

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 777
95TH GENERAL ASSEMBLY

1975L.04C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 303.024, 304.154, 304.155, 304.157, 374.702, 374.715, 374.740, 374.755, 375.1025, 375.1028, 375.1030, 375.1032, 375.1035, 375.1037, 375.1040, 375.1042, 375.1045, 375.1047, 375.1050, 375.1052, 375.1057, 376.428, 379.1300, 379.1302, 379.1310, 379.1326, 379.1332, 379.1373, 379.1388, and 379.1412, RSMo, and section 304.156 as enacted by senate committee substitute for house bill no. 996 and house bill no. 1142 and house committee substitute for house bill no. 1201 and house bill no. 1489, ninety-second general assembly, second regular session, and section 304.156 as enacted by house substitute for senate substitute for senate committee substitute for senate bill nos. 1233, 840 & 1043, ninety-second general assembly, second regular session, and to enact in lieu thereof thirty-nine new sections relating to regulation of insurance, with penalty provisions and an emergency clause for a certain section.

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

Section A. Sections 303.024, 304.154, 304.155, 304.157, 374.702, 374.715, 374.740, 2 374.755, 375.1025, 375.1028, 375.1030, 375.1032, 375.1035, 375.1037, 375.1040, 375.1042, 3 375.1045, 375.1047, 375.1050, 375.1052, 375.1057, 376.428, 379.1300, 379.1302, 379.1310, 4 379.1326, 379.1332, 379.1373, 379.1388, and 379.1412, RSMo, and section 304.156 as enacted 5 by senate committee substitute for house bill no. 996 and house bill no. 1142 and house 6 committee substitute for house bill no. 1201 and house bill no. 1489, ninety-second general 7 assembly, second regular session, and section 304.156 as enacted by house substitute for senate 8 substitute for senate committee substitute for senate bill nos. 1233, 840 & 1043, ninety-second 9 general assembly, second regular session, are repealed and thirty-nine new sections enacted in 10 lieu thereof, to be known as sections 303.024, 304.143, 304.144, 304.154, 304.155, 304.156, 11 304.157, 374.702, 374.715, 374.740, 374.755, 375.1025, 375.1028, 375.1030, 375.1032,

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.

12 375.1035, 375.1037, 375.1038, 375.1040, 375.1042, 375.1045, 375.1047, 375.1050, 375.1052,
13 375.1053, 375.1054, 375.1056, 375.1057, 376.428, 376.502, 379.1300, 379.1302, 379.1310,
14 379.1326, 379.1332, 379.1339, 379.1373, 379.1388, and 379.1412, to read as follows:

303.024. 1. Each insurer issuing motor vehicle liability policies in this state, or an agent
2 of the insurer, shall furnish an insurance identification card to the named insured for each motor
3 vehicle insured by a motor vehicle liability policy that complies with the requirements of sections
4 303.010 to 303.050, 303.060, 303.140, 303.220, 303.290, 303.330 and 303.370.

5 2. The insurance identification card shall include all of the following information:

6 (1) The name and address of the insurer;

7 (2) The name of the named insured;

8 (3) The policy number;

9 (4) The effective dates of the policy, including month, day and year;

10 (5) A description of the insured motor vehicle, including year and make or at least five
11 digits of the vehicle identification number or the word "Fleet" if the insurance policy covers five
12 or more motor vehicles; and

13 (6) The statement "THIS CARD MUST BE CARRIED IN THE INSURED MOTOR
14 VEHICLE FOR PRODUCTION UPON DEMAND" prominently displayed on the card.

15 3. A new insurance identification card shall be issued when the insured motor vehicle
16 is changed, when an additional motor vehicle is insured, and when a new policy number is
17 assigned. A replacement insurance identification card shall be issued at the request of the
18 insured in the event of loss of the original insurance identification card.

19 4. The director shall furnish each self-insurer, as provided for in section 303.220, an
20 insurance identification card for each motor vehicle so insured. The insurance identification card
21 shall include all of the following information:

22 (1) Name of the self-insurer;

23 (2) The word "self-insured"; and

24 (3) The statement "THIS CARD MUST BE CARRIED IN THE SELF-INSURED
25 MOTOR VEHICLE FOR PRODUCTION UPON DEMAND" prominently displayed on the
26 card.

27 5. An insurance identification card shall be carried in the insured motor vehicle at all
28 times. The operator of an insured motor vehicle shall exhibit the insurance identification card
29 on the demand of any peace officer, commercial vehicle enforcement officer or commercial
30 vehicle inspector who lawfully stops such operator or investigates an accident while that officer
31 or inspector is engaged in the performance of the officer's or inspector's duties. If the operator
32 fails to exhibit an insurance identification card, the officer or inspector shall issue a citation to
33 the operator for a violation of section 303.025. A motor vehicle liability insurance policy, a

34 motor vehicle liability insurance binder, or receipt which contains the policy information
35 required in subsection 2 of this section, shall be satisfactory evidence of insurance in lieu of an
36 insurance identification card.

37 **6. Any person who knowingly or intentionally produces, manufactures, sells, or**
38 **otherwise distributes a fraudulent document intended to serve as an insurance**
39 **identification card is guilty of a class D felony. Any person who knowingly or intentionally**
40 **possesses a fraudulent document intended to serve as an insurance identification card is**
41 **guilty of a class B misdemeanor.**

304.143. 1. No towing company or person employed by such company may solicit
2 **business or make service calls unless such towing company has a license to operate a**
3 **wrecker or towing service issued by the public service commission under this section. The**
4 **number of the license shall be prominently displayed on both sides of every wrecker vehicle**
5 **operated by the wrecker or towing service.**

6 **2. Each licensee shall maintain liability insurance against loss of life or injury to**
7 **persons, and damage to property of others arising out of the licensee's activities in the**
8 **amount of at least seven hundred fifty thousand dollars, with a deductible not greater than**
9 **one thousand dollars per occurrence. The initial fee for such license shall be two hundred**
10 **dollars. All licenses shall expire on December thirty-first of each year and may be annually**
11 **renewed for a renewal fee of one hundred dollars in the manner prescribed by the public**
12 **service commission. No license fee shall be refunded in the event the license is suspended**
13 **or revoked for a violation of sections 304.143, 304.144, and sections 304.155 to 304.159, or**
14 **any rule promulgated thereunder.**

15 **3. The public service commission may cancel, suspend, revoke, or refuse to issue**
16 **or renew any license when it finds the applicant or licensee has not complied with or has**
17 **violated any provision of sections 304.143, 304.144, and sections 304.155 to 304.159 or any**
18 **rules promulgated thereunder. A suspension or revocation shall be for a period deemed**
19 **appropriate by the public service commission based on the violation. Any canceled,**
20 **suspended, or revoked license shall be returned to the public service commission by the**
21 **operator, and such operator shall not be eligible to apply for another license until the**
22 **period of suspension or revocation has elapsed. The public service commission shall notify**
23 **the applicant or licensee in writing of any action under this subsection and advise such**
24 **person of the right to file an appeal with the administrative hearing commission as**
25 **provided by chapter 621, RSMo.**

26 **4. If a statewide abandoned vehicle database is established, a licensee shall take**
27 **necessary steps to have online access to such database and shall be required to use such**
28 **database in accordance with sections 304.155 and 304.157.**

29 **5. All fees collected under this section shall be sent to the director of revenue for**
30 **deposit in the state treasury in the "Wrecker License Administration Fund", which is**
31 **hereby created. The state treasurer shall be custodian of the fund. In accordance with**
32 **sections 30.170 and 30.180, RSMo, the state treasurer may approve disbursements. Upon**
33 **appropriation, money in the fund shall be used solely for the administration of sections**
34 **304.143, 304.144, and sections 304.155 to 304.159. Notwithstanding the provisions of**
35 **section 33.080, RSMo, to the contrary, any moneys remaining in the fund at the end of the**
36 **biennium shall not revert to the credit of the general revenue fund. The state treasurer**
37 **shall invest moneys in the fund in the same manner as other funds are invested. Any**
38 **interest and moneys earned on such investments shall be credited to the fund.**

39 **6. The public service commission may promulgate rules to administer the**
40 **provisions of sections 304.143 and 304.144. Any rule or portion of a rule, as that term is**
41 **defined in section 536.010, RSMo, that is created under the authority delegated in this**
42 **section shall become effective only if it complies with and is subject to all of the provisions**
43 **of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter**
44 **536, RSMo, are nonseverable and if any of the powers vested with the general assembly**
45 **pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and**
46 **annul a rule are subsequently held unconstitutional, then the grant of rulemaking**
47 **authority and any rule proposed or adopted after August 28, 2009, shall be invalid and**
48 **void.**

304.144. 1. Except as provided in sections 304.155 to 304.157, a licensee under
2 **section 304.143 shall not tow a damaged or disabled vehicle without specific authorization**
3 **from the vehicle owner or operator after making the disclosures prescribed in this**
4 **subsection. Every licensee shall, before towing such a damaged or disabled vehicle, give**
5 **to the vehicle owner or operator a written disclosure providing:**

6 **(1) The formal business name of the licensee, as registered with the secretary of**
7 **state, and its business address and telephone number;**

8 **(2) The address where the vehicle will be located;**

9 **(3) The cost of all relocation, storage, and any other fees that the licensee will**
10 **charge for its services; and**

11 **(4) An itemized description of the vehicle owner's or operator's rights as follows:**

12 **"As a customer, you have the following rights under Missouri law:**

13 **(1) This written disclosure must be provided to you before your vehicle is**
14 **towed, providing the business name and address, telephone number, and the**
15 **location where the vehicle will be towed;**

16 **(2) Before towing, you must be advised of the charges for all services;**

- 17 **(3) Upon your demand, a final invoice itemizing all charges, as well as any**
18 **damage to the vehicle upon its receipt and return to you, must be provided;**
19 **(4) Upon your demand, your vehicle must be returned during business**
20 **hours upon your prompt payment of all reasonable fees; and**
21 **(5) Upon your demand, you must be provided with proof of the existence of**
22 **mandatory insurance insuring against all risks associated with the**
23 **transportation and storage of your vehicle."**

24
25 **The licensee shall maintain an identical copy of the completed disclosure in its records for**
26 **at least five years after conclusion of the transaction. If the vehicle owner is incapacitated,**
27 **incompetent, or is otherwise unable to knowingly accept receipt of the disclosure described**
28 **in this subsection, the licensee shall provide a completed copy of the disclosure to an**
29 **appropriate law enforcement officer and, if known, the owner's or operator's motor vehicle**
30 **insurance company. If the licensee fails to comply with the requirements of this subsection,**
31 **the licensee shall be prohibited from seeking any compensation from the vehicle owner or**
32 **operator, including but not limited to any towing, storage, or other incidental fees and any**
33 **contract entered into by the licensee and the vehicle owner or operator shall be null, void,**
34 **and unenforceable.**

35 **2. Upon demand of the vehicle owner or operator, the licensee shall provide an**
36 **itemized final invoice that accurately documents the charges owed by the vehicle owner or**
37 **operator for towing and storage of the damaged or disabled vehicle. The final invoice shall**
38 **contain the formal business name of the licensee, its business address and telephone**
39 **number, the date of the invoice, the odometer reading at the time the final invoice was**
40 **prepared, the name of the vehicle owner or operator, and the description of the vehicle,**
41 **including the motor vehicle identification number. In addition, the invoice shall describe**
42 **any modifications made to the vehicle by the licensee, any observable damage to the vehicle**
43 **upon its initial receipt by the licensee, and any observable damage to the vehicle at the time**
44 **of its release to the vehicle owner or operator. The invoice shall itemize any additional**
45 **charges and include those charges in the total presented to the vehicle owner or operator.**
46 **A legible copy of the invoice shall be given to the vehicle owner or operator, and a copy**
47 **shall be retained by the licensee for at least five years from the date of the release of the**
48 **vehicle. The copy may be retained in electronic format and may be stored at a separate**
49 **location.**

50 **3. Every licensee's storage facility where damaged or disabled vehicles are stored**
51 **shall have posted in a prominent place on the premises one or more signs, readily visible**
52 **to customers, in the following form:**

53 **"YOUR CUSTOMER RIGHTS**

54 **YOU ARE ENTITLED BY LAW TO:**

- 55 **1. BEFORE TOWING, BE PROVIDED A WRITTEN DISCLOSURE**
- 56 **STATING THE NAME OF THE TOWING AND STORAGE SERVICE,**
- 57 **ITS BUSINESS ADDRESS AND TELEPHONE NUMBER, AND THE**
- 58 **ADDRESS WHERE THE VEHICLE IS TO BE TOWED;**
- 59 **2. BEFORE TOWING, DISCLOSURE OF ALL CHARGES FOR THE**
- 60 **TOWING AND STORAGE OF YOUR VEHICLE;**
- 61 **3. UPON DEMAND FOR THE RETURN OF YOUR VEHICLE, A FINAL**
- 62 **INVOICE ITEMIZING ALL CHARGES FOR TOWING, STORAGE, AND**
- 63 **OTHER SERVICES PROVIDED, AS WELL AS ANY DAMAGE**
- 64 **IDENTIFIED TO THE VEHICLE AT THE TIME IT WAS TAKEN BY**
- 65 **THE TOWING AND STORAGE FACILITY, AS WELL AS ANY**
- 66 **DAMAGE TO THE VEHICLE IDENTIFIED UPON ITS RELEASE TO**
- 67 **YOU;**
- 68 **4. THE RETURN OF YOUR VEHICLE, UPON YOUR DEMAND FOR**
- 69 **ITS RETURN DURING NORMAL BUSINESS HOURS AND YOUR**
- 70 **PROMPT PAYMENT OF ALL REASONABLE FEES; AND**
- 71 **5. UPON YOUR DEMAND, PROOF OF INSURANCE WHICH THE**
- 72 **LICENSEE MUST MAINTAIN TO INSURE AGAINST RISK OF**
- 73 **DAMAGE TO YOUR VEHICLE IN TRANSIT AND WHILE IN**
- 74 **STORAGE.**

75

76 **IF THE LICENSEE HAS COMPLIED WITH THE ABOVE RIGHTS, YOU ARE**

77 **REQUIRED, BEFORE TAKING THE VEHICLE FROM THE PREMISES, TO**

78 **PAY FOR THE SERVICES PROVIDED BY THE LICENSEE."**

79

80 **The first line of each sign shall be in letters not less than one and one-half inches in height**

81 **and the remaining lines shall be in letters not less than one-half inch in height.**

82 **4. Any vehicle used in connection with any licensee's services shall carry a certified**

83 **copy of the license. Copies may be photographed, photocopied, or reproduced or printed**

84 **by any other legible means or process.**

85 **5. Licensees engaged in the towing or storage of damaged or disabled vehicles shall**

86 **be prohibited from including a clause in a contract purporting to waive or limit liability**

87 **under any cause of action available to the vehicle owner or operator or requiring the**

88 **vehicle owner or operator to sign or agree to any document purporting to waive or limit**

89 **such liability. Any contract, release, or other document purporting to waive or limit the**
90 **licensee's liability under any cause of action available to the vehicle owner or operator shall**
91 **be deemed null, void, and unenforceable.**

304.154. 1. Beginning January 1, 2005, a towing company operating a tow truck
2 pursuant to the authority granted in section 304.155 or 304.157 shall:

- 3 (1) Have and occupy a verifiable business address;
- 4 (2) Have a fenced, secure, and lighted storage lot or an enclosed, secure building for the
5 storage of motor vehicles;
- 6 (3) Be available twenty-four hours a day, seven days a week. Availability shall mean that
7 an employee of the towing company or an answering service answered by a person is able to
8 respond to a tow request;
- 9 (4) Maintain a valid insurance policy issued by an insurer authorized to do business in
10 this state, or a bond or other acceptable surety providing coverage for the death of, or injury to,
11 persons and damage to property for each accident or occurrence in the amount of at least [five
12 hundred] **seven hundred fifty** thousand dollars per incident;
- 13 (5) Provide workers' compensation insurance for all employees of the towing company
14 if required by chapter 287, RSMo; and
- 15 (6) Maintain current motor vehicle registrations on all tow trucks currently operated
16 within the towing company fleet.

17 2. Counties may adopt ordinances with respect to towing company standards in addition
18 to the minimum standards contained in this section. A towing company located in a county of
19 the second, third, and fourth classification is exempt from the provisions of **subdivision (3) of**
20 **subsection 1 of** this section.

