

FIRST REGULAR SESSION

SENATE BILL NO. 578

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR TRENT.

2231S.01H

KRISTINA MARTIN, Secretary

AN ACT

To repeal section 379.321, RSMo, and to enact in lieu thereof one new section relating to aircraft casualty insurance.

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

Section A. Section 379.321, RSMo, is repealed and one new
2 section enacted in lieu thereof, to be known as section 379.321,
3 to read as follows:

379.321. 1. Every insurer shall file with the
2 director, except as to commercial property or commercial
3 casualty insurance as provided in subsection 6 of this
4 section, every manual of classifications, rules,
5 underwriting rules and rates, every rating plan and every
6 modification of the foregoing which it uses and the policies
7 and forms to which such rates are applied. Any insurer may
8 satisfy its obligation to make any such filings by becoming
9 a member of, or a subscriber to, a licensed rating
10 organization which makes such filings and by authorizing the
11 director to accept such filings on its behalf, provided that
12 nothing contained in section 379.017 and sections 379.316 to
13 379.361 shall be construed as requiring any insurer to
14 become a member of or a subscriber to any rating
15 organization or as requiring any member or subscriber to
16 authorize the director to accept such filings on its
17 behalf. Filing with the director by such insurer or
18 licensed rating organization within ten days after such

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

19 manuals, rating plans or modifications thereof or policies
20 or forms are effective shall be sufficient compliance with
21 this section.

22 2. Except as to commercial property or commercial
23 casualty insurance as provided in subsection 6 of this
24 section, no insurer shall make or issue a policy or contract
25 except pursuant to filings which are in effect for that
26 insurer or pursuant to section 379.017 and sections 379.316
27 to 379.361. Any rates, rating plans, rules, classifications
28 or systems, in effect on August 13, 1972, shall be continued
29 in effect until withdrawn by the insurer or rating
30 organization which filed them.

31 3. Upon the written application of the insured,
32 stating his or her reasons therefor, filed with the insurer,
33 a rate in excess of that provided by a filing otherwise
34 applicable may be used on any specific risk.

35 4. Every insurer which is a member of or a subscriber
36 to a rating organization shall be deemed to have authorized
37 the director to accept on its behalf all filings made by the
38 rating organization which are within the scope of its
39 membership or subscribership, provided:

40 (1) That any subscriber may withdraw or terminate such
41 authorization, either generally or for individual filings,
42 by written notice to the director and to the rating
43 organization and may then make its own independent filings
44 for any kinds of insurance, or subdivisions, or classes of
45 risks, or parts or combinations of any of the foregoing,
46 with respect to which it has withdrawn or terminated such
47 authorization, or may request the rating organization,
48 within its discretion, to make any such filing on an agency
49 basis solely on behalf of the requesting subscriber; and

50 (2) That any member may proceed in the same manner as
51 a subscriber unless the rating organization shall have
52 adopted a rule, with the approval of the director:

53 (a) Requiring a member, before making an independent
54 filing, first to request the rating organization to make
55 such filing on its behalf and requiring the rating
56 organization, within thirty days after receipt of such
57 request, either:

58 a. To make such filing as a rating organization filing;

59 b. To make such filing on an agency basis solely on
60 behalf of the requesting member; or

61 c. To decline the request of such member; and

62 (b) Excluding from membership any insurer which elects
63 to make any filing wholly independently of the rating
64 organization.

65 5. Any change in a filing made pursuant to this
66 section during the first six months of the date such filing
67 becomes effective shall be approved or disapproved by the
68 director within ten days following the director's receipt of
69 notice of such proposed change.

70 6. Commercial property and commercial casualty
71 requirements differ as follows:

72 (1) Commercial property and commercial casualty
73 insurance rates, rate plans, modifications, and manuals of
74 classifications, except as specified in subdivision (2) of
75 this subsection, shall be filed with the director for
76 informational purposes only within ten days of use. Such
77 rates are not to be reviewed or approved by the department
78 of commerce and insurance as a condition of their use.
79 Nothing in this subsection shall require the filing of
80 individual rates where the original manuals, rates and rules

81 for the insurance plan or program to which such individual
82 policies conform have already been filed with the director;

83 (2) Subject to the provisions of subdivision (4) of
84 this subsection, commercial property and casualty
85 underwriting rules or guidelines, rates, rate plans,
86 modifications, and manuals of classification are exempt from
87 filing requirements otherwise applicable under this chapter,
88 whether the insurance coverage is endorsed to or otherwise
89 made part of another type of insurance or sold as a stand-
90 alone policy;

91 (3) Subject to the provisions of subdivision (4) of
92 this subsection, commercial property and casualty insurance
93 policy forms are exempt from filing requirements otherwise
94 applicable under this chapter when the aggregate total
95 annual commercial insurance premiums for all property and
96 casualty insurance purchased by a commercial policyholder,
97 excluding premiums for the types of insurance specified in
98 subdivision (4) of this subsection, are equal to or exceed
99 one hundred thousand dollars and the commercial policyholder
100 employs a full-time risk manager or has retained a licensed
101 insurance producer to negotiate on its behalf;

102 (4) The filing exemptions in subdivisions (2) and (3)
103 of this subsection shall not apply to:

104 (a) Workers' compensation;

105 (b) Medical malpractice liability;

