts that relate to the**
73 **policies or annuities as provided for in subsection 3 or 4 of this section, the guaranty**
74 **association, the receiver, and the reinsurer shall not have any rights or obligations under**
75 **any reinsurance contract that is eligible for assumption by such association or the**
76 **receiver.**

77 **6. (1) If the guaranty association or the receiver, as the case may be, has timely**
78 **elected to assume a reinsurance contract pursuant to subsections 3 or 4 of this section, as**
79 **applicable, the parties' rights and obligations shall be governed by the provisions of**
80 **subsection 3, 4, or 9 of this section, as applicable.**

81 **(2) Where the guaranty association covering policies of life or health insurance**
82 **or annuities referred to in section 375.1178 or the receiver, as the case may be, does not**
83 **timely elect to assume a reinsurance contract pursuant to subsections 3 or 4 of this**
84 **section, as applicable, the reinsurance contract shall be terminated retroactively**
85 **effective on the date of the order of liquidation and subsection 9 of this section shall**
86 **apply.**

87 **7. When policies of life or health insurance or annuities referred to in section**
88 **375.1178, or the obligations of the guaranty association with respect thereto, are**
89 **transferred to an assuming insurer, reinsurance on the policies or annuities may also be**
90 **transferred by the guaranty association, in the case of contracts assumed under**
91 **subsection 3 of this section, or the receiver, in the case of contracts assumed under**
92 **subsection 4 of this section, subject to the following:**

93 **(1) Unless the reinsurer and the assuming insurer agree otherwise, the**
94 **reinsurance contract transferred shall not cover any new policies or annuities in**
95 **addition to those transferred;**

96 **(2) The obligations described in subsections 3 and 4 of this section shall no**
97 **longer apply with respect to matters arising after the effective date of the transfer; and**

98 **(3) Notice shall be given in writing, return receipt requested, by the transferring**
99 **party to the affected reinsurer not less than thirty days prior to the effective date of the**
100 **transfer.**

101 **8. The provisions of this section shall, to the extent provided in sections 375.1150**
102 **to 375.1246, supersede the provisions of any law or of any affected reinsurance contract**
103 **that provides for or requires any payment of reinsurance proceeds, on account of losses**
104 **or events that occur in periods after the date of the order of liquidation, to the receiver**
105 **of the ceding insurer or any other person. The receiver shall remain entitled to any**
106 **amounts payable by the reinsurer under the reinsurance contracts with respect to losses**

107 or events that occur in periods prior to the date of the order of liquidation, subject to
108 provisions of sections 375.1150 to 375.1246 including applicable setoff provisions.

109 **9. When a reinsurance contract is terminated pursuant to sections 375.1150 to**
110 **375.1246, the reinsurer and the receiver shall commence a mandatory negotiation**
111 **procedure in accordance with this subsection:**

112 **(1) No later than thirty days after the date of termination, each party shall**
113 **appoint an actuary to determine an estimated sum due as a result of the termination of**
114 **the reinsurance contract calculated in a way expected to make the parties economically**
115 **indifferent as to whether the reinsurance contract continues or terminates, giving due**
116 **regard to the economic effects of the insolvency. The sum shall take into account the**
117 **present value of future cash flows expected under the reinsurance contract and be based**
118 **on a gross premium valuation of net liability using current assumptions that reflect post-**
119 **insolvency experience expectations, with no additional margins, net of any amounts**
120 **payable and receivable, with a market value adjustment to reflect premature sale of**
121 **assets to fund the settlement;**

122 **(2) Within ninety days of the date of termination, each party shall provide the**
123 **other party with its estimate of the sum due as a result of the termination of the**
124 **reinsurance contract, together with all relevant documents and other information**
125 **supporting the estimate. The parties shall make a good faith effort to reach agreement**
126 **on the sum due;**

127 **(3) If the parties are unable to reach agreement within ninety days following the**
128 **submission of materials required in subdivision (2) of this subsection, either party may**
129 **initiate arbitration proceedings as provided in the reinsurance contract. In the event**
130 **that the reinsurance contract does not contain an arbitration clause, either party may**
131 **initiate arbitration pursuant to this subdivision by providing the other party with a**
132 **written demand for arbitration. The arbitration shall be conducted pursuant to the**
133 **following procedures:**

134 **(a) Venue for the arbitration shall be within the county of the court's jurisdiction**
135 **pursuant to section 375.1154, or another location agreed to by the parties;**

136 **(b) Within thirty days of the responding party's receipt of the arbitration**
137 **demand, each party shall appoint an arbitrator who is a disinterested active or retired**
138 **officer or executive of a life or health insurance or reinsurance company, or other**
139 **professional with no less than ten years' experience in or relating to the field of life or**
140 **health insurance or reinsurance. The two arbitrators shall appoint an independent,**
141 **impartial, disinterested umpire who is an active or retired officer or executive of a life or**
142 **health insurance or reinsurance company, or other professional with no less than ten**
143 **years' experience in the field of life or health insurance or reinsurance. If the**