304.155. 1. Any law enforcement officer within the officer's jurisdiction, or an officer
2 of a government agency where that agency's real property is concerned, may authorize a towing
3 company **licensed under section 304.143** to remove to a place of safety:

- 4 (1) Any abandoned property on the right-of-way of:
 - 5 (a) Any interstate highway or freeway in an urbanized area, left unattended for ten hours,
6 or immediately if a law enforcement officer determines that the abandoned property is a serious
7 hazard to other motorists, provided that commercial motor vehicles not hauling materials
8 designated as hazardous under 49 U.S.C. 5103(a) may only be removed under this subdivision
9 to a place of safety until the owner or owner's representative has had a reasonable opportunity
10 to contact a towing company of choice;
 - 11 (b) Any interstate highway or freeway outside of an urbanized area, left unattended for
12 forty-eight hours, or after four hours if a law enforcement officer determines that the abandoned
13 property is a serious hazard to other motorists, provided that commercial motor vehicles not

14 hauling materials designated as hazardous under 49 U.S.C. 5103(a) may only be removed under
15 this subdivision to a place of safety until the owner or owner's representative has had a
16 reasonable opportunity to contact a towing company of choice;

17 (c) Any state highway other than an interstate highway or freeway in an urbanized area,
18 left unattended for more than ten hours; or

19 (d) Any state highway other than an interstate highway or freeway outside of an
20 urbanized area, left unattended for more than forty-eight hours; provided that commercial motor
21 vehicles not hauling waste designated as hazardous under 49 U.S.C. 5103(a) may only be
22 removed under this subdivision to a place of safety until the owner or owner's representative has
23 had a reasonable opportunity to contact a towing company of choice;

24 (2) Any unattended abandoned property illegally left standing upon any highway or
25 bridge if the abandoned property is left in a position or under such circumstances as to obstruct
26 the normal movement of traffic where there is no reasonable indication that the person in control
27 of the property is arranging for its immediate control or removal;

28 (3) Any abandoned property which has been abandoned under section 577.080, RSMo;

29 (4) Any abandoned property which has been reported as stolen or taken without consent
30 of the owner;

31 (5) Any abandoned property for which the person operating such property is arrested for
32 an alleged offense for which the officer is required to take the person into custody and where
33 such person is unable to arrange for the property's timely removal;

34 (6) Any abandoned property which due to any other state law or local ordinance is
35 subject to towing because of the owner's outstanding traffic or parking violations;

36 (7) Any abandoned property left unattended in violation of a state law or local ordinance
37 where signs have been posted giving notice of the law or where the violation causes a safety
38 hazard; or

39 (8) Any abandoned property illegally left standing on the waters of this state as defined
40 in section 306.010, RSMo, where the abandoned property is obstructing the normal movement
41 of traffic, or where the abandoned property has been unattended for more than ten hours or is
42 floating loose on the water.

43 2. The state transportation department may immediately remove any abandoned,
44 unattended, wrecked, burned or partially dismantled property, spilled cargo or other personal
45 property from the roadway of any state highway if the abandoned property, cargo or personal
46 property is creating a traffic hazard because of its position in relation to the state highway. In
47 the event the property creating a traffic hazard is a commercial motor vehicle, as defined in
48 section 302.700, RSMo, the department's authority under this subsection shall be limited to
49 authorizing a towing company to remove the commercial motor vehicle to a place of safety,

50 except that the owner of the commercial motor vehicle or the owner's designated representative
51 shall have a reasonable opportunity to contact a towing company of choice. The provisions of
52 this subsection shall not apply to vehicles transporting any material which has been designated
53 as hazardous under Section 5103(a) of Title 49, U.S.C.

54 3. Any law enforcement agency authorizing a tow pursuant to this section in which the
55 abandoned property is moved from the immediate vicinity shall complete a crime inquiry and
56 inspection report. Any state or federal government agency other than a law enforcement agency
57 authorizing a tow pursuant to this section in which the abandoned property is moved away from
58 the immediate vicinity in which it was abandoned shall report the towing to the state highway
59 patrol or water patrol within two hours of the tow along with a crime inquiry and inspection
60 report as required in this section. Any local government agency, other than a law enforcement
61 agency, authorizing a tow pursuant to this section where property is towed away from the
62 immediate vicinity shall report the tow to the local law enforcement agency within two hours
63 along with a crime inquiry and inspection report.

64 4. Neither the law enforcement officer, government agency official nor anyone having
65 custody of abandoned property under his direction shall be liable for any damage to such
66 abandoned property occasioned by a removal authorized by this section or by ordinance of a
67 county or municipality licensing and regulating the sale of abandoned property by the
68 municipality, other than damages occasioned by negligence or by willful or wanton acts or
69 omissions.

70 5. The owner of abandoned property removed as provided in this section or in section
71 304.157 shall be responsible for payment of all reasonable charges for towing and storage of
72 such abandoned property as provided in section 304.158.

73 6. Upon the towing of any abandoned property pursuant to this section or under authority
74 of a law enforcement officer or local government agency pursuant to section 304.157, the law
75 enforcement agency that authorized such towing or was properly notified by another government
76 agency of such towing shall promptly make an inquiry with the national crime information center
77 and any statewide Missouri law enforcement computer system to determine if the abandoned
78 property has been reported as stolen and shall enter the information pertaining to the towed
79 property into the statewide law enforcement computer system. If [the abandoned property is not
80 claimed within ten working days of the towing,] the tower [who] has online access to the
81 department of revenue's records, **the tower** shall make an inquiry to determine the abandoned
82 property owner and lienholder, if any, of record. In the event that the records of the department
83 of revenue fail to disclose the name of the owner or any lienholder of record, the tower shall
84 comply with the requirements of subsection 3 of section 304.156. If the tower does not have
85 online access, the law enforcement agency shall submit a crime inquiry and inspection report to

86 the director of revenue. A towing company that does not have online access to the department's
87 records and that is in possession of abandoned property [after ten working days] shall, **upon**
88 **towing such vehicle**, report such fact to the law enforcement agency [with which the crime
89 inquiry and inspection report was filed]. The crime inquiry and inspection report shall be
90 designed by the director of revenue and shall include the following:

91 (1) The year, model, make and property identification number of the property and the
92 owner and any lienholders, if known;

93 (2) A description of any damage to the property noted by the officer authorizing the tow;

94 (3) The license plate or registration number and the state of issuance, if available;

95 (4) The storage location of the towed property;

96 (5) The name, telephone number and address of the towing company;

97 (6) The date, place and reason for the towing of the abandoned property;

98 (7) The date of the inquiry of the national crime information center, any statewide
99 Missouri law enforcement computer system and any other similar system which has titling and
100 registration information to determine if the abandoned property had been stolen. This
101 information shall be entered only by the law enforcement agency making the inquiry;

102 (8) The signature and printed name of the officer authorizing the tow; [and]

103 (9) The name of the towing company, the signature and printed name of the towing
104 operator, and an indicator disclosing whether the tower has online access to the department's
105 records;

106 (10) Any additional information the director of revenue deems appropriate.

107 7. One copy of the crime inquiry and inspection report shall remain with the agency
108 which authorized the tow. One copy shall be provided to and retained by the storage facility and
109 one copy shall be retained by the towing facility in an accessible format in the business records
110 for a period of three years from the date of the tow or removal.

111 8. The owner of such abandoned property, or the holder of a valid security interest of
112 record, may reclaim it from the towing company upon proof of ownership or valid security
113 interest of record and payment of all reasonable charges for the towing and storage of the
114 abandoned property.

115 9. Any person who removes abandoned property at the direction of a law enforcement
116 officer or an officer of a government agency where that agency's real property is concerned as
117 provided in this section shall have a lien for all reasonable charges for the towing and storage of
118 the abandoned property until possession of the abandoned property is voluntarily relinquished
119 to the owner of the abandoned property or to the holder of a valid security interest of record.
120 Any personal property within the abandoned property need not be released to the owner thereof
121 until the reasonable or agreed charges for such recovery, transportation or safekeeping have been

122 paid or satisfactory arrangements for payment have been made, except that any medication
123 prescribed by a physician shall be released to the owner thereof upon request. The company
124 holding or storing the abandoned property shall either release the personal property to the owner
125 of the abandoned property or allow the owner to inspect the property and provide an itemized
126 receipt for the contents. The company holding or storing the property shall be strictly liable for
127 the condition and safe return of the personal property. Such lien shall be enforced in the manner
128 provided under section 304.156.

129 10. Towing companies shall keep a record for three years on any abandoned property
130 towed and not reclaimed by the owner of the abandoned property. Such record shall contain
131 information regarding the authorization to tow, copies of all correspondence with the department
132 of revenue concerning the abandoned property, including copies of any online records of the
133 towing company accessed and information concerning the final disposition of the possession of
134 the abandoned property.

135 11. If a lienholder repossesses any motor vehicle, trailer, all-terrain vehicle, outboard
136 motor or vessel without the knowledge or cooperation of the owner, then the reposessor shall
137 notify the local law enforcement agency where the repossession occurred within two hours of
138 the repossession and shall further provide the local law enforcement agency with any additional
139 information the agency deems appropriate. The local law enforcement agency shall make an
140 inquiry with the national crime information center and the Missouri statewide law enforcement
141 computer system and shall enter the repossessed vehicle into the statewide law enforcement
142 computer system.

143 12. Notwithstanding the provisions of section 301.227, RSMo, any towing company who
144 has complied with the notification provisions in section 304.156 including notice that any
145 property remaining unredeemed after thirty days may be sold as scrap property may then dispose
146 of such property as provided in this subsection. Such sale shall only occur if at least thirty days
147 has passed since the date of such notification, the abandoned property remains unredeemed with
148 no satisfactory arrangements made with the towing company for continued storage, and the
149 owner or holder of a security agreement has not requested a hearing as provided in section
150 304.156. The towing company may dispose of such abandoned property by selling the property
151 on a bill of sale as prescribed by the director of revenue to a scrap metal operator or licensed
152 salvage dealer for destruction purposes only. The towing company shall forward a copy of the
153 bill of sale provided by the scrap metal operator or licensed salvage dealer to the director of
154 revenue within two weeks of the date of such sale. The towing company shall keep a record of
155 each such vehicle sold for destruction for three years that shall be available for inspection by law
156 enforcement and authorized department of revenue officials. The record shall contain the year,
157 make, identification number of the property, date of sale, and name of the purchasing scrap metal

158 operator or licensed salvage dealer and copies of all notifications issued by the towing company
159 as required in this chapter. Scrap metal operators or licensed salvage dealers shall keep a record
160 of the purchase of such property as provided in section 301.227, RSMo. Scrap metal operators
161 and licensed salvage dealers may obtain a junk certificate as provided in section 301.227, RSMo,
162 on vehicles purchased on a bill of sale pursuant to this section.

304.156. 1. Within five working days of receipt of the crime inquiry and inspection
2 report under section 304.155 or the abandoned property report under section 304.157, the
3 director of revenue shall search the records of the department of revenue, or initiate an inquiry
4 with another state, if the evidence presented indicated the abandoned property was registered or
5 titled in another state, to determine the name and address of the owner and lienholder, if any.
6 After ascertaining the name and address of the owner and lienholder, if any, the department shall,
7 within fifteen working days, notify the towing company. Any towing company which comes into
8 possession of abandoned property pursuant to section 304.155 or 304.157 and who claims a lien
9 for recovering, towing or storing abandoned property shall give notice to the title owner and to
10 all persons claiming a lien thereon, as disclosed by the records of the department of revenue or
11 of a corresponding agency in any other state. The towing company shall notify the owner and
12 any lienholder within ten business days of the date of mailing indicated on the notice sent by the
13 department of revenue, by certified mail, return receipt requested. The notice shall contain the
14 following:

- 15 (1) The name, address and telephone number of the storage facility;
- 16 (2) The date, reason and place from which the abandoned property was removed;
- 17 (3) A statement that the amount of the accrued towing, storage and administrative costs
18 are the responsibility of the owner, and that storage and/or administrative costs will continue to
19 accrue as a legal liability of the owner until the abandoned property is redeemed;
- 20 (4) A statement that the storage firm claims a possessory lien for all such charges;
- 21 (5) A statement that the owner or holder of a valid security interest of record may retake
22 possession of the abandoned property at any time during business hours by proving ownership
23 or rights to a secured interest and paying all towing and storage charges;
- 24 (6) A statement that, should the owner consider that the towing or removal was improper
25 or not legally justified, the owner has a right to request a hearing as provided in this section to
26 contest the propriety of such towing or removal;
- 27 (7) A statement that if the abandoned property remains unclaimed for thirty days from
28 the date of mailing the notice, title to the abandoned property will be transferred to the person
29 or firm in possession of the abandoned property free of all prior liens; and
- 30 (8) A statement that any charges in excess of the value of the abandoned property at the
31 time of such transfer shall remain a liability of the owner.

32 2. A towing company may only assess reasonable storage charges for abandoned
33 property towed without the consent of the owner. Reasonable storage charges shall not exceed
34 the charges for vehicles which have been towed with the consent of the owner on a negotiated
35 basis **and shall not differ based on whether the owner has insurance covering such charges.**
36 Storage charges may be assessed only for the time in which the towing company complies with
37 the procedural requirements of sections **304.143, 304.144, and sections** 304.155 to 304.158.

38 3. In the event that the records of the department of revenue fail to disclose the name of
39 the owner or any lienholder of record, the department shall notify the towing company which
40 shall attempt to locate documents or other evidence of ownership on or within the abandoned
41 property itself. The towing company must certify that a physical search of the abandoned
42 property disclosed that no ownership documents were found and a good faith effort has been
43 made. For purposes of this section, "good faith effort" means that the following checks have
44 been performed by the company to establish the prior state of registration and title:

45 (1) Check of the abandoned property for any type of license plates, license plate record,
46 temporary permit, inspection sticker, decal or other evidence which may indicate a state of
47 possible registration and title;

48 (2) Check the law enforcement report for a license plate number or registration number
49 if the abandoned property was towed at the request of a law enforcement agency;

50 (3) Check the tow ticket/report of the tow truck operator to see if a license plate was on
51 the abandoned property at the beginning of the tow, if a private tow; and

52 (4) If there is no address of the owner on the impound report, check the law enforcement
53 report to see if an out-of-state address is indicated on the driver license information.

54 4. If no ownership information is discovered, the director of revenue shall be notified in
55 writing and title obtained in accordance with subsection 7 of this section.

56 5. (1) The owner of the abandoned property removed pursuant to the provisions of
57 section 304.155 or 304.157 or any person claiming a lien, other than the towing company, within
58 ten days after the receipt of notification from the towing company pursuant to subsection 1 of
59 this section may file a petition in the associate circuit court in the county where the abandoned
60 property is stored to determine if the abandoned property was wrongfully taken or withheld from
61 the owner. The petition shall name the towing company among the defendants. The petition
62 may also name the agency ordering the tow or the owner, lessee or agent of the real property
63 from which the abandoned property was removed. The director of revenue shall not be a party
64 to such petition but a copy of the petition shall be served on the director of revenue who shall not
65 issue title to such abandoned property pursuant to this section until the petition is finally decided.

66 (2) Upon filing of a petition in the associate circuit court, the owner or lienholder may
67 have the abandoned property released upon posting with the court a cash or surety bond or other

68 adequate security equal to the amount of the charges for towing and storage to ensure the
69 payment of such charges in the event he does not prevail. Upon the posting of the bond and the
70 payment of the applicable fees, the court shall issue an order notifying the towing company of
71 the posting of the bond and directing the towing company to release the abandoned property. At
72 the time of such release, after reasonable inspection, the owner or lienholder shall give a receipt
73 to the towing company reciting any claims for loss or damage to the abandoned property or the
74 contents thereof.

75 (3) Upon determining the respective rights of the parties, the final order of the court shall
76 provide for immediate payment in full of recovery, towing, and storage fees by the abandoned
77 property owner or lienholder or the owner, lessee, or agent thereof of the real property from
78 which the abandoned property was removed.

79 6. A towing and storage lien shall be enforced as provided in subsection 7 of this section.