106 (c) Farm property and liability;

107 (d) Any coverage issued by an assigned risk or
108 residual market plan pursuant to section 303.200; and

109 (e) Any specific policy or bond required by the
110 division of workers' compensation of a self-insured employer
111 or group trust, their trustees, or entities providing
112 services to self-insured employers or group trusts;

113 (5) All policies exempt from filing pursuant to
114 subdivision* (2) or (3) of this subsection shall include, at
115 the time of policy issuance, a notice advising the
116 policyholder that the policy may include rates or forms
117 exempt from filing with the department. Such notice shall
118 state that this policy may include rates and forms which may
119 not be filed with the Missouri department of commerce and
120 insurance;

121 (6) If an insurer will only renew a commercial
122 casualty or commercial property insurance policy with an
123 increase in premium of twenty-five percent or more, a
124 premium alteration requiring notification notice must be
125 mailed or delivered by the insurer at least sixty days prior
126 to the expiration date of the policy, except in the case of
127 an umbrella or excess policy the coverage of which is
128 contingent on the coverage of an underlying policy of
129 commercial property or casualty insurance, in which case
130 notice of an increase in premium of twenty-five percent or
131 more shall be mailed or delivered at least thirty days prior
132 to the expiration date of the policy. Such notice shall be
133 mailed or delivered to the agent of record and to the named
134 insured at the address shown in the policy. If the insurer
135 fails to meet this notice requirement, the insured shall
136 have the option of continuing the policy for the remainder
137 of the notice period plus an additional thirty days at the
138 premium rate of the existing policy or contract. This
139 provision does not apply if the insurer has offered to renew
140 a policy without such an increase in premium or if the
141 insured fails to pay a premium due or any advance premium
142 required by the insurer for renewal. For purposes of this
143 section, "premium alteration requiring notification" means
144 an annual increase in premium of twenty-five percent or

145 more, exclusive of premium increases due to a change in the
146 operations of the insured which increases either the hazard
147 insured against or the individual loss characteristics, or
148 due to a change in the magnitude of the exposure basis,
149 including, without limitation, increases in payroll or
150 sales. For commercial multiperil policies, no premium
151 alteration requiring notification shall be required unless
152 the increase in premium for all of a policyholder's policies
153 taken together amounts to a twenty-five percent or more
154 annual increase in premium;

155 (7) Commercial property and commercial casualty policy
156 forms, except as specified in subdivision (3) of this
157 subsection, shall be filed with the director within ten days
158 of use as provided pursuant to subsection 1 of this
159 section. However, if after review, it is determined that
160 corrective action must be taken to modify the filed forms,
161 the director shall impose such corrective action on a
162 prospective basis for new policies. All policies previously
163 issued which are of a type that is subject to such
164 corrective action shall be deemed to have been modified to
165 conform to such corrective action retroactive to their
166 inception date;

167 (8) An insurer renewing a policy issued with policy
168 forms not filed with the director pursuant to subdivision
169 (3) of this subsection shall provide written notice to the
170 first named insured and producer of record, if any, at least
171 ten days prior to the current policy's expiration date if,
172 after renewal, there will be a material restriction or
173 reduction in coverage not specifically requested by the
174 insured, required by law or based on the altered nature or
175 extent of the risk insured. The notice may be in a printed
176 or electronic form and shall explain what coverage will be

177 reduced or eliminated or what condition will be restricted.
178 It shall be a rebuttable presumption that all insureds
179 received the notice if it was sent by email or first class
180 mail to the first named insured's last known email address
181 or mailing address contained in the policy. If the insurer
182 has not so notified the policyholder, the policyholder may
183 elect to cancel the renewal policy within thirty days of
184 delivery of the renewal policy and the earned premium for
185 the time the renewal policy was in force shall be calculated
186 pro rata at the lower of the current or previous year's
187 rate. If the insured accepts the renewal, any premium
188 change or alteration of coverage, terms or conditions shall
189 be effective immediately upon the expiration of the prior
190 policy. Nothing in this subdivision shall restrict the
191 right of the parties to an insurance contract to amend an
192 insurance policy if requested by the insured without the
193 requirement for any notice;

194 (9) For purposes of this section, "commercial
195 casualty" means "commercial casualty insurance" as defined
196 in section 379.882. **For purposes of this section, all
197 policies of aircraft casualty insurance, regardless of
198 whether for business and professional interests, whether for
199 profit, nonprofit or public in nature, or whether for
200 personal, family or household purposes, shall be considered
201 to be commercial casualty insurance;**

202 (10) For purposes of this section, "commercial
203 property" means property insurance, which is for business
204 and professional interests, whether for profit, nonprofit or
205 public in nature which is not for personal, family or
206 household purposes, and shall include commercial inland
207 marine insurance, but does not include title insurance;

208 [(10)] (11) Nothing in this subsection shall limit the
209 director's authority over excessive, inadequate or unfairly
210 discriminatory rates or affect the application of any laws
211 governing unfair trade practices, unfair claims practices,
212 or the content of policy forms;

213 [(11)] (12) The [commercial casualty and commercial
214 property insurance filing requirement exemptions included
215 in] **provisions of** this [section] **subsection** shall apply to
216 all property and casualty insurance policies issued or
217 renewed on or after January 1, 2019.

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