144 arbitrators are unable to agree on an umpire, each arbitrator shall provide the other
145 with the names of three qualified individuals, each arbitrator shall strike two names
146 from the other's list, and the umpire shall be chosen by drawing lots from the remaining
147 individuals;

148 (c) Within sixty days following the appointment of the umpire, the parties shall,
149 unless otherwise ordered by the panel, submit to the arbitration panel their estimates of
150 the sum due as a result of the termination of the reinsurance contract, together with all
151 relevant documents and other information supporting the estimate;

152 (d) The time periods set forth in these paragraphs may be extended upon mutual
153 agreement of the parties; and

154 (e) The panel shall have all powers necessary to conduct the arbitration
155 proceedings in a fair and appropriate manner, including the power to request additional
156 information from the parties, authorize discovery, hold hearings, and hear testimony.
157 The panel also may appoint independent actuarial experts, the expense of which shall be
158 shared equally between the parties;

159 (4) An arbitration panel considering the matters set forth in this subsection shall
160 apply the standards set forth in this subsection and shall issue a written award
161 specifying a net settlement amount due from one party or the other as a result of the
162 termination of the reinsurance contract. The receivership court shall confirm that
163 award absent proof of statutory grounds for vacating or modifying arbitration awards
164 under the Federal Arbitration Act; and

165 (5) If the net settlement amount agreed or awarded pursuant to this subsection is
166 payable by the reinsurer, the reinsurer shall pay the amount due to the estate subject to
167 any applicable set-off under section 375.1198. If the net settlement amount agreed or
168 awarded pursuant to this subsection is payable by the ceding insurer, the reinsurer shall
169 be deemed to have a timely filed claim against the estate for that amount, which claim
170 shall be paid pursuant to the priority established in subsection 5 of section 375.1218.
171 The affected guaranty associations shall not be entitled to receive the net settlement
172 amount, except to the extent they are entitled to share in the estate assets as creditors of
173 the estate, and shall have no responsibility for the net settlement amount.

174 10. Except as otherwise provided in this section, nothing in this section shall alter
175 or modify the terms and conditions of any reinsurance contract. Nothing in this section
176 shall abrogate or limit any rights of any reinsurer to claim that it is entitled to rescind a
177 reinsurance contract. Nothing in this section shall give a policyholder or beneficiary an
178 independent cause of action against a reinsurer that is not otherwise set forth in the
179 reinsurance contract. Nothing in this section shall limit or affect any guaranty

180 **association's rights as a creditor of the estate against the assets of the estate. Nothing in**
181 **this section shall apply to reinsurance contracts covering property or casualty risks.**

182 **11. This section and subdivision (10) of subsection 1 of section 376.734 shall be**
183 **construed together in a manner that is consistent with each other and with the purpose**
184 **provided for in section 376.715.**

379.1640. 1. As used in this section, the following terms shall mean:

2 (1) "Department", the department of commerce and insurance;

3 (2) "Director", the director of the department of commerce and insurance;

4 (3) "Limited lines self-service storage insurance producer", an owner, operator, lessor,
5 or sublessor of a self-service storage facility, or an agent or other person authorized to manage
6 the facility, duly licensed by the department of commerce and insurance;

7 (4) "Offer and disseminate", provide general information, including a description of
8 the coverage and price, as well as process the application, collect premiums, and perform
9 other nonlicensable activities permitted by the state;

10 (5) "Self-service storage insurance", insurance coverage for the loss of, or damage to,
11 tangible personal property in a self-service storage facility as defined in section 415.405 or in
12 transit during the rental period.

13 2. Notwithstanding any other provision of law:

14 (1) Individuals may offer and disseminate self-service storage insurance on behalf of
15 and under the control of a limited lines self-service storage insurance producer only if the
16 following conditions are met:

17 (a) The limited lines self-service storage insurance producer provides to purchasers of
18 self-service storage insurance:

19 a. A description of the material terms or the actual material terms of the insurance
20 coverage;

21 b. A description of the process for filing a claim;

22 c. A description of the review or cancellation process for the self-service storage
23 insurance coverage; and

24 d. The identity and contact information of the insurer and any third-party
25 administrator or supervising entity authorized to act on behalf of the insurer;

26 (b) At the time of licensure, the limited lines self-service storage insurance producer
27 shall establish and maintain a register on a form prescribed by the director of each individual
28 that offers self-service storage insurance on the limited lines self-service storage insurance
29 producer's behalf. The register shall be maintained and updated annually by the limited lines
30 self-service storage insurance producer and shall include the name, address, and contact
31 information of the limited lines self-service storage insurance producer and an officer or
32 person who directs or controls the limited lines self-service storage insurance producer's