80 7. Thirty days after the notification form has been mailed to the abandoned property
81 owner and holder of a security agreement and the property is unredeemed and no satisfactory
82 arrangement has been made with the lienholder in possession for continued storage, and the
83 owner or holder of a security agreement has not requested a hearing as provided in subsection
84 5 of this section, the lienholder in possession may apply to the director of revenue for a
85 certificate. The application for title shall be accompanied by:

86 (1) An affidavit from the lienholder in possession that he has been in possession of the
87 abandoned property for at least thirty days and the owner of the abandoned property or holder
88 of a security agreement has not made arrangements for payment of towing and storage charges;

89 (2) An affidavit that the lienholder in possession has not been notified of any application
90 for hearing as provided in this section;

91 (3) A copy of the abandoned property report or crime inquiry and inspection report;

92 (4) A copy of the thirty-day notice given by certified mail to any owner and person
93 holding a valid security interest and a copy of the certified mail receipt indicating that the owner
94 and lienholder of record was sent a notice as required in this section; and

95 (5) A copy of the envelope or mailing container showing the address and postal markings
96 indicating that the notice was "not forwardable" or "address unknown".

97 8. If notice to the owner and holder of a security agreement has been returned marked
98 "not forwardable" or "addressee unknown", the lienholder in possession shall comply with
99 subsection 3 of this section.

100 9. Any municipality or county may adopt an ordinance regulating the removal and sale
101 of abandoned property provided such ordinance is consistent with sections 304.155 to 304.158,
102 and, for a home rule city with more than four hundred thousand inhabitants and located in more
103 than one county, includes the following provisions:

104 (1) That the department of revenue records must be searched to determine the registered
105 owner or lienholder of the abandoned property;

106 (2) That if a registered owner or lienholder is disclosed in the records, that the owner and
107 lienholder or owner or lienholder are mailed a notice by the governmental agency, by U.S. mail,
108 advising of the towing and impoundment;

109 (3) That if the vehicle is older than six years and more than fifty percent damaged by
110 collision, fire, or decay, and has a fair market value of less than two hundred dollars as
111 determined by using any nationally recognized appraisal book or method, it must be held no less
112 than ten days after the notice is sent pursuant to this subsection before being sold to a licensed
113 salvage or scrap business; provided however where a title is required under this chapter an
114 affidavit from a certified appraiser attesting that the value of the vehicle is less than two hundred
115 dollars;

116 (4) That all other vehicles must be held no less than thirty days after the notice is sent
117 pursuant to this subsection before they may be sold.

118 10. Any municipality or county which has physical possession of the abandoned property
119 and which sells abandoned property in accordance with a local ordinance may transfer ownership
120 by means of a bill of sale signed by the municipal or county clerk or deputy and sealed with the
121 official municipal or county seal. Such bill of sale shall contain the make and model of the
122 abandoned property, the complete abandoned property identification number and the odometer
123 reading of the abandoned property if available and shall be lawful proof of ownership for any
124 dealer registered under the provisions of section 301.218, RSMo, or section 301.560, RSMo, or
125 for any other person. Any dealer or other person purchasing such property from a municipality
126 or county shall apply within thirty days of purchase for a certificate. Anyone convicted of a
127 violation of this section shall be guilty of an infraction.

128 11. Any persons who have towed abandoned property prior to August 28, 1996, may,
129 until January 1, 2000, apply to the department of revenue for a certificate. The application shall
130 be accompanied by:

131 (1) A notarized affidavit explaining the circumstances by which the abandoned property
132 came into their possession, including the name of the owner or possessor of real property from
133 which the abandoned property was removed;

134 (2) The date of the removal;

135 (3) The current location of the abandoned property;

136 (4) An inspection of the abandoned property as prescribed by the director; and

137 (5) A copy of the thirty-day notice given by certified mail to any owner and person
138 holding a valid security interest of record and a copy of the certified mail receipt.

139 12. If the director is satisfied with the genuineness of the application and supporting
140 documents submitted pursuant to this section, the director shall issue one of the following:

141 (1) An original certificate of title if the vehicle owner has obtained a vehicle examination
142 certificate as provided in section 301.190, RSMo, which indicates that the vehicle was not
143 previously in a salvaged condition or rebuilt;

144 (2) An original certificate of title designated as prior salvage if the vehicle examination
145 certificate as provided in section 301.190, RSMo, indicates the vehicle was previously in a
146 salvage condition or rebuilt;

147 (3) A salvage certificate of title designated with the words "salvage/abandoned property"
148 or junking certificate based on the condition of the abandoned property as stated in the
149 abandoned property report or crime inquiry and inspection report;

150 (4) Notwithstanding the provisions of section 301.573, RSMo, to the contrary, if
151 satisfied with the genuineness of the application and supporting documents, the director shall
152 issue an original title to abandoned property previously issued a salvage title as provided in this
153 section, if the vehicle examination certificate as provided in section 301.190, RSMo, does not
154 indicate the abandoned property was previously in a salvage condition or rebuilt.

155 13. If abandoned property is insured and the insurer of property regards the property as
156 a total loss and the insurer satisfies a claim by the owner for the property, then the insurer or
157 lienholder shall claim and remove the property from the storage facility or make arrangements
158 to transfer the title, and such transfer of title subject to agreement shall be in complete
159 satisfaction of all claims for towing and storage, to the towing company or storage facility. The
160 owner of the abandoned vehicle, lienholder or insurer, to the extent the vehicle owner's insurance
161 policy covers towing and storage charges, shall pay reasonable fees assessed by the towing
162 company and storage facility. The property shall be claimed and removed or title transferred to
163 the towing company or storage facility within thirty days of the date that the insurer paid a claim
164 for the total loss of the property or is notified as to the location of the abandoned property,
165 whichever is the later event. Upon request, the insurer of the property shall supply the towing
166 company and storage facility with the name, address and phone number of the insurance
167 company and of the insured and with a statement regarding which party is responsible for the
168 payment of towing and storage charges under the insurance policy.

2 [304.156. 1. Within five working days of receipt of the crime inquiry and
3 inspection report under section 304.155 or the abandoned property report under
4 section 304.157, the director of revenue shall search the records of the
5 department of revenue, or initiate an inquiry with another state, if the evidence
6 presented indicated the abandoned property was registered or titled in another
7 state, to determine the name and address of the owner and lienholder, if any.
After ascertaining the name and address of the owner and lienholder, if any, the

8 department shall, within fifteen working days, notify the towing company. Any
9 towing company which comes into possession of abandoned property pursuant
10 to section 304.155 or 304.157 and who claims a lien for recovering, towing or
11 storing abandoned property shall give notice to the title owner and to all persons
12 claiming a lien thereon, as disclosed by the records of the department of revenue
13 or of a corresponding agency in any other state. The towing company shall notify
14 the owner and any lienholder within ten business days of the date of mailing
15 indicated on the notice sent by the department of revenue, by certified mail,
16 return receipt requested. The notice shall contain the following:

17 (1) The name, address and telephone number of the storage facility;

18 (2) The date, reason and place from which the abandoned property was
19 removed;

20 (3) A statement that the amount of the accrued towing, storage and
21 administrative costs are the responsibility of the owner, and that storage and/or
22 administrative costs will continue to accrue as a legal liability of the owner until
23 the abandoned property is redeemed;

24 (4) A statement that the storage firm claims a possessory lien for all such
25 charges;

26 (5) A statement that the owner or holder of a valid security interest of
27 record may retake possession of the abandoned property at any time during
28 business hours by proving ownership or rights to a secured interest and paying
29 all towing and storage charges;

30 (6) A statement that, should the owner consider that the towing or
31 removal was improper or not legally justified, the owner has a right to request a
32 hearing as provided in this section to contest the propriety of such towing or
33 removal;

34 (7) A statement that if the abandoned property remains unclaimed for
35 thirty days from the date of mailing the notice, title to the abandoned property
36 will be transferred to the person or firm in possession of the abandoned property
37 free of all prior liens; and

38 (8) A statement that any charges in excess of the value of the abandoned
39 property at the time of such transfer shall remain a liability of the owner.

40 2. A towing company may only assess reasonable storage charges for
41 abandoned property towed without the consent of the owner. Reasonable storage
42 charges shall not exceed the charges for vehicles which have been towed with the
43 consent of the owner on a negotiated basis. Storage charges may be assessed
44 only for the time in which the towing company complies with the procedural
45 requirements of sections 304.155 to 304.158.

46 3. In the event that the records of the department of revenue fail to
47 disclose the name of the owner or any lienholder of record, the department shall
48 notify the towing company which shall attempt to locate documents or other
49 evidence of ownership on or within the abandoned property itself. The towing
50 company must certify that a physical search of the abandoned property disclosed

51 that no ownership documents were found and a good faith effort has been made.
52 For purposes of this section, "good faith effort" means that the following checks
53 have been performed by the company to establish the prior state of registration
54 and title:

55 (1) Check of the abandoned property for any type of license plates,
56 license plate record, temporary permit, inspection sticker, decal or other evidence
57 which may indicate a state of possible registration and title;

58 (2) Check the law enforcement report for a license plate number or
59 registration number if the abandoned property was towed at the request of a law
60 enforcement agency;

61 (3) Check the tow ticket/report of the tow truck operator to see if a
62 license plate was on the abandoned property at the beginning of the tow, if a
63 private tow; and

64 (4) If there is no address of the owner on the impound report, check the
65 law enforcement report to see if an out-of-state address is indicated on the driver
66 license information.

67 4. If no ownership information is discovered, the director of revenue shall
68 be notified in writing and title obtained in accordance with subsection 7 of this
69 section.

70 5. (1) The owner of the abandoned property removed pursuant to the
71 provisions of section 304.155 or 304.157 or any person claiming a lien, other
72 than the towing company, within ten days after the receipt of notification from
73 the towing company pursuant to subsection 1 of this section may file a petition
74 in the associate circuit court in the county where the abandoned property is stored
75 to determine if the abandoned property was wrongfully taken or withheld from
76 the owner. The petition shall name the towing company among the defendants.
77 The petition may also name the agency ordering the tow or the owner, lessee or
78 agent of the real property from which the abandoned property was removed. The
79 director of revenue shall not be a party to such petition but a copy of the petition
80 shall be served on the director of revenue who shall not issue title to such
81 abandoned property pursuant to this section until the petition is finally decided.

82 (2) Upon filing of a petition in the associate circuit court, the owner or
83 lienholder may have the abandoned property released upon posting with the court
84 a cash or surety bond or other adequate security equal to the amount of the
85 charges for towing and storage to ensure the payment of such charges in the event
86 he does not prevail. Upon the posting of the bond and the payment of the
87 applicable fees, the court shall issue an order notifying the towing company of the
88 posting of the bond and directing the towing company to release the abandoned
89 property. At the time of such release, after reasonable inspection, the owner or
90 lienholder shall give a receipt to the towing company reciting any claims for loss
91 or damage to the abandoned property or the contents thereof.

92 (3) Upon determining the respective rights of the parties, the final order
93 of the court shall provide for immediate payment in full of recovery, towing, and

94 storage fees by the abandoned property owner or lienholder or the owner, lessee,
95 or agent thereof of the real property from which the abandoned property was
96 removed.

97 6. A towing and storage lien shall be enforced as provided in subsection
98 7 of this section.

99 7. Thirty days after the notification form has been mailed to the
100 abandoned property owner and holder of a security agreement and the property
101 is unredeemed and no satisfactory arrangement has been made with the lienholder
102 in possession for continued storage, and the owner or holder of a security
103 agreement has not requested a hearing as provided in subsection 5 of this section,
104 the lienholder in possession may apply to the director of revenue for a certificate.
105 The application for title shall be accompanied by:

106 (1) An affidavit from the lienholder in possession that he has been in
107 possession of the abandoned property for at least thirty days and the owner of the
108 abandoned property or holder of a security agreement has not made arrangements
109 for payment of towing and storage charges;

110 (2) An affidavit that the lienholder in possession has not been notified of
111 any application for hearing as provided in this section;

112 (3) A copy of the abandoned property report or crime inquiry and
113 inspection report;

114 (4) A copy of the thirty-day notice given by certified mail to any owner
115 and person holding a valid security interest and a copy of the certified mail
116 receipt indicating that the owner and lienholder of record was sent a notice as
117 required in this section; and

118 (5) A copy of the envelope or mailing container showing the address and
119 postal markings indicating that the notice was "not forwardable" or "address
120 unknown".

121 8. If notice to the owner and holder of a security agreement has been
122 returned marked "not forwardable" or "addressee unknown", the lienholder in
123 possession shall comply with subsection 3 of this section.

124 9. Any municipality or county may adopt an ordinance regulating the
125 removal and sale of abandoned property provided such ordinance is consistent
126 with sections 304.155 to 304.158, and, for a home rule city with more than four
127 hundred thousand inhabitants and located in more than one county, includes the
128 following provisions:

129 (1) That the department of revenue records must be searched to
130 determine the registered owner or lienholder of the abandoned property;

131 (2) That if a registered owner or lienholder is disclosed in the records,
132 that the owner and lienholder or owner or lienholder are mailed a notice by the
133 local governmental agency, by U.S. mail, advising of the towing and
134 impoundment;

135 (3) That if the vehicle is older than six years and more than fifty percent
136 damaged by collision, fire, or decay, and has a fair market value of less than two

137 hundred dollars as determined by using any nationally recognized appraisal book
138 or method, it must be held no less than ten days after the notice is sent pursuant
139 to this section before being sold to a licensed salvage or scrap business; provided
140 however where a title is required under this chapter an affidavit from a certified
141 appraiser attesting that the value of the vehicle is less than two hundred dollars;

142 (4) That all other vehicles must be held no less than thirty days after the
143 notice is sent pursuant to this subsection before they may be sold.

144 10. Any municipality or county which has physical possession of the
145 abandoned property and which sells abandoned property in accordance with a
146 local ordinance may transfer ownership by means of a bill of sale signed by the
147 municipal or county clerk or deputy and sealed with the official municipal or
148 county seal. Such bill of sale shall contain the make and model of the abandoned
149 property, the complete abandoned property identification number and the
150 odometer reading of the abandoned property if available and shall be lawful proof
151 of ownership for any dealer registered under the provisions of section 301.218,
152 RSMo, or section 301.560, RSMo, or for any other person. Any dealer or other
153 person purchasing such property from a municipality or county shall apply within
154 thirty days of purchase for a certificate. Anyone convicted of a violation of this
155 section shall be guilty of an infraction.

156 11. Any persons who have towed abandoned property prior to August 28,
157 1996, may, until January 1, 2000, apply to the department of revenue for a
158 certificate. The application shall be accompanied by:

159 (1) A notarized affidavit explaining the circumstances by which the
160 abandoned property came into their possession, including the name of the owner
161 or possessor of real property from which the abandoned property was removed;

162 (2) The date of the removal;

163 (3) The current location of the abandoned property;

164 (4) An inspection of the abandoned property as prescribed by the
165 director; and

166 (5) A copy of the thirty-day notice given by certified mail to any owner
167 and person holding a valid security interest of record and a copy of the certified
168 mail receipt.

169 12. If the director is satisfied with the genuineness of the application and
170 supporting documents submitted pursuant to this section, the director shall issue
171 one of the following:

172 (1) An original certificate of title if the vehicle owner has obtained a
173 vehicle examination certificate as provided in section 301.190, RSMo, which
174 indicates that the vehicle was not previously in a salvaged condition or rebuilt;

175 (2) An original certificate of title designated as prior salvage if the
176 vehicle examination certificate as provided in section 301.190, RSMo, indicates
177 the vehicle was previously in a salvage condition or rebuilt;

178 (3) A salvage certificate of title designated with the words
179 "salvage/abandoned property" or junking certificate based on the condition of the

180 abandoned property as stated in the abandoned property report or crime inquiry
181 and inspection report;

182 (4) Notwithstanding the provisions of section 301.573, RSMo, to the
183 contrary, if satisfied with the genuineness of the application and supporting
184 documents, the director shall issue an original title to abandoned property
185 previously issued a salvage title as provided in this section, if the vehicle
186 examination certificate as provided in section 301.190, RSMo, does not indicate
187 the abandoned property was previously in a salvage condition or rebuilt.

188 13. If abandoned property is insured and the insurer of property regards
189 the property as a total loss and the insurer satisfies a claim by the owner for the
190 property, then the insurer or lienholder shall claim and remove the property from
191 the storage facility or make arrangements to transfer the title, and such transfer
192 of title subject to agreement shall be in complete satisfaction of all claims for
193 towing and storage, to the towing company or storage facility. The owner of the
194 abandoned vehicle, lienholder or insurer, to the extent the vehicle owner's
195 insurance policy covers towing and storage charges, shall pay reasonable fees
196 assessed by the towing company and storage facility. The property shall be
197 claimed and removed or title transferred to the towing company or storage facility
198 within thirty days of the date that the insurer paid a claim for the total loss of the
199 property or is notified as to the location of the abandoned property, whichever is
200 the later event. Upon request, the insurer of the property shall supply the towing
201 company and storage facility with the name, address and phone number of the
202 insurance company and of the insured and with a statement regarding which party
203 is responsible for the payment of towing and storage charges under the insurance
204 policy.]

205 304.157. 1. If a person abandons property, as defined in section 304.001, on any real
2 property owned by another without the consent of the owner or person in possession of the
3 property, at the request of the person in possession of the real property, any member of the state
4 highway patrol, state water patrol, sheriff, or other law enforcement officer within his jurisdiction
5 may authorize a towing company **licensed under section 304.143** to remove such abandoned
6 property from the property in the following circumstances:

- 7 (1) The abandoned property is left unattended for more than forty-eight hours; or
- 8 (2) In the judgment of a law enforcement officer, the abandoned property constitutes a
9 safety hazard or unreasonably interferes with the use of the real property by the person in
10 possession.

11 2. A local government agency may also provide for the towing of motor vehicles or
12 vessels from real property under the authority of any local ordinance providing for the towing
13 of vehicles or vessels which are derelict, junk, scrapped, disassembled or otherwise harmful to
14 the public health under the terms of the ordinance. Any local government agency authorizing

15 a tow under this subsection shall report the tow to the local law enforcement agency within two
16 hours with a crime inquiry and inspection report pursuant to section 304.155.

17 3. Neither the law enforcement officer, local government agency nor anyone having
18 custody of abandoned property under his or her direction shall be liable for any damage to such
19 abandoned property occasioned by a removal authorized by this section other than damages
20 occasioned by negligence or by willful or wanton acts or omissions.

21 4. The owner of real property or lessee in lawful possession of the real property or the
22 property or security manager of the real property may authorize a towing company to remove
23 abandoned property or property parked in a restricted or assigned area without authorization by
24 a law enforcement officer only when the owner, lessee or property or security manager of the real
25 property is present. A property or security manager must be a full-time employee of a business
26 entity. An authorization to tow pursuant to this subsection may be made only under any of the
27 following circumstances:

28 (1) There is displayed, in plain view at all entrances to the property, a sign not less than
29 seventeen by twenty-two inches in size, with lettering not less than one inch in height,
30 prohibiting public parking and indicating that unauthorized abandoned property or property
31 parked in a restricted or assigned area will be removed at the owner's expense, disclosing the
32 maximum fee for all charges related to towing and storage, and containing the telephone number
33 of the local traffic law enforcement agency where information can be obtained or a
34 twenty-four-hour staffed emergency information telephone number by which the owner of the
35 abandoned property or property parked in a restricted or assigned area may call to receive
36 information regarding the location of such owner's property;

37 (2) The abandoned property is left unattended on owner-occupied residential property
38 with four residential units or less, and the owner, lessee or agent of the real property in lawful
39 possession has notified the appropriate law enforcement agency, and ten hours have elapsed
40 since that notification; or

41 (3) The abandoned property is left unattended on private property, and the owner, lessee
42 or agent of the real property in lawful possession of real property has notified the appropriate law
43 enforcement agency, and ninety-six hours have elapsed since that notification.

44 5. Pursuant to this section, any owner or lessee in lawful possession of real property that
45 requests a towing company to tow abandoned property without authorization from a law
46 enforcement officer shall at that time complete an abandoned property report which shall be
47 considered a legal declaration subject to criminal penalty pursuant to section 575.060, RSMo.
48 The report shall be in the form designed, printed and distributed by the director of revenue and
49 shall contain the following:

- 50 (1) The year, model, make and abandoned property identification number of the property
51 and the owner and any lienholders, if known;
- 52 (2) A description of any damage to the abandoned property noted by owner, lessee or
53 property or security manager in possession of the real property;
- 54 (3) The license plate or registration number and the state of issuance, if available;
- 55 (4) The physical location of the property and the reason for requesting the property to
56 be towed;
- 57 (5) The date the report is completed;
- 58 (6) The printed name, address and phone number of the owner, lessee or property or
59 security manager in possession of the real property;
- 60 (7) The towing company's name and address;
- 61 (8) The signature of the towing operator;
- 62 (9) The signature of the owner, lessee or property or security manager attesting to the
63 facts that the property has been abandoned for the time required by this section and that all
64 statements on the report are true and correct to the best of the person's knowledge and belief and
65 that the person is subject to the penalties for making false statements;
- 66 (10) Space for the name of the law enforcement agency notified of the towing of the
67 abandoned property and for the signature of the law enforcement official receiving the report;
68 and
- 69 (11) Any additional information the director of revenue deems appropriate.
- 70 6. Any towing company which tows abandoned property without authorization from a
71 law enforcement officer pursuant to subsection 4 of this section shall, **upon towing such**
72 **vehicle, enter the appropriate information on the statewide abandoned vehicle database**
73 **or** deliver a copy of the abandoned property report to the local law enforcement agency having
74 jurisdiction over the location from which the abandoned property was towed. The copy may be
75 produced and sent by facsimile machine or other device which produces a near exact likeness
76 of the print and signatures required, but only if the law enforcement agency receiving the report
77 has the technological capability of receiving such copy and has registered the towing company
78 for such purpose. The registration requirements shall not apply to law enforcement agencies
79 located in counties of the third or fourth classification. The report shall be delivered within two
80 hours if the tow was made from a signed location pursuant to subdivision (1) of subsection 4 of
81 this section, otherwise the report shall be delivered within twenty-four hours.
- 82 7. The law enforcement agency receiving such abandoned property report must record
83 the date on which the abandoned property report is filed with such agency and shall promptly
84 make an inquiry into the national crime information center and any statewide Missouri law
85 enforcement computer system to determine if the abandoned property has been reported as

86 stolen. The law enforcement agency shall enter the information pertaining to the towed property
87 into the statewide law enforcement computer system, and an officer shall sign the abandoned
88 property report and provide the towing company with a signed copy. The department of revenue
89 may design and sell to towing companies informational brochures outlining owner or lessee of
90 real property obligations pursuant to this section.

91 8. The law enforcement agency receiving notification that abandoned property has been
92 towed by a towing company shall search the records of the department of revenue and provide
93 the towing company with the latest owner and lienholder information, if available, on the
94 abandoned property, and if the tower has online access to the department of revenue's records,
95 the tower shall comply with the requirements of section 301.155, RSMo. If the abandoned
96 property is not claimed within ten working days, the towing company shall send a copy of the
97 abandoned property report signed by a law enforcement officer to the department of revenue.

98 9. If any owner or lessee of real property knowingly authorizes the removal of abandoned
99 property in violation of this section, then the owner or lessee shall be deemed guilty of a class
100 C misdemeanor.

374.702. 1. No person shall engage in the bail bond business as a bail bond agent or a
2 general bail bond agent without being licensed as provided in sections 374.695 to 374.775.

3 2. No judge, attorney, court official, law enforcement officer, state, county, or municipal
4 employee who is either elected or appointed shall be licensed as a bail bond agent or a general
5 bail bond agent.

6 3. A licensed bail bond agent shall not execute or issue an appearance bond in this state
7 without holding a valid appointment from a general bail bond agent and without attaching to the
8 appearance bond an executed and prenumbered power of attorney referencing the general bail
9 bond agent or insurer.

10 4. [A person licensed as an active bail bond agent shall hold the license for at least two
11 years prior to owning or being an officer of a licensed general bail bond agent] **Beginning**
12 **August 28, 2009, a person licensed as an active bail bond agent shall hold the license for**
13 **at least four years prior to owning or being an officer of a licensed general bail bond agent.**

14 5. A general bail bond agent shall not engage in the bail bond business:

15 (1) Without having been licensed as a general bail bond agent pursuant to sections
16 374.695 to 374.775; or

17 (2) Except through an agent licensed as a bail bond agent pursuant to sections 374.695
18 to 374.775.

19 6. A general bail bond agent shall not permit any unlicensed person to solicit or engage
20 in the bail bond business on the general bail bond agent's behalf, except for individuals who are
21 employed solely for the performance of clerical, stenographic, investigative, or other

22 administrative duties which do not require a license pursuant to sections 374.695 to 374.789.

23 7. Any person who is convicted of a violation of this section is guilty of a class A
24 misdemeanor. For any subsequent convictions, a person who is convicted of a violation of this
25 section is guilty of a class D felony.

374.715. 1. Applications for examination and licensure as a bail bond agent or general
2 bail bond agent shall be in writing and on forms prescribed and furnished by the department, and
3 shall contain such information as the department requires. Each application shall be
4 accompanied by proof satisfactory to the department that the applicant is a citizen of the United
5 States, is at least twenty-one years of age, has a high school diploma or general education
6 development certificate (GED), is of good moral character, and meets the qualifications for
7 surety on bail bonds as provided by supreme court rule. Each application shall be accompanied
8 by the examination and application fee set by the department. Individuals currently employed
9 as bail bond agents and general bail bond agents shall not be required to meet the education
10 requirements needed for licensure pursuant to this section.

11 2. (1) In addition, each applicant for licensure as a general bail bond agent shall furnish
12 proof satisfactory to the department that [the applicant or, if the applicant is a corporation, that
13 each officer thereof has completed at least two years as a bail bond agent, and that the applicant
14 possesses liquid assets of at least ten thousand dollars, along with a duly executed assignment
15 of ten thousand dollars to the state of Missouri. The assignment shall become effective upon the
16 applicant's violating any provision of sections 374.695 to 374.789. The assignment required by
17 this section shall be in the form and executed in the manner prescribed by the department. The
18 director may require by regulation conditions by which additional assignments of assets of the
19 general bail bond agent may occur when the circumstances of the business of the general bail
20 bond agent warrants additional funds. However, such additional funds shall not exceed
21 twenty-five thousand dollars] :

22 (a) **For a general bail bond agent licensed prior to August 28, 2009, the applicant**
23 **or, if the applicant is a corporation, each officer of the corporation has completed at least**
24 **two years as a bail bond agent and the applicant possesses liquid assets of at least ten**
25 **thousand dollars, along with an executed assignment of ten thousand dollars to the state**
26 **of Missouri;**

27 (b) **For a general bail bond agent licensed on or after August 28, 2009, the applicant**
28 **or, if the applicant is a corporation, each officer of the corporation has completed at least**
29 **four years as a bail bond agent and the applicant possesses liquid assets of fifty thousand**
30 **dollars, along with an executed assignment of fifty thousand dollars to the state of**
31 **Missouri.**

32 (2) **In addition to the assignment requirements in paragraphs (a) and (b) of**
33 **subdivision (1) of this subsection, the general bail bond agent shall execute an assignment**
34 **to the state of Missouri in the amount of five thousand dollars for each bail bond agent**
35 **licensed under the authority of the general bail bond agent on or after August 28, 2009.**

36 (3) **The assignments required by this section shall become effective upon the**
37 **applicant violating any provision of sections 374.695 to 374.789, and shall be in the form**
38 **and executed in the manner prescribed by the department. The director may require by**
39 **rule conditions by which additional assignments of assets of the general bail bond agent**
40 **may occur when the circumstances of the business of the general bail bond agent warrants**
41 **additional funds; except that, such additional funds shall not exceed fifty thousand dollars.**

 374.740. Any person applying to be licensed as a nonresident general bail bond agent
2 who has been licensed in another state shall devote fifty percent of his or her working time in the
3 state of Missouri and shall file proof with the director of the department of insurance, financial
4 institutions and professional registration as to his or her compliance, and accompany his or her
5 application with the fees set by the director by [regulation] **rule** and, if applying for a nonresident
6 general bail bond agent's license, with [a duly] **an** executed assignment of [twenty-five] **fifty**
7 thousand dollars to the state of Missouri, [which assignment] **along with an additional**
8 **assignment of five thousand dollars for each bail bond agent licensed under the authority**
9 **of the general agent. Such assignments** shall become effective upon the applicant's violating
10 any provision of sections 374.695 to 374.789. Failure to comply with this section will result in
11 revocation of the nonresidence license. The assignment required by this section shall be in the
12 form and executed in the manner prescribed by the department. All licenses issued pursuant to
13 this section shall be subject to the same renewal requirements set for other licenses issued
14 pursuant to sections 374.695 to 374.789.

 374.755. 1. The department may cause a complaint to be filed with the administrative
2 hearing commission as provided by chapter 621, RSMo, against any holder of any license
3 required by sections 374.695 to 374.775 or any person who has failed to renew or has
4 surrendered his or her license for any one or any combination of the following causes:

5 (1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic
6 beverage to an extent that such use impairs a person's ability to perform the work of the
7 profession licensed under sections 374.695 to 374.775;

8 (2) Final adjudication or a plea of guilty or nolo contendere [within the past fifteen years]
9 in a criminal prosecution under any state or federal law for a felony or a crime involving moral
10 turpitude whether or not a sentence is imposed, prior to issuance of license date;

11 (3) Use of fraud, deception, misrepresentation or bribery in securing any license or in
12 obtaining permission to take any examination required pursuant to sections 374.695 to 374.775;

13 (4) Obtaining or attempting to obtain any compensation as a member of the profession
14 licensed by sections 374.695 to 374.775 by means of fraud, deception or misrepresentation;

15 (5) Misappropriation of the premium, collateral, or other things of value given to a bail
16 bond agent or a general bail bond agent for the taking of bail, incompetency, misconduct, gross
17 negligence, fraud, or misrepresentation in the performance of the functions or duties of the
18 profession licensed or regulated by sections 374.695 to 374.775;

19 (6) Violation of any provision of or any obligation imposed by the laws of this state,
20 department of insurance, financial institutions and professional registration rules and regulations,
21 or aiding or abetting other persons to violate such laws, orders, rules or regulations, or
22 subpoenas;

23 (7) Transferring a license or permitting another person to use a license of the licensee;

24 (8) Disciplinary action against the holder of a license or other right to practice the
25 profession regulated by sections 374.695 to 374.789 granted by another state, territory, federal
26 agency or country upon grounds for which revocation or suspension is authorized in this state;

27 (9) Being finally adjudged insane or incompetent by a court of competent jurisdiction;

28 (10) Assisting or enabling any person to practice or offer to practice the profession
29 licensed or regulated by sections 374.695 to 374.789 who is not currently licensed and eligible
30 to practice pursuant to sections 374.695 to 374.789;

31 (11) Acting in the capacity of an attorney at a trial or hearing of a person for whom the
32 attorney is acting as surety;

33 (12) Failing to provide a copy of the bail contract, renumbered written receipt for
34 acceptance of money, or other collateral for the taking of bail to the principal, if requested by any
35 person who is a party to the bail contract, or any person providing funds or collateral for bail on
36 the principal's behalf.

37 2. After the filing of such complaint, the proceedings shall be conducted in accordance
38 with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing
39 commission that one or more of the causes stated in subsection 1 of this section have been met,
40 the director may suspend or revoke the license or enter into an agreement for a monetary or other
41 penalty pursuant to section 374.280.

42 3. In lieu of filing a complaint at the administrative hearing commission, the director and
43 the bail bond agent or general bail bond agent may enter into an agreement for a monetary or
44 other penalty pursuant to section 374.280.

45 4. In addition to any other remedies available, the director may issue a cease and desist
46 order or may seek an injunction in a court of competent jurisdiction pursuant to the provisions
47 of section 374.046 whenever it appears that any person is acting as a bail bond agent or general

48 bail bond agent without a license or violating any other provisions of sections 374.695 to
49 374.789.

375.1025. As used in sections 375.1025 to 375.1062, the following terms shall mean:

2 (1) ["Audited financial report" means and includes those items specified in section
3 375.1032;

4 (2) "Accountant" [and] or "independent certified public accountant", an independent
5 certified public accountant or accounting firm in good standing with the American Institute of
6 Certified Public Accountants and in all states in which they are licensed to practice. For
7 Canadian and British companies, it means a Canadian-chartered or British-chartered accountant;

8 (2) "Affiliate" or "affiliated", a person that directly, or indirectly through one or
9 more intermediaries, controls, or is controlled by, or is under common control with, the
10 person specified;

11 (3) "AICPA", the American Institute of Certified Public Accountants;

12 (4) "Audit committee", a committee (or equivalent body) established by the board
13 of directors of an entity for the purpose of overseeing the accounting and financial
14 reporting processes of an insurer or group of insurers, and audits of financial statements
15 of the insurer or group of insurers. The audit committee of any entity that controls a
16 group of insurers may be deemed to be the audit committee for one or more of such
17 controlled insurers solely for the purposes of sections 375.1025 to 375.1062 at the election
18 of the controlling person. Such election shall be exercised under subsection 5 of section
19 375.1053. If an audit committee is not designated by the insurer, the insurer's entire board
20 of directors shall constitute the audit committee;

21 (5) "Audited financial report", includes those items specified in section 375.1032;

22 (6) "Department", the department of insurance, financial institutions and
23 professional registration;

24 [(3)](7) "Director", the director of the department of insurance, financial institutions and
25 professional registration;

26 (8) "Group of insurers", those licensed insurers included in the reporting
27 requirements of sections 382.010 to 382.300, RSMo, or a set of insurers as identified by
28 management, for the purpose of assessing the effectiveness of internal control over
29 financial reporting;

30 (9) "Indemnification", an agreement of indemnity or a release from liability where
31 the intent or effect is to shift or limit in any manner the potential liability of the person or
32 firm for failure to adhere to applicable auditing or professional standards, whether or not
33 resulting in part from knowing of other misrepresentations made by the insurer or its
34 representatives;

35 **(10) "Independent board member", the same meaning as described in subsection**
36 **3 of section 375.1053;**

37 **[(4)] (11) "Insurer", an insurer certified to do business in this state pursuant to section**
38 **375.161 or 375.831, and to companies authorized to transact business in this state pursuant to**
39 **chapters 354, 376, 377, 378, 379 and 381, RSMo;**

40 **(12) "Internal control over financial reporting", a process effected by an entity's**
41 **board of directors, management and other personnel designed to provide reasonable**
42 **assurance regarding the reliability of the financial statements, i.e., those items specified in**
43 **subsections 2 to 7 of section 375.1032 and includes those policies and procedures that:**

44 **(a) Pertain to the maintenance of records that, in reasonable detail, accurately and**
45 **fairly reflect the transactions and dispositions of assets;**

46 **(b) Provide reasonable assurance that transactions are recorded as necessary to**
47 **permit preparation of financial statements, i.e., those items specified in subsections 2 to 7**
48 **of section 375.1032, and that receipts and expenditures are being made only in accordance**
49 **with authorizations of management and directors; and**

50 **(c) Provide reasonable assurance regarding prevention or timely detection of**
51 **unauthorized acquisition, use or disposition of assets that could have a material effect on**
52 **the financial statements, i.e., those items specified in subsections 2 to 7 of section 375.1032;**

53 **(13) "NAIC", the National Association of Insurance Commissioners;**

54 **(14) "SEC", the United States Securities and Exchange Commission;**

55 **(15) "Section 404", Section 404 of the Sarbanes-Oxley Act of 2002, as amended, and**
56 **the SEC's rules and regulations promulgated thereunder;**

57 **(16) "Section 404 report", management's report on internal control over financial**
58 **reporting, as defined by the SEC and the related attestation report of the independent**
59 **certified public accountant as described in subsection 1 of section 375.1030;**

60 **(17) "SOX compliant entity", an entity that either is required to be or voluntarily**
61 **is compliant with all of the following provisions of the Sarbanes-Oxley Act of 2002, as**
62 **amended:**

63 **(a) The preapproval requirements of Section 201 (Section 10A(i) of the federal**
64 **Securities Exchange Act of 1934);**

65 **(b) The audit committee independence requirements of Section 301 (Section**
66 **10A(m)(3) of the federal Securities Exchange Act of 1934); and**

67 **(c) The internal control over financial reporting requirements of Section 404.**

375.1028. 1. Sections 375.1025 to 375.1062 shall apply to all insurers as defined by
2 section 375.1025. **Insurers having direct premiums written in this state of less than one**
3 **million dollars in any calendar year and less than one thousand policyholders or**

4 **certificateholders of direct written policies nationwide at the end of the calendar year shall**
5 **be exempt from sections 375.1025 to 375.1062, unless the director makes a specific finding**
6 **that compliance is necessary for the director to carry out statutory responsibilities; except**
7 **that, insurers having assumed premiums under contracts or treaties of reinsurance of one**
8 **million dollars or more shall not be so exempt.**

9 2. Foreign or alien insurers filing audited financial reports in another state, pursuant to
10 such other state's requirement for **filing of** audited financial reports which [are] **have been** found
11 by the director to be substantially similar to the requirements herein, are exempt from sections
12 [375.1025 to 375.1062] **375.1030 to 375.1050** if:

13 (1) A copy of the audited financial report [and the evaluation of accounting procedures
14 and systems of internal control report which] , **communication of internal control-related**
15 **matters noted in an audit, and the accountant's letter of qualifications that** are filed with
16 such other state are filed with the director in accordance with the filing dates specified in sections
17 375.1030, **375.1047**, and [375.1052] **375.1040**, respectively. Canadian insurers may submit
18 accountant's reports as filed with the [Canadian Dominion Department of Insurance;] **Office of**
19 **the Superintendent of Financial Institutions, Canada; and**

20 (2) A copy of any notification of adverse financial condition report filed with such other
21 state is filed with the director within the time specified in section 375.1045.

22 **3. Foreign or alien insurers required to file management's report of internal control**
23 **over financial reporting in another state are exempt from filing such report in this state,**
24 **provided such other state has substantially similar reporting requirements and such report**
25 **is filed with such other state's chief insurance regulatory official within the time specified.**

26 **4.** Sections 375.1025 to 375.1062 shall not prohibit, preclude or in any way limit the
27 director from ordering [and] , conducting [and] , **or** performing examinations of insurers under
28 any other applicable law.

375.1030. 1. All insurers shall have an annual audit [performed] by an independent
2 certified public accountant and shall file an audited financial report with the director on or before
3 June first [with respect to the calendar] **for the** year ended December thirty-first immediately
4 preceding. The director may require an insurer to file an audited financial report earlier than
5 June first with ninety days' advance notice to the insurer.

6 2. Extensions of the June first filing date may be granted by the director for thirty-day
7 periods upon a showing by the insurer and its independent certified public accountant **of** the
8 reasons for requesting such extension and determination by the director of good cause for an
9 extension. The request for extension must be submitted in writing not less than [twenty] **ten**
10 days prior to the due date in sufficient detail to permit the director to make an informed decision
11 with respect to the requested extension.

12 **3. If an extension is granted in accordance with the provisions of subsection 2 of**
13 **this section, a similar extension of thirty days is granted to the filing of management's**
14 **report of internal control over financial reporting.**

15 **4. Every insurer required to file an annual audited financial report under sections**
16 **375.1025 to 375.1062 shall designate a group of individuals as constituting its audit**
17 **committee, as defined in section 375.1025. The audit committee of an entity that controls**
18 **an insurer may be deemed to be the insurer's audit committee for purposes of sections**
19 **375.1025 to 375.1062 at the election of the controlling person.**

 375.1032. 1. The annual audited financial report shall report the financial condition of
2 the insurer as of the end of the most recent calendar year and the results of its operation, cash
3 flows and changes in capital and surplus for the previous year ended in conformity with
4 accounting practices prescribed, or otherwise permitted, by law or rule of the department of
5 insurance of the state of domicile of the insurer.

6 2. The annual audited financial report shall include the following:

7 (1) Report of independent certified public accountant;

8 (2) Balance sheet reporting admitted assets, liabilities, capital and surplus;

9 (3) Statement of [gain or loss from] operations;

10 (4) Statement of cash [flows] **flow**;

11 (5) Statement of changes in capital and surplus;

12 (6) Notes to financial statements. These notes shall be those required by the
13 **appropriate** National Association of Insurance Commissioners' Annual Statement Instructions
14 [and any other notes required by generally accepted accounting principles] **the NAIC's**
15 **Accounting Practices and Procedures Manual as adopted by the director** and shall include[:

16 (a)] a reconciliation of differences, if any, between the audited statutory financial
17 statements and the annual statement filed pursuant to section 375.041 and section 354.105,
18 354.435, RSMo, 376.350, RSMo, 377.100, 377.380, RSMo, 378.350, RSMo, 379.105, RSMo,
19 380.051 or 380.482, RSMo, with a written description of the nature of these differences[;

20 (b) A summary of ownership and relationships of the insurer and all affiliated
21 companies; and

22 (c) A narrative explanation of all significant intercompany transactions and balances].

23 3. The financial statements included in the audited financial report shall be prepared in
24 a form and using language and groupings substantially the same as the relevant sections of the
25 annual statement of the insurer filed with the director[:

26 (1)] , **and** the financial statement shall be comparative, presenting the amounts as of
27 December thirty-first of the current year and the amounts as of the immediately preceding

28 December thirty-first. However, in the first year in which an insurer is required to file an audited
29 financial report, the comparative data may be omitted[;

30 (2) Amounts may be rounded to the nearest thousand dollars;

31 (3) Insignificant amounts may be combined].

375.1035. 1. Each insurer required by sections 375.1025 to [375.1057] **375.1062** to file
2 an annual audited financial report shall, within sixty days after becoming subject to such
3 requirement, register with the director in writing the name and address of its independent
4 certified public accountant or accounting firm [(generally referred to in sections 375.1025 to
5 375.1057 as the "accountant")] retained to conduct the annual audit set forth in sections 375.1025
6 to [375.1057] **375.1062**. Any insurer not retaining an independent certified public accountant
7 on the effective date of sections 375.1025 to [375.1057] **375.1062** shall register the name and
8 address of its retained **independent** certified public accountant not less than six months before
9 the date when the first audited financial report is to be filed.

10 2. The insurer shall obtain a letter from such accountant, and file a copy with the director
11 stating that the accountant is aware of the provisions of the insurance laws and the rules and
12 regulations of the department of insurance of the state of domicile that relate to accounting and
13 financial matters and affirming that [he] **the accountant** will express his **or her** opinion on the
14 financial statements in [the] terms of their conformity to the statutory accounting practices
15 prescribed or otherwise permitted by that department of insurance, specifying such exceptions
16 as he **or she** may believe appropriate.

17 3. If an accountant who was the accountant for the immediately preceding filed audited
18 financial report is dismissed or resigns, the insurer shall within five business days notify the
19 director of this event. The insurer shall also furnish the director with a separate letter within ten
20 business days of the notification stating whether in the twenty-four months preceding such event
21 there were any disagreements with the former accountant on any matter of accounting principles
22 or practices, financial statement disclosure, or auditing scope or procedure, which disagreements,
23 if not resolved to the satisfaction of the former accountant, would have caused him **or her** to
24 make reference to the subject matter of the disagreement in connection with his **or her** opinion.
25 Disagreements required to be reported by this section include both disagreements resolved to the
26 former accountant's satisfaction, and disagreements not resolved to the former accountant's
27 satisfaction. Disagreements contemplated by this section are those that occur at the
28 decision-making level, between personnel of the insurer responsible for the presentation of its
29 financial statements and personnel of the accounting firm responsible for rendering its report.
30 The insurer shall also in writing request such former accountant to furnish a letter addressed to
31 the [director] **insurer** stating whether the accountant agrees with the statements contained in the

32 insurer's letter and, if not, stating the reasons for which he does not agree, and the insurer shall
33 furnish such responsive letter from the former accountant to the director together with its own.

375.1037. 1. The director shall not recognize [or approve] any person or firm as [an] a
2 **qualified** independent certified public accountant [that] **if such person or firm:**

3 (1) Is not in good standing with the American Institute of Certified Public Accountants
4 and in all states in which the accountant is licensed to practice, or, for a Canadian or British
5 company, that is not a chartered accountant;

6 (2) **Has either directly or indirectly entered into an indemnification with respect to**
7 **the audit of the insurer.**

8 2. Except as otherwise provided [herein, a] **in sections 375.1025 to 375.1062, the**
9 **director shall recognize an independent** certified public accountant [shall be recognized as
10 independent] **as qualified** as long as he **or she** conforms to the standards of his **or her**
11 profession, as contained in the code of professional ethics of the American Institute of Certified
12 Public Accountants and rules and regulations and code of ethics and rules of professional
13 conduct of the Missouri state board of accountancy, or similar code.

14 3. [No partner or other person responsible for rendering a report may] **The lead or**
15 **coordinating audit partner or person having primary responsibility for the audit shall not**
16 act in that capacity for more than [seven] **five** consecutive years. [Following any period of
17 service] Such **partner or** person shall be disqualified from acting in that or a similar capacity
18 for the same company or its insurance subsidiaries or affiliates for a period of [two] **five** years.
19 An insurer may make application to the director for relief from the above rotation requirement
20 on the basis of unusual circumstances. **Such application shall be made at least thirty days**
21 **before the end of the calendar year. The insurer shall file, with its annual statement filing,**
22 **the approval, if any, for relief from this subsection with the states that it is licensed in or**
23 **doing business in and with the NAIC. If the nondomestic state accepts electronic filing**
24 **with the NAIC, the insurer shall file the approval in an electronic format acceptable to the**
25 **NAIC.** The director may consider the following factors in determining if the relief should be
26 granted:

27 (1) Number of partners, expertise of the partners or the number of insurance clients in
28 the currently registered firm;

29 (2) Premium volume of the insurer; or

30 (3) Number of jurisdictions in which the insurer transacts business.

31 4. The director shall [not] **neither** recognize as [capable or competent,] a **qualified**
32 **independent** certified public accountant, nor [shall the director] accept any annual audited
33 financial report, prepared in whole or in part by any **natural** person who:

34 (1) Has been convicted of fraud, bribery, a violation of the Racketeer Influenced and
35 Corrupt Organizations Act, 18 U.S.C. Sections 1961 to 1968, or any dishonest conduct or
36 practices under federal law or the laws of any state;

37 (2) Has **been found to have** violated the laws of this state with respect to any previous
38 audited financial report submitted pursuant to sections 375.1025 to [375.1057 or the similar laws
39 of any other state] **375.1062**; or

40 (3) Has demonstrated a pattern or practice of failing to detect or disclose material
41 information in previous reports filed under the provisions of sections 375.1025 to [375.1057]
42 **375.1062**.

43 5. The director [shall notify the insurer should he determine that the certified public
44 accountant is not independent or is incapable or incompetent] **may hold a hearing under**
45 **sections 536.100 to 536.140, RSMo, to determine whether an independent certified public**
46 **accountant is qualified and, considering the evidence presented, may rule that the**
47 **accountant is not qualified** for purposes of expressing his **or her** opinion on the financial
48 statements in the annual audited financial report made pursuant to sections 375.1025 to
49 [375.1057. If the insurer contests such determination, the director shall hold a hearing to
50 determine whether the certified public accountant is independent, capable and competent, and,
51 considering the evidence presented, may rule that the accountant is not independent or is
52 incapable or incompetent for purposes of expressing his opinion on the financial statements in
53 the annual audited financial report] **375.1062** and require the insurer to replace the accountant
54 with another whose relationship with the insurer is [independent] **qualified** within the meaning
55 of[, or who is capable or competent to perform the requirements of,] sections 375.1025 to
56 [375.1057] **375.1062**.

57 **6. A qualified independent certified public accountant may enter into an agreement**
58 **with an insurer to have disputes relating to an audit resolved by mediation or arbitration.**
59 **However, in the event of a delinquency proceeding commenced against the insurer under**
60 **sections 375.570 to 375.750, the mediation or arbitration provisions shall operate at the**
61 **option of the statutory successor.**

62 **7. The director shall not recognize as a qualified independent certified public**
63 **accountant, nor accept an annual audited financial report, prepared in whole or in part**
64 **by an accountant who functions in the role of management, audits his or her own work, or**
65 **serves in an advocacy role for the insurer. Without limiting the foregoing, the director**
66 **shall not recognize as a qualified independent certified public accountant, nor accept an**
67 **annual audited financial report, prepared in whole or in part by an accountant who**
68 **provides to an insurer, contemporaneously with the audit, the following nonaudit services:**

69 (1) Bookkeeping or other services related to the accounting records or financial
70 statements of the insurer;

71 (2) Financial information systems design and implementation;

72 (3) Appraisal or valuation services, fairness opinions, or contribution-in-kind
73 reports;

74 (4) Actuarially oriented advisory services involving the determination of amounts
75 recorded in the financial statements. The accountant may assist an insurer in
76 understanding the methods, assumptions, and inputs used in the determination of amounts
77 recorded in the financial statement only if it is reasonable to conclude that the services
78 provided will not be subject to audit procedures during an audit of the insurer's financial
79 statements. An accountant's actuary may also issue an actuarial opinion or certification
80 ("opinion") on an insurer's reserves if the following conditions have been met:

81 (a) Neither the accountant nor the accountant's actuary has performed any
82 management functions or made any management decisions;

83 (b) The insurer has competent personnel (or engages a third party actuary) to
84 estimate the reserves for which management takes responsibility; and

85 (c) The accountant's actuary tests the reasonableness of the reserves after the
86 insurer's management has determined the amount of the reserves;

87 (5) Internal audit outsourcing services;

88 (6) Management functions or human resources;

89 (7) Broker or dealer, investment adviser, or investment banking services;

90 (8) Legal services or expert services unrelated to the audit; or

91 (9) Any other services that the director determines, by rule, are impermissible.

92 8. Insurers having direct written and assumed premiums of less than one hundred
93 million dollars in any calendar year may request an exemption from subsection 7 of this
94 section. The insurer shall file with the director a written statement discussing the reasons
95 why the insurer should be exempt from these provisions. If the director finds, upon review
96 of this statement, that compliance with this requirement would constitute a financial or
97 organizational hardship upon the insurer, an exemption may be granted.

98 9. A qualified independent certified public accountant who performs the audit may
99 engage in other nonaudit services, including tax services, that are not described in and do
100 not conflict with subsection 7 of this section, only if the activity is approved in advance by
101 the audit committee, in accordance with subsection 10 of this section.

102 10. All auditing services and nonaudit services provided to an insurer by the
103 qualified independent certified public accountant of the insurer shall be preapproved by
104 the audit committee. The preapproval requirement is waived with respect to nonaudit

105 services if the insurer is a SOX compliant entity or a direct or indirect wholly owned
106 subsidiary of a SOX compliant entity or:

107 (1) The aggregate amount of all such nonaudit services provided to the insurer
108 constitutes not more than five percent of the total amount of fees paid by the insurer to its
109 qualified independent certified public accountant during the fiscal year in which the
110 nonaudit services are provided;

111 (2) The services were not recognized by the insurer at the time of the engagement
112 to be nonaudit services; and

113 (3) The services are promptly brought to the attention of the audit committee and
114 approved prior to the completion of the audit by the audit committee or by one or more
115 members of the audit committee who are the members of the board of directors to whom
116 authority to grant such approvals has been delegated by the audit committee.

117 11. The audit committee may delegate to one or more designated members of the
118 audit committee the authority to grant the preapprovals required by subsection 10 of this
119 section. The decisions of any member to whom this authority is delegated shall be
120 presented to the full audit committee at each of its scheduled meetings.

121 12. The director shall not recognize an independent certified public accountant as
122 qualified for a particular insurer if a member of the board, president, chief executive
123 officer, controller, chief financial officer, chief accounting officer, or any person serving
124 in an equivalent position for that insurer was employed by the independent certified public
125 accountant and participated in the audit of that insurer during the one-year period
126 preceding the date that the most current statutory opinion is due.

127 13. Subsection 12 of this section shall only apply to partners and senior managers
128 involved in the audit. An insurer may make application to the director for relief from
129 subsection 12 of this section on the basis of unusual circumstances. The insurer shall file,
130 with its annual statement filing, the approval for relief from subsection 12 of this section
131 with the states that it is licensed in or doing business in and the NAIC. If the nondomestic
132 state accepts electronic filing with the NAIC, the insurer shall file the approval in an
133 electronic format acceptable to the NAIC.

2 375.1038. An insurer may make written application to the director for approval to
3 file audited consolidated or combined financial statements in lieu of separate annual
4 audited financial statements if the insurer is part of a group of insurance companies that
5 utilizes a pooling or one hundred percent reinsurance agreement that affects the solvency
6 and integrity of the insurer's reserves and the insurer cedes all of its direct and assumed
7 business to the pool. In such cases, a columnar consolidating or combining worksheet shall
be filed with the report as follows:

- 8 (1) **Amounts shown on the consolidated or combined audited financial report shall**
9 **be shown on the worksheet;**
- 10 (2) **Amounts for each insurer subject to this section shall be stated separately;**
- 11 (3) **Noninsurance operations may be shown on the worksheet on a combined or**
12 **individual basis;**
- 13 (4) **Explanations of consolidating and eliminating entries shall be included; and**
- 14 (5) **A reconciliation shall be included of any differences between the amounts shown**
15 **in the individual insurer columns of the worksheet and comparable amounts shown on the**
16 **annual statements of the insurers.**

375.1040. The accountant shall furnish the insurer in connection with, and for inclusion
2 in, the filing of the annual audited financial report, a letter stating:

- 3 (1) [That he] **Such accountant** is independent with respect to the insurer and conforms
4 to the standards of his **or her** profession as contained in the code of professional ethics and
5 pronouncements of the American Institute of Certified Public Accountants, and the rules of
6 professional conduct of the Missouri board of accountancy, or similar code;
- 7 (2) The background and experience in general, and the experience in audits of insurers,
8 of the staff assigned to audit the financial statements of the insurer and whether each is an
9 independent certified public accountant. **Nothing within this requirement shall be construed**
10 **as prohibiting the accountant from utilizing such staff as he or she deems appropriate**
11 **where use is consistent with the standards prescribed by generally accepted auditing**
12 **standards;**
- 13 (3) That the accountant understands the annual audited financial report and his opinion
14 thereon will be filed in compliance with sections 375.1025 to 375.1062 and that the director will
15 be relying on this information in the monitoring and regulation of the financial position of the
16 insurer;
- 17 (4) That the accountant consents to the requirements of section 375.1050 and that the
18 accountant consents and agrees to make available for review by the director, [his] **the director's**
19 designee or [his] appointed agent, the workpapers, as defined in section 375.1050;
- 20 (5) That the accountant is properly licensed by an appropriate state licensing authority
21 and that [he] **the accountant** is a member in good standing in the American Institute of Certified
22 Public Accountants;
- 23 (6) [That the accountant has liability insurance coverage of the lesser of one million
24 dollars or ten percent of the insurer's admitted assets; and
- 25 (7)] That the accountant is in compliance with the requirements of section 375.1037.

375.1042. Financial statements of the insurer to be filed pursuant to section 375.1030
2 shall be examined by an independent certified public accountant. The [examination] **audit** by

3 the independent certified public accountant of the insurer's financial statements shall be
4 conducted in accordance with generally accepted auditing standards [and consideration] . **In**
5 **accordance with AU Section 319 of the Professional Standards of the AICPA,**
6 **Consideration of Internal Control in a Financial Statement Audit, the independent**
7 **certified public accountant should obtain an understanding of internal control sufficient**
8 **to plan the audit. To the extent required by AU 319, for those insurers required to file a**
9 **Management's Report of Internal Control over Financial Reporting under section**
10 **375.1056, the independent certified public accountant should consider, as such term is**
11 **defined in Statement on Auditing Standards (SAS) No. 102, Defining Professional**
12 **Requirements in Statements on Auditing Standards or its replacement, the most recently**
13 **available report in planning and performing the audit of the statutory financial statements.**
14 **Consideration** shall be given to procedures illustrated in the Financial Condition Examiner's
15 Handbook promulgated by the National Association of Insurance Commissioners **as the**
16 **independent certified public accountant deems necessary.**

375.1045. 1. The insurer required to furnish the annual audited financial report shall
2 require the independent certified public accountant to report, in writing, within five business days
3 to the board of directors or its audit committee any determination by the independent certified
4 public accountant that the insurer has materially misstated its financial condition as reported to
5 the director as of the balance sheet date currently under [examination] **audit** or that the insurer
6 does not meet the minimum capital and surplus requirement of the law as of that date. An
7 insurer who has received a report pursuant to this subsection shall forward a copy of the report
8 to the director within five business days of receipt of such report and shall provide the
9 independent certified public accountant making the report with evidence of the report being
10 furnished to the director. If the independent certified public accountant fails to receive such
11 evidence within the required five-business-day period, the independent certified public
12 accountant shall furnish to the director a copy of its report within the next five business days.

13 2. No independent public accountant shall be liable in any manner to any person for any
14 statement made in connection with subsection 1 of this section if such statement is made in good
15 faith in compliance with subsection 1 of this section.

16 3. If the accountant, subsequent to the date of the audited financial report filed [pursuant
17 to this section] **under sections 375.1025 to 375.1062**, becomes aware of facts which might have
18 affected his **or her** report, [the department notes the obligation of the] **such** accountant **is**
19 **required** to take such action [under] **as prescribed in** the professional standards of the
20 American Institute of Certified Public Accountants.

375.1047. 1. In addition to the annual audited financial report, each insurer shall furnish
2 the director with a [report of evaluation performed by the accountant, in connection with his

3 examination, of the system of internal accounting controls of the insurer] **written**
4 **communication as to any unremediated material weaknesses in its internal control over**
5 **financial reporting noted during the audit. Such communication shall be prepared by the**
6 **accountant within sixty days after the filing of the annual audited financial report and**
7 **shall contain a description of any unremediated material weakness, as the term material**
8 **weakness is defined by Statement on Auditing Standard 60, Communication of Internal**
9 **Control Related Matters Noted in an Audit, or its replacement, as of December thirty-first**
10 **immediately preceding in the insurer's internal control over financial reporting noted by**
11 **the accountant during the course of their audit of the financial statements. If no**
12 **unremediated material weaknesses were noted, the communication shall so state.**

13 2. [A report of the evaluation by the accountant of the system of internal accounting
14 controls of the insurer, including any remedial action taken or proposed, shall be filed annually
15 by the insurer with the director within sixty days after the filing of the annual audited financial
16 report. This report shall follow generally the form for reports on internal control structure related
17 matters noted in an audit described in Volume 1, Section AU 325 of the professional standards
18 of the American Institute of Certified Public Accountants, as may be amended, or in the event
19 that such standards no longer be published, a similar standard to be designated by the director
20 by duly promulgated regulation] **The insurer is required to provide a description of remedial**
21 **actions taken or proposed to correct unremediated material weaknesses, if the actions are**
22 **not described in the accountant's communication.**

375.1050. 1. As used in this section, "workpapers" are the records kept by the
2 independent certified public accountant of the procedures followed, the tests performed, the
3 information obtained and the conclusions reached pertinent to [his examination] **such**
4 **accountant's audit** of the financial statements of an insurer. Workpapers may include audit
5 planning documentation, work programs, analyses, memoranda, letters of confirmation and
6 representation, abstracts of company documents, [any communications between the accountant
7 and the insurer,] and schedules or commentaries prepared or obtained by the independent
8 certified public accountant in the course of [his examination] **such accountant's audit** of the
9 financial statements of an insurer **and** which [relate to his opinion thereof] **support such**
10 **accountant's opinion.**

11 2. Every insurer required to file an audited financial report pursuant to sections 375.1025
12 to 375.1062 shall require the accountant to make available for review by the examiners of the
13 department of insurance, financial institutions and professional registration all workpapers
14 prepared in the conduct of [his examination] **the accountant's audit** and any communications
15 related to the audit between the accountant and the insurer, at the offices of the insurer, at the
16 department of insurance, financial institutions and professional registration or at any other

17 reasonable place designated by the director. The insurer shall require that the accountant retain
18 the audit workpapers **and communications** until the department has filed a report on
19 examination covering the period of the audit, but no longer than seven years from the date of the
20 audit report.

21 3. In the conduct of any examination or review by the department examiners, it shall be
22 agreed that photocopies of pertinent audit workpapers may be made and retained by the [director]
23 **department**. Such reviews by the [director or his] **department** examiners shall be considered
24 investigations and all working papers and communications obtained during the course of such
25 investigations shall be afforded the same confidentiality as other examination workpapers
26 generated by the department.

375.1052. 1. Upon written application of any insurer, the director may grant a temporary
2 exemption from compliance with sections 375.1025 to 375.1062 if the director finds, upon
3 review of the application, that compliance with sections 375.1025 to 375.1062 would constitute
4 a financial or organizational hardship upon the insurer. An exemption may be granted at any
5 time and from time to time for a specified period or periods. Within ten days from a denial of
6 an insurer's written request for an exemption from sections 375.1025 to 375.1062, such insurer
7 may request in writing a hearing on its application for an exemption. Such hearing shall be held
8 in accordance with the provisions of chapter 536, RSMo, pertaining to administrative hearing
9 procedures and shall be a public meeting as provided by subdivision (3) of section 610.010,
10 RSMo.

11 2. Domestic insurers:

12 **(1) Retaining a certified public accountant on the effective date of this section who**
13 **qualifies as independent shall comply with sections 375.1025 to 375.1062 for the year**
14 **ending December 31, 2009, and each year thereafter unless the director permits otherwise;**

15 **(2) Not retaining a certified public accountant on the effective date of this**
16 **regulation who qualifies as independent**

17

18 shall meet the following schedule for compliance with sections 375.1025 to 375.1062 unless the
19 director permits otherwise:

20 [(1) As of May 1, 1992, with respect to the calendar year ending on December 31, 1991,
21 each domestic insurer shall file with the director:

22 (a) Report of independent certified public accountant;

23 (b) Audited balance sheet;

24 (c) Notes to audited balance sheet;

25 **(2)] (a) As of December 31, 2009, file with the director an audited financial report;**

26 **(b)** For the year ending December 31, [1992] **2010**, and each year thereafter, such
27 insurers shall file with the director all reports **and communications** required by sections
28 375.1025 to 375.1062.

29 3. Foreign insurers shall comply with sections 375.1025 to 375.1062 for the year ending
30 December 31, 1992, and each year thereafter, unless the director permits otherwise.

31 **4. The requirements of subsection three of section 375.1037 shall be in effect for**
32 **audits of the year beginning January 1, 2010, and thereafter.**

33 **5. The requirements of section 375.1053 are to be in effect January 1, 2010. An**
34 **insurer or group of insurers that is not required to have independent audit committee**
35 **members or only a majority but not a supermajority of independent audit committee**
36 **members, because the total written and assumed premium is below the threshold and**
37 **subsequently becomes subject to one of the independence requirements due to changes in**
38 **premium shall have one year following the year the threshold is exceeded, but not earlier**
39 **than January 1, 2010, to comply with the independence requirements. Likewise, an insurer**
40 **that becomes subject to one of the independence requirements as a result of a business**
41 **combination shall have one calendar year following the date of acquisition or combination**
42 **to comply with the independence requirements.**

43 **6. The requirements of sections 375.1038, 375.1054, and 375.1056 are effective**
44 **beginning with the reporting period ending December 31, 2010, and each year thereafter.**
45 **An insurer or group of insurers that is not required to file a report because the total**
46 **written premium is below the threshold and subsequently becomes subject to the reporting**
47 **requirements shall have two years following the year the threshold is exceeded to file a**
48 **report. Likewise, an insurer acquired in a business combination shall have two calendar**
49 **years following the date of acquisition or combination to comply with the reporting**
50 **requirements.**

375.1053. 1. This section shall not apply to foreign or alien insurers licensed in this
2 **state or an insurer that is a SOX compliant entity or a direct or indirect wholly owned**
3 **subsidiary of a SOX compliant entity.**

4 **2. The audit committee shall be directly responsible for the appointment,**
5 **compensation, and oversight of the work of any accountant, including resolution of**
6 **disagreements between management and the accountant regarding financial reporting, for**
7 **the purpose of preparing or issuing the audited financial report or related work under**
8 **sections 375.1025 to 375.1062. Each accountant shall report directly to the audit**
9 **committee.**

10 **3. Each member of the audit committee shall be a member of the board of directors**
11 **of the insurer or a member of the board of directors of an entity elected under subsection**
12 **6 of this section and subdivision (6) of section 375.1025.**

13 **4. In order to be considered independent for purposes of this section, a member of**
14 **the audit committee shall not, other than in his or her capacity as a member of the audit**
15 **committee, the board of directors, or any other board committee, accept any consulting,**
16 **advisory, or other compensatory fee from the entity or be an affiliated person of the entity**
17 **or any subsidiary thereof. However, if law requires board participation by otherwise**
18 **nonindependent members, such law shall prevail and such members may participate in the**
19 **audit committee and be designated as independent for audit committee purposes, unless**
20 **they are an officer or employee of the insurer or one of its affiliates.**

21 **5. If a member of the audit committee ceases to be independent for reasons outside**
22 **the member's reasonable control, that person, with notice by the responsible entity to the**
23 **state, may remain an audit committee member of the responsible entity until the earlier of**
24 **the next annual meeting of the responsible entity or one year from the occurrence of the**
25 **event that caused the member to be no longer independent.**

26 **6. To exercise the election of the controlling person to designate the audit committee**
27 **for purposes of sections 375.1025 to 375.1062, the ultimate controlling person shall provide**
28 **written notice to the chief state insurance regulatory officials of the affected insurers.**
29 **Notification shall be made timely prior to the issuance of the statutory audit report and**
30 **include a description of the basis for the election. The election can be changed through**
31 **notice to the director by the insurer, which shall include a description of the basis for the**
32 **change. The election shall remain in effect for perpetuity, until rescinded.**

33 **7. (1) The audit committee shall require the accountant that performs for an**
34 **insurer any audit required by sections 375.1025 to 375.1062 to timely report to the audit**
35 **committee in accordance with the requirements of the auditing profession, including:**

36 **(a) All significant accounting policies and material permitted practices;**

37 **(b) All material alternative treatments of financial information within statutory**
38 **accounting principles that have been discussed with management officials of the insurer,**
39 **ramifications of the use of the alternative disclosures and treatments, and the treatment**
40 **preferred by the accountant; and**

41 **(c) Other material written communications between the accountant and the**
42 **management of the insurer, such as any management letter or schedule of unadjusted**
43 **differences.**

44 **(2) If an insurer is a member of an insurance holding company system, the reports**
45 **required by subdivision (1) of this subsection may be provided to the audit committee on**

46 an aggregate basis for insurers in the holding company system; provided that any
47 substantial differences among insurers in the system are identified to the audit committee.

48 **8. The proportion of independent audit committee members shall meet or exceed**
49 **the following criteria:**

50 **(1) If the insurer wrote direct and assumed premiums of zero to three hundred**
51 **million dollars during the prior calendar year, no minimum requirements are required**
52 **regarding the number or proportion of audit committee members who shall be**
53 **independent;**

54 **(2) If the insurer wrote direct and assumed premiums of three hundred million to**
55 **five hundred million dollars during the prior calendar year, at least a majority of the**
56 **members of the audit committee shall be independent; and**

57 **(3) If the insurer wrote direct and assumed premiums of five hundred million**
58 **dollars or more during the prior calendar year, a supermajority of at least seventy-five**
59 **percent of the members of the audit committee shall be independent.**

60 **9. An insurer with direct written and assumed premium, excluding premiums**
61 **reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, less**
62 **than five hundred million dollars may make application to the director for a waiver from**
63 **the requirements of this section based upon hardship. The insurer shall file, with its**
64 **annual statement filing, the approval for relief from this section with the states that it is**
65 **licensed in or doing business in and the NAIC. If the nondomestic state accepts electronic**
66 **filing with the NAIC, the insurer shall file the approval in an electronic format acceptable**
67 **to the NAIC.**

375.1054. 1. No director or officer of an insurer shall, directly or indirectly:

2 **(1) Make or cause to be made a materially false or misleading statement to an**
3 **accountant in connection with any audit, review, or communication required under**
4 **sections 375.1025 to 375.1062; or**

5 **(2) Omit to state, or cause another person to omit to state, any material fact**
6 **necessary in order to make statements made, in light of the circumstances under which the**
7 **statements were made, not misleading to an accountant in connection with any audit,**
8 **review, or communication required under sections 375.1025 to 375.1062.**

9 **2. No officer or director of an insurer, or any other person acting under the**
10 **direction thereof, shall directly or indirectly take any action to coerce, manipulate, mislead,**
11 **or fraudulently influence any accountant engaged in the performance of an audit under**
12 **sections 375.1025 to 375.1062 if such person knew or should have known that the action,**
13 **if successful, could result in rendering the insurer's financial statements materially**
14 **misleading.**

15 **3. For purposes of subsection 2 of this section, actions that, "if successful, could**
16 **result in rendering the insurer's financial statements materially misleading" include, but**
17 **are not limited to, actions taken at any time with respect to the professional engagement**
18 **period to coerce, manipulate, mislead, or fraudulently influence an accountant:**

19 **(1) To issue or reissue a report on an insurer's financial statements that is not**
20 **warranted in the circumstances, due to material violations of statutory accounting**
21 **principles prescribed by the director, generally accepted auditing standards, or other**
22 **professional or regulatory standards;**

23 **(2) Not to perform audit, review, or other procedures required by generally**
24 **accepted auditing standards or other professional standards;**

25 **(3) Not to withdraw an issued report; or**

26 **(4) Not to communicate matters to an insurer's audit committee.**

27 **4. Any violation of any provision of this section is a level three violation under**
28 **section 374.049, RSMo.**

375.1056. 1. Every insurer required to file an audited financial report under
2 **sections 375.1025 to 375.1062 that has annual direct written and assumed premiums,**
3 **excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal**
4 **Flood Program, of five hundred million dollars or more shall prepare a report of the**
5 **insurer's or group of insurers' internal control over financial reporting, as such terms are**
6 **defined in section 375.1025. The report shall be filed with the director along with the**
7 **communication of internal control related matters noted in an audit described under**
8 **section 375.1047. Management's report of internal control over financial reporting shall**
9 **be as of December thirty-first immediately preceding.**

10 **2. Notwithstanding the premium threshold in subsection 1 of this section, the**
11 **director may require an insurer to file management's report of internal control over**
12 **financial reporting if the insurer is in any RBC level event, or meets any one or more of the**
13 **standards of an insurer deemed to be in hazardous financial condition as defined in rules**
14 **adopted by the director.**

15 **3. An insurer or a group of insurers that is:**

16 **(1) Directly subject to Section 404;**

17 **(2) Part of a holding company system whose parent is directly subject to Section**
18 **404;**

19 **(3) Not directly subject to Section 404 but is a SOX compliant entity; or**

20 **(4) A member of a holding company system whose parent is not directly subject to**
21 **Section 404 but is a SOX compliant entity**

22

23 may file its or its parent's Section 404 report and an addendum in satisfaction of the
24 requirement of this section, provided that those internal controls of the insurer or group
25 of insurers having a material impact on the preparation of the insurer's or group of
26 insurers' audited statutory financial statements, namely those items included in
27 subdivisions 2 to 6 of subsection 2 of section 375.1032, were included in the scope of the
28 Section 404 report. The addendum shall be a positive statement by management that there
29 are no material processes with respect to the preparation of the insurer's or group of
30 insurers' audited statutory financial statements excluded from the Section 404 report. If
31 there are internal controls of the insurer or group of insurers that have a material impact
32 on the preparation of the insurer's or group of insurers' audited statutory financial
33 statements and those internal controls were not included in the scope of the Section 404
34 report, the insurer or group of insurers may either file a report under this section, or the
35 Section 404 report and a report under this section for those internal controls that have a
36 material impact on the preparation of the insurer's or group of insurers' audited statutory
37 financial statements not covered by the Section 404 report.

38 **4. Management's report of internal control over financial reporting shall include:**

39 **(1) A statement that management is responsible for establishing and maintaining**
40 **adequate internal control over financial reporting;**

41 **(2) A statement that management has established internal control over financial**
42 **reporting and an assertion, to the best of management's knowledge and belief, after**
43 **diligent inquiry, as to whether its internal control over financial reporting is effective to**
44 **provide reasonable assurance regarding the reliability of financial statements in**
45 **accordance with statutory accounting principles;**

46 **(3) A statement that briefly describes the approach or processes by which**
47 **management evaluated the effectiveness of its internal control over financial reporting; and**

48 **(4) A statement that briefly describes the scope of work that is included and**
49 **whether any internal controls were excluded;**

50 **(5) Disclosure of any unremediated material weaknesses in the internal control over**
51 **financial reporting identified by management as of December thirty-first immediately**
52 **preceding. Management is not permitted to conclude that the internal control over**
53 **financial reporting is effective to provide reasonable assurance regarding the reliability of**
54 **financial statements in accordance with statutory accounting principles if there is one or**
55 **more unremediated material weaknesses in its internal control over financial reporting;**

56 **(6) A statement regarding the inherent limitations of internal control systems; and**

57 **(7) Signatures of the chief executive officer and the chief financial officer, or the**
58 **equivalent position or title.**

59 **5. Management shall document and make available upon financial condition**
60 **examination the basis upon which its assertions required in subsection 4 of this section are**
61 **made. Management may base its assertions, in part, upon its review, monitoring and**
62 **testing of internal controls undertaken in the normal course of its activities. Management**
63 **shall have discretion as to the nature of the internal control framework used, and the**
64 **nature and extent of documentation, in order to make its assertion in a cost-effective**
65 **manner and, as such, may include assembly of or reference to existing documentation.**
66 **Management's report on internal control over financial reporting, required by subsection**
67 **1 of this section, and any documentation provided in support thereof during the course of**
68 **a financial condition examination, shall be kept confidential by the department.**

69 **6. No officer responsible for financial reporting may be a member of the audit**
70 **committee.**

 375.1057. 1. In the case of Canadian and British insurers, the annual audited financial
2 report shall be defined as the annual statement of total business on the form filed by such
3 companies with their [domiciliary supervisory] **supervision** authority duly audited by an
4 independent chartered accountant.

5 2. For such Canadian and British insurers, the letter required by **subsection 2 of** section
6 375.1035 shall state that the accountant is aware of the requirements relating to the annual
7 audited financial report filed with the director pursuant to section 375.1030 and shall affirm that
8 the opinion expressed is in conformity with such requirements.

 376.428. 1. A group policy delivered or issued for delivery in this state [on or after one
2 hundred twenty days following September 28, 1985, by an insurance company, health service
3 corporation or health maintenance organization] **by a health carrier or health benefit plan, as**
4 **defined in section 376.1350**, which insures employees or members and their eligible dependents
5 for hospital, surgical or major medical insurance on an expense-incurred or service basis, other
6 than for specific diseases or for accidental injuries only, shall provide that employees or members
7 whose coverage under the group policy, which includes coverage for their eligible dependents,
8 would otherwise terminate because of termination of employment or membership shall be
9 entitled to continue their hospital, surgical or major medical coverage, including coverage for
10 their eligible dependents, under that group policy [subject to the following terms and conditions:

11 (1) Continuation shall only be available to an employee or member who has been
12 continuously insured under the group policy, and for similar benefits under any group policy
13 which it replaced, during the entire three-month period ending with such termination. If
14 employment is reinstated during the continuation period, then coverage under the group policy
15 will be reinstated for the employee and any dependents who were covered under continuation;

16 (2) Continuation shall not be available for any person covered under the group policy
17 who is or could be covered by Medicare, nor any person who is or could be covered by any other
18 insured or uninsured arrangement which provides hospital, surgical or major medical coverage
19 for individuals in a group and under which the person was not covered immediately prior to such
20 termination;

21 (3) Continuation need not include dental, vision care or prescription drug benefits or any
22 other benefits provided under the group policy in addition to its hospital, surgical or major
23 medical benefits, but continuation must include maternity benefits if those benefits are provided
24 under the group policy;

25 (4) The employee or member must request such continuation in writing within thirty-one
26 days of the date coverage would otherwise terminate and must pay to the group policyholder, on
27 a monthly basis, the amount of contribution required to continue the coverage. Such premium
28 contribution shall not be more than the group rate of the insurance being continued on the due
29 date of each payment; but, if any benefits are omitted as provided by subdivision (3) of this
30 subsection, such premium contribution shall be reduced accordingly. The employee's or
31 member's written request for continuation, together with the first required premium contribution,
32 must be given to the group policyholder within thirty-one days of the date the coverage would
33 otherwise terminate. Employers must notify their employees and members, in writing, of the
34 duties of such employees and members under this subdivision no later than the date on which
35 coverage would otherwise terminate;

36 (5) Continuation of coverage under the group policy for any covered person shall
37 terminate upon failure to satisfy subdivision (2) of this subsection or, if earlier, at the first to
38 occur of the following:

39 (a) The date nine months after the date the employee's or member's coverage under the
40 group would have terminated because of termination of employment or membership;

41 (b) If the employee or member fails to make timely payment of a required premium
42 contribution, the end of the period for which contributions were made;

43 (c) The date on which the group policy is terminated or, in the case of an employee, the
44 date the employer terminates participation under a group policy. However, if this condition
45 applies and the coverage ceasing by reason of termination is replaced by similar coverage under
46 another group policy, then:

47 a. The employee or member shall have the right to become covered under that other
48 group policy for the balance of the period that he would have remained covered under the prior
49 group policy in accordance with the conditions of this section;

50 b. The minimum level of benefits to be provided by the other group policy shall be the
51 applicable level of benefits of the prior group policy reduced by any benefits payable under that
52 prior policy; and

53 c. The prior group policy shall continue to provide benefits to the extent of its accrued
54 liabilities and extensions of benefits as if the replacement had not occurred] **in the same manner**
55 **as continuation of coverage is required under the continuation of coverage provisions set**
56 **forth in the federal Consolidated Omnibus Budget Reconciliation Act (COBRA), as**
57 **amended.**

58 2. The spouse of an employee or member whose coverage under the group policy would
59 otherwise terminate due to dissolution of marriage or death of the employee or member shall
60 have the same continuation privilege accorded under sections 376.421 to 376.442, 376.694 to
61 376.696, and 376.779 to the employee or member upon termination of employment or
62 membership.

63 3. The right to a converted policy pursuant to sections 376.395 to 376.404 for an
64 employee or member entitled to continuation of coverage under sections 376.421 to 376.442,
65 376.694 to 376.696, and 376.779 shall commence upon termination of the continued coverage
66 provided for in sections 376.421 to 376.442, 376.694 to 376.696, and 376.779.

67 4. This section shall only apply to those persons who are not subject to the continuation
68 and conversion provisions set forth in Title I, Subtitle B, Part 6 of the Employment Retirement
69 Income Security Act of 1974 or Title XXII of the Public Health Service Act, as said acts were
70 in effect on January 1, 1987.

376.502. 1. No life insurance company doing business within this state shall deny
2 **or refuse to accept an application for life insurance, refuse to renew, cancel, restrict, or**
3 **otherwise terminate a policy of life insurance, or charge a different rate for the same life**
4 **insurance coverage, based upon the applicant's or insured's past or future lawful travel**
5 **destinations. Nothing in this section shall prohibit a life insurance company from denying**
6 **an application for life insurance, or restricting or charging a different premium or rate for**
7 **coverage under such a policy based on a specific travel destination where the denial,**
8 **restriction, or rate differential is based upon sound actuarial principles or is related to**
9 **actual or reasonably anticipated experience.**

10 2. A violation of the provisions of this section shall be unfair trade practice as
11 defined by sections 375.930 to 375.948, RSMo, and shall be governed by and subject to all
12 of the provisions and penalties provided by such sections.

13 3. The provisions of this section shall apply to any life insurance policy issued or
14 renewed on or after August 28, 2009.

379.1300. As used in sections 379.1300 to 379.1350, the following terms shall mean:

- 2 (1) "Affiliated company", any company in the same corporate system as a parent, an
3 industrial insured, or a member organization by virtue of common ownership, control, operation,
4 or management;
- 5 (2) "Alien captive insurance company", any insurance company formed to write
6 insurance business for its parents and affiliates and licensed under the laws of an alien
7 jurisdiction that imposes statutory or regulatory standards in a form acceptable to the director on
8 companies transacting the business of insurance in such jurisdiction;
- 9 (3) "Annuity", a contract issued for a valuable consideration under which the obligations
10 are assumed with respect to periodic payments for a specified term or terms or where the making
11 or continuance of all or of some of such payments, or the amount of any such payments, is
12 dependent upon the continuance of human life;
- 13 (4) "Association", any legal association of individuals, corporations, limited liability
14 companies, partnerships, associations, or other entities that has been in continuous existence for
15 at least one year, the member organizations of which or which does itself, whether or not in
16 conjunction with some or all of the member organizations:
- 17 (a) Own, control, or hold with power to vote all of the outstanding voting securities of
18 an association captive insurance company incorporated as a stock insurer; or
- 19 (b) Have complete voting control over an association captive insurance company
20 incorporated as a mutual insurer; **or**
- 21 (c) **Constitute all of the subscribers of an association captive insurance company**
22 **formed as a reciprocal insurer;**
- 23 (5) "Association captive insurance company", any company that insures risks of the
24 member organizations of the association and their affiliated companies; **except that, association**
25 **captive insurance company shall not include, without limitation, any reciprocal insurer**
26 **that has not chosen to apply for and is not licensed as a captive insurance company under**
27 **section 379.1302;**
- 28 (6) "Branch business", any insurance business transacted by a branch captive insurance
29 company in this state;
- 30 (7) "Branch captive insurance company", any alien captive insurance company licensed
31 by the director to transact the business of insurance in this state through a business unit with a
32 principal place of business in this state;
- 33 (8) "Branch operations", any business operations of a branch captive insurance company
34 in this state;
- 35 (9) "Captive insurance company", any pure captive insurance company, association
36 captive insurance company, or industrial insured captive insurance company formed or licensed
37 under sections 379.1300 to 379.1350. For purposes of sections 379.1300 to 379.1350, a branch

- 38 captive insurance company shall be a pure captive insurance company with respect to operations
39 in this state, unless otherwise permitted by the director;
- 40 (10) "Controlled unaffiliated business", any company:
- 41 (a) That is not in the corporate system of a parent and affiliated companies;
- 42 (b) That has an existing contractual relationship with a parent or affiliated company; and
- 43 (c) Whose risks are managed by a pure captive insurance company in accordance with
44 section 379.1338;
- 45 (11) "Director", the director of the department of insurance, financial institutions and
46 professional registration;
- 47 (12) "Excess workers' compensation insurance", in the case of an employer that has
48 insured or self-insured its workers' compensation risks in accordance with applicable state or
49 federal law, insurance in excess of a specified per-incident or aggregate limit established by the
50 director;
- 51 (13) "Industrial insured", an insured:
- 52 (a) Who procures the insurance of any risk or risks by use of the services of a full-time
53 employee acting as an insurance manager or buyer;
- 54 (b) Whose aggregate annual premiums for insurance on all risks total at least twenty-five
55 thousand dollars; and
- 56 (c) Who has at least twenty-five full-time employees;
- 57 (14) "Industrial insured captive insurance company", any company that insures risks of
58 the industrial insureds that comprise the industrial insured group and their affiliated companies;
- 59 (15) "Industrial insured group", any group of industrial insureds that collectively:
- 60 (a) Own, control, or hold with power to vote all of the outstanding voting securities of
61 an industrial insured captive insurance company incorporated as a stock insurer; or
- 62 (b) Have complete voting control over an industrial insured captive insurance company
63 incorporated as a mutual insurer;
- 64 (16) "Member organization", any individual, corporation, limited liability company,
65 partnership, association, or other entity that belongs to an association;
- 66 (17) "Mutual corporation", a corporation organized without stockholders and includes
67 a nonprofit corporation with members;
- 68 (18) "Parent", a corporation, limited liability company, partnership, other entity, or
69 individual that directly or indirectly owns, controls, or holds with power to vote more than fifty
70 percent of the outstanding voting:
- 71 (a) Securities of a pure captive insurance company organized as a stock corporation; or
- 72 (b) Membership interests of a pure captive insurance company organized as a nonprofit
73 corporation;

74 (19) "Pure captive insurance company", any company that insures risks of its parent and
75 affiliated companies or controlled unaffiliated business.

379.1302. 1. Any captive insurance company, when permitted by its articles of
2 association, charter, or other organizational document, may apply to the director for a license to
3 do any and all insurance and annuity contracts comprised in section 376.010, RSMo, and
4 subsection 1 of section 379.010, other than workers' compensation and employers' liability;
5 provided, however, that:

6 (1) No pure captive insurance company shall insure any risks other than those of its
7 parent and affiliated companies or controlled unaffiliated business;

8 (2) No association captive insurance company shall insure any risks other than those of
9 the member organizations of its association and their affiliated companies;

10 (3) No industrial insured captive insurance company shall insure any risks other than
11 those of the industrial insureds that comprise the industrial insured group and their affiliated
12 companies;

13 (4) No captive insurance company shall provide personal motor vehicle or homeowner's
14 insurance coverage or any component thereof;

15 (5) No captive insurance company shall accept or cede reinsurance except as provided
16 in section 379.1320;

17 (6) Any captive insurance company may provide excess workers' compensation
18 insurance to its parent and affiliated companies, unless prohibited by the federal law or laws of
19 the state having jurisdiction over the transaction. Any captive insurance company, unless
20 prohibited by federal law, may reinsure workers' compensation of a qualified self-insured plan
21 of its parent and affiliated companies, provided that sections 379.1300 to 379.1350 shall not
22 divest the division of workers' compensation of any jurisdiction, as authorized by law, over
23 workers' compensation self-insured plans;

24 (7) Any captive insurance company which insures life and accident and health risks
25 described in section 376.010, RSMo, and subdivision (4) of subsection 1 of section 379.010,
26 shall comply with all applicable state and federal laws; and

27 (8) No captive insurance company shall transact business as a risk retention group under
28 sections 375.1080 to 375.1105, RSMo.

29 2. No captive insurance company shall do any insurance business in this state unless:

30 (1) It first obtains from the director a license authorizing it to do insurance business in
31 this state;

32 (2) Its board of directors [or] , committee of managers, **or in the case of a reciprocal**
33 **insurer, its subscribers' advisory committee**, holds at least one meeting each year in this state;

34 (3) It maintains its principal place of business in this state; **and**

35 (4) It appoints a registered agent to accept service of process and to otherwise act on its
36 behalf in this state; provided that, whenever such registered agent cannot with reasonable
37 diligence be found at the registered office of the captive insurance company, the secretary of state
38 shall be an agent of such captive insurance company upon whom any process, notice, or demand
39 may be served[; and

40 (5) It holds at least thirty-five percent of its assets either directly in this state or through
41 a financial institution located in this state and approved by the director].

42 3. (1) Before receiving a license, a captive insurance company shall:

43 (a) File with the director a certified copy of its organizational documents, a statement
44 under oath of its president and secretary showing its financial condition, and any other statements
45 or documents required by the director; and

46 (b) Submit to the director for approval a description of the coverages, deductibles,
47 coverage limits, and rates, together with such additional information as the director may
48 reasonably require. In the event of any subsequent material change in any item in such
49 description, the captive insurance company shall submit to the director for approval an
50 appropriate revision and shall not offer any additional kinds of insurance until a revision of such
51 description is approved by the director. The captive insurance company shall inform the director
52 of any material change in rates within thirty days of the adoption of such change.

53 (2) Each applicant captive insurance company shall also file with the director evidence
54 of the following:

55 (a) The amount and liquidity of its assets relative to the risks to be assumed;

56 (b) The adequacy of the expertise, experience, and character of the person or persons
57 who will manage it;

58 (c) The overall soundness of its plan of operation;

59 (d) The adequacy of the loss prevention programs of its insureds; and

60 (e) Such other factors deemed relevant by the director in ascertaining whether the
61 proposed captive insurance company will be able to meet its policy obligations.

62 (3) Information submitted under this subsection shall be and remain confidential, and
63 shall not be made public by the director or an employee or agent of the director without the
64 written consent of the company; except that:

65 (a) Such information may be discoverable by a party in a civil action or contested case
66 to which the captive insurance company that submitted such information is a party, upon a
67 showing by the party seeking to discover such information that:

68 a. The information sought is relevant to and necessary for the furtherance of such action
69 or case;

70 b. The information sought is unavailable from other nonconfidential sources; and

71 c. A subpoena issued by a judicial or administrative officer of competent jurisdiction has
72 been submitted to the director; and

73 (b) The director may, in the director's discretion, disclose such information to a public
74 officer having jurisdiction over the regulation of insurance in another state, provided that:

75 a. Such public official shall agree in writing to maintain the confidentiality of such
76 information;

77 b. The laws of the state in which such public official serves require such information to
78 be and to remain confidential; and

79 (c) The director may disclose information to the director of the division of workers'
80 compensation regarding any captive insurance company issuing excess workers' compensation
81 insurance provided that the director for the division of workers' compensation agrees in writing
82 to maintain the confidentiality of such information provided by the director.

83 (4) Each captive insurance company shall pay to the director a nonrefundable license fee
84 of seven thousand five hundred dollars for examining, investigating, and processing its
85 application for license, and the director is authorized to retain legal, financial, and examination
86 services from outside the department, the reasonable cost of which may be charged against the
87 applicant. The provisions of sections 374.160 to 374.162 and sections 374.202 to 374.207,
88 RSMo, shall apply to examinations, investigations, and processing conducted under the authority
89 of this section. In addition, each captive insurance company shall pay a renewal fee for each year
90 thereafter of seven thousand five hundred dollars. Each captive insurance company may deduct
91 the license and renewal fee paid from the premium taxes payable under section 379.1326.

92 (5) If the director is satisfied that the documents and statements that such captive
93 insurance company has filed comply with the provisions of sections 379.1300 to 379.1350, the
94 director may grant a license authorizing it to do insurance business in this state until April first,
95 which license may be renewed.

379.1310. 1. A pure captive insurance company may be incorporated as a stock insurer
2 with its capital divided into shares and held by the stockholders as a nonprofit corporation with
3 one or more members, or as a manager-managed limited liability company.

4 2. An association captive insurance company or an industrial insured captive insurance
5 company may be:

6 (1) Incorporated as a stock insurer with its capital divided into shares and held by the
7 stockholders;

8 (2) Incorporated as a mutual insurer without capital stock, the governing body of which
9 is elected by its insureds; [or]

10 (3) Organized as a manager-managed limited liability company; **or**

11 **(4) Organized as a reciprocal insurer in accordance with sections 379.650 to**
12 **379.790.**

13 3. A captive insurance company incorporated or organized in this state shall have not less
14 than three incorporators or three organizers of whom not less than one shall be a resident of this
15 state.

16 4. In the case of a captive insurance company:

17 (1) Formed as a corporation, before the articles of incorporation are transmitted to the
18 secretary of state, the incorporators shall petition the director to issue a certificate setting forth
19 the director's finding that the establishment and maintenance of the proposed corporation will
20 promote the general good of the state. In arriving at such a finding the director shall consider:

21 (a) The character, reputation, financial standing and purposes of the incorporators;

22 (b) The character, reputation, financial responsibility, insurance experience, and business
23 qualifications of the officers and directors; and

24 (c) Such other aspects as the director shall deem advisable.

25 The articles of incorporation, such certificate, and the organization fee shall be transmitted to the
26 secretary of state, who shall thereupon record both the articles of incorporation and the
27 certificate;

28 (2) Formed as a limited liability company, before the articles of organization are
29 transmitted to the secretary of state, the organizers shall petition the director to issue a certificate
30 setting forth the director's finding that the establishment and maintenance of the proposed
31 company will promote the general good of the state. In arriving at such a finding, the director
32 shall consider the items set forth in paragraphs (a) to (c) of subdivision (1) of this subsection;

33 **(3) Formed as a reciprocal insurer, the organizers shall petition the director to issue**
34 **a certificate setting the director's finding that the establishment and maintenance of the**
35 **proposed association will promote the general good of the state. In arriving at such a**
36 **finding the director shall consider the items set forth in paragraphs (a) to (c) of subdivision**
37 **(1) of this subsection.**

38 5. The capital stock of a captive insurance company incorporated as a stock insurer may
39 be authorized with no par value.

40 6. In the case of a captive insurance company:

41 (1) Formed as a corporation, at least one of the members of the board of directors shall
42 be a resident of this state;

43 (2) Formed as a limited liability company, at least one of the managers shall be a resident
44 of this state;

45 **(3) Formed as a reciprocal insurer, at least one of the members of the subscribers'**
46 **advisory committee shall be a resident of this state.**

47 7. Other than captive insurance companies formed as limited liability companies under
48 chapter 347, RSMo, or as nonprofit corporations under chapter 355, RSMo, captive insurance
49 companies formed as corporations under sections 379.1300 to 379.1350 shall have the privileges
50 and be subject to chapter 351, RSMo, as well as the applicable provisions contained in sections
51 379.1300 to 379.1308. In the event of conflict between the provisions of such general
52 corporation law and sections 379.1300 to 379.1350, sections 379.1300 to 379.1350 shall control.

53 8. Captive insurance companies formed under sections 379.1300 to 379.1350:

54 (1) As limited liability companies shall have the privileges and be subject to the
55 provisions of chapter 347, RSMo, as well as the applicable provisions contained in sections
56 379.1300 to 379.1350. In the event of a conflict between chapter 347, RSMo, and sections
57 379.1300 to 379.1350, sections 379.1300 to 379.1350 shall control; or

58 (2) As nonprofit corporations shall have the privileges and be subject to the provisions
59 of chapter 355, RSMo, as well as the applicable provisions contained in sections 379.1300 to
60 379.1350. In the event of conflict between chapter 355, RSMo, and sections 379.1300 to
61 379.1350, sections 379.1300 to 379.1350 shall control.

62 9. The provisions of section 375.355, RSMo, **section 375.908, RSMo**, sections 379.980
63 to 379.988, and chapter 382, RSMo, pertaining to mergers, consolidations, conversions,
64 mutualizations, redomestications, and mutual holding companies shall apply in determining the
65 procedures to be followed by captive insurance companies in carrying out any of the transactions
66 described therein; except that:

67 (1) The director may waive or modify the requirements for public notice and hearing in
68 accordance with rules which the director may adopt addressing categories of transactions. If a
69 notice of public hearing is required, but no one requests a hearing, then the director may cancel
70 the hearing;

71 (2) An alien insurer may be a party to a merger **or a redomestication** authorized under
72 this subsection, if approved by the director.

73 10. The articles of incorporation or bylaws of a captive insurance company formed as
74 a corporation may authorize a quorum of its board of directors to consist of no fewer than
75 one-third of the full board of directors determined, provided that a quorum shall not consist of
76 fewer than two directors.

77 **11. Captive insurance companies formed as reciprocal insurers under the**
78 **provisions of sections 379.1300 to 379.1350 shall have the privileges and be subject to the**
79 **provisions of sections 379.650 to 379.790 in addition to the applicable provisions of sections**
80 **379.1300 to 379.1350. In the event of a conflict between the provisions of sections 379.650**
81 **to 379.790 and the provisions of sections 379.1300 to 379.1350, the latter shall control, to**
82 **the extent a reciprocal insurer is made subject to other provisions of chapters 374, 375, and**

83 **379 under sections 379.650 to 379.790, such provisions shall not be applicable to a**
84 **reciprocal insurer formed under sections 379.1300 to 379.1350 unless such provisions are**
85 **expressly made applicable to captive insurance companies under sections 379.1300 to**
86 **379.1350.**

87 **12. The subscribers' agreement or other organizing document of a captive**
88 **insurance company formed as a reciprocal insurer may authorize a quorum of its**
89 **subscribers' advisory committee to consist of no fewer than one-third of the number of its**
90 **members.**

379.1326. 1. Each captive insurance company shall pay to the director of revenue, on
2 or before May first of each year, a premium tax at the rate of thirty-eight-hundredths of one
3 percent on the first twenty million dollars and two hundred eighty-five-thousandths of one
4 percent on the next twenty million dollars and nineteen-hundredths of one percent on the next
5 twenty million dollars and seventy-two-thousandths of one percent on each dollar thereafter on
6 the direct premiums collected or contracted for on policies or contracts of insurance written by
7 the captive insurance company during the year ending December thirty-first next preceding, after
8 deducting from the direct premiums subject to the tax the amounts paid to policyholders as return
9 premiums which shall include dividends on unabsorbed premiums or premium deposits returned
10 or credited to policyholders; provided, however, that no tax shall be due or payable as to
11 considerations received for annuity contracts.

12 2. Each captive insurance company shall pay to the director of revenue on or before May
13 first of each year a premium tax at the rate of two hundred fourteen-thousandths of one percent
14 on the first twenty million dollars of assumed reinsurance premium, and one hundred
15 forty-three-thousandths of one percent on the next twenty million dollars and
16 forty-eight-thousandths of one percent on the next twenty million dollars and
17 twenty-four-thousandths of one percent of each dollar thereafter. However, no reinsurance
18 premium tax applies to premiums for risks or portions of risks which are subject to taxation on
19 a direct basis under subsection 1 of this section. No reinsurance premium tax shall be payable
20 in connection with the receipt of assets in exchange for the assumption of loss reserves and other
21 liabilities of another insurer under common ownership and control if such transaction is part of
22 a plan to discontinue the operations of such other insurer, and if the intent of the parties to such
23 transaction is to renew or maintain such business with the captive insurance company.

24 3. The annual minimum aggregate tax to be paid by a captive insurance company
25 calculated under subsections 1 and 2 of this section shall be seven thousand five