33 operations, and the self-service storage facility's federal tax identification number. The
34 limited lines self-service storage insurance producer shall submit such register within thirty
35 days upon request by the department. The limited lines self-service storage insurance
36 producer shall also certify that each individual listed on the self-service storage register
37 complies with 18 U.S.C. Section 1033;

38 (c) The limited lines self-service storage insurance producer serves as or has
39 designated one of its employees who is a licensed individual producer as a person responsible
40 for the business entity's compliance with the self-service storage insurance laws, rules, and
41 regulations of this state;

42 (d) An individual applying for a limited lines self-service storage insurance producer
43 license shall make application to the director on the specified application and declare under
44 penalty of refusal, suspension or revocation of the license that the statements made on the
45 application are true, correct and complete to the best of the knowledge and belief of the
46 applicant. Before approving the application, the director shall find that the individual:

47 a. Is at least eighteen years of age;

48 b. Has not committed any act that is a ground for denial, suspension, or revocation set
49 forth in section 375.141;

50 c. Has paid a license fee in the sum of one hundred dollars; and

51 d. Has completed a qualified training program regarding self-service storage
52 insurance policies, which has been filed with and approved by the director;

53 (e) Individuals applying for limited lines self-service storage insurance producer
54 licenses shall be exempt from examination. The director may require any documents
55 reasonably necessary to verify the information contained in an application. Within thirty
56 working days after the change of any information submitted on the application, the self-
57 service storage insurance producer shall notify the director of the change. No fee shall be
58 charged for any such change. If the director has taken no action within twenty-five working
59 days of receipt of an application, the application shall be deemed approved and the applicant
60 may act as a licensed self-service storage insurance producer, unless the applicant has
61 indicated a conviction for a felony or a crime involving moral turpitude;

62 (f) The limited lines self-service storage insurance producer requires each employee
63 and authorized representative of the self-service storage insurance producer whose duties
64 include offering and disseminating self-service storage insurance to receive a program of
65 instruction or training provided or authorized by the insurer or supervising entity that has
66 been reviewed and approved by the director. The training material shall, at a minimum,
67 contain instructions on the types of insurance offered, ethical sales practices, and required
68 disclosures to prospective customers;

69 (2) Any individual offering or disseminating self-service storage insurance shall
70 provide to prospective purchasers brochures or other written materials that:

71 (a) Provide the identity and contact information of the insurer and any third-party
72 administrator or supervising entity authorized to act on behalf of the insurer;

73 (b) Explain that the purchase of self-service storage insurance is not required in order
74 to lease self-storage units;

75 (c) Explain that an unlicensed self-service storage operator is permitted to provide
76 general information about the insurance offered by the self-service storage operator, including
77 a description of the coverage and price, but is not qualified or authorized to answer technical
78 questions about the terms and conditions of the insurance offered by the self-service storage
79 operator or to evaluate the adequacy of the customer's existing insurance coverage; and

80 (d) Disclose that self-service storage insurance may provide duplication of coverage
81 already provided by an occupant's, homeowner's, renter's, or other source of coverage;

82 (3) A limited lines self-service storage producer's employee or authorized
83 representative, who is not licensed as an insurance producer, may not:

84 (a) Evaluate or interpret the technical terms, benefits, and conditions of the offered
85 self-service storage insurance coverage;

86 (b) Evaluate or provide advice concerning a prospective purchaser's existing
87 insurance coverage; or

88 (c) Hold themselves or itself out as a licensed insurer, licensed producer, or insurance
89 expert;

90 (4) If self-service storage insurance is offered to the customer, premium or other
91 charges specifically applicable to self-service storage insurance shall be listed as a separate
92 amount and apart from other charges relating to the lease and/or procurement of a self-service
93 storage unit on all documentation pertinent to the transaction.

94 3. Notwithstanding any other provision of law, a limited lines self-service storage
95 insurance provider whose insurance-related activities, and those of its employees and
96 authorized representatives, are limited to offering and disseminating self-service storage
97 insurance on behalf of and under the direction of a limited lines self-service storage insurance
98 producer meeting the conditions stated in this section is authorized to do so and receive
99 related compensation, upon registration by the limited lines self-service storage insurance
100 producer as described in paragraph (b) of subdivision (1) of subsection 2 of this section.

101 4. Self-service storage insurance may be provided under an individual policy or under
102 a group or master policy.

103 5. Limited lines self-service storage insurance producers, operators, employees and
104 authorized representatives offering and disseminating self-service storage insurance under the

105 limited lines self-service storage insurance producer license shall be subject to the provisions
106 of chapters 374 and 375, except as provided for in this section.

107 6. Limited lines self-service storage insurance producers, operators, employees and
108 authorized representatives may offer and disseminate self-service storage insurance policies
109 in an amount not to exceed [~~five~~]**fifteen** thousand dollars of coverage per customer per
110 storage unit.

111 7. The director may promulgate rules to effectuate this section. Any rule or portion of
112 a rule, as that term is defined in section 536.010, that is created under the authority delegated
113 in this section shall become effective only if it complies with and is subject to all of the
114 provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536
115 are nonseverable and if any of the powers vested with the general assembly pursuant to
116 chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are
117 subsequently held unconstitutional, then the grant of rulemaking authority and any rule
118 proposed or adopted after August 28, 2016, shall be invalid and void.

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

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

4 **(1) "Adequate reinsurance", commercially available reinsurance, as deemed
5 appropriate by the board of directors of the company;**

6 **(2) "Unlimited aggregate reinsurance", aggregate reinsurance coverage where
7 the losses covered by the reinsurer are not limited including, but not limited to, the
8 annual aggregate reinsurance amount set forth in subdivision (1) of section 20 CSR 200-
9 12.030.**

10 **3. Notwithstanding any law to the contrary, the authority expressly granted in
11 this section shall be the sole authority granted to the department over any Missouri
12 mutual insurance company operating under the provisions of this chapter, provided
13 however that any provisions regarding premium taxation set forth in chapter 148 that
14 are applicable to Missouri mutual insurance companies shall remain applicable to
15 Missouri mutual insurance companies and further provided however that chapter 382,
16 as amended, shall remain applicable to any Missouri mutual insurance company which
17 is a member of, or is seeking to become a member of, an "insurance holding company
18 system," as that term is defined in section 382.010, as amended, provided however that
19 any examination authorized by chapter 382 shall comply with subsection 6 below where
20 a Missouri mutual insurance company owns, in whole or part, an affiliate subject to
21 examination. The department shall not require any company operating under the
22 provisions of this chapter to waive any rights, benefits, or requirements in this chapter,
23 nor shall it confer favorable treatment in exchange for, nor condition the granting of any**

24 exception upon, any company conceding additional regulatory oversight by the
25 department. If the department and any company operating under the provisions of
26 this chapter have entered into any agreement in which the department has received
27 concessions including, but not limited to, additional regulatory oversight beyond the
28 authority expressly granted in this chapter, such agreement as it relates to the
29 department's authority is void upon the enactment of this section, but such agreement
30 shall remain in full force and effect for the stated duration of the agreement as it relates
31 to the grant of any benefits, allowances, or exemptions granted to the company by the
32 agreement.

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

40 5. Notwithstanding any law to the contrary including, but not limited to, the
41 provisions of section 380.321, the director shall not have the authority to hold a hearing
42 regarding a proposed merger of companies operating under the provisions of this
43 chapter unless the director has substantial and competent evidence to believe the
44 proposed merger will prejudice the interests of the policyholders of the companies. The
45 director shall have fifteen business days to review the petition for merger and, upon
46 substantial and competent evidence to believe the proposed merger will prejudice the
47 interests of the policyholders of the companies, send a written notice of a hearing
48 regarding the proposed merger. The written notice of hearing shall itemize the reasons
49 why the director believes the proposed merger will prejudice the policyholders of the
50 companies and it shall include a hearing date regarding the proposed merger no earlier
51 than thirty days and no later than sixty days after the notice of hearing is received by
52 the companies involved in the proposed merger.

53 6. (1) Notwithstanding the provisions of section 380.491, the department shall
54 not charge a rate exceeding a reasonable fee. A reasonable fee is determined by the
55 average market rate typically charged by third-party vendors for such services. All
56 working papers, recorded information, documents, and copies thereof produced by,
57 obtained by, or disclosed to the department or any other person in the course of an
58 examination made under this chapter shall be given confidential treatment and are not
59 subject to subpoena and shall not be made public by the department or to any other
60 person, except as follows:

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

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

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

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

75 **(a) The purpose and scope of the examination;**

76 **(b) The estimated costs of the examination;**

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

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

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

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

85 **a. Identifies the individuals or firms performing the examination and their daily**
86 **or hourly rates;**

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

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

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

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

96 **(d) At any time during the examination, the department shall hold another**
97 **scheduling conference with the company in accordance with the provisions of this**

98 subsection and provide a revised budget estimate as set forth in paragraph (a) of this
99 subdivision if:

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

102 b. There is a material change in staffing.

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

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

7 **3. Notwithstanding any provision of law to the contrary, including but not**
8 **limited to the specific exception in subdivision (1) of subsection 2 of section 375.1150, as**
9 **amended, the proceedings authorized by sections 375.1150 to 375.1246 may be applied to**
10 **all companies operating under the provisions of chapter 380, except that such companies**
11 **shall not be subject to sections 375.1160 to 375.1164. Sections 375.570 to 375.750, as**
12 **amended, shall apply to such proceedings.**

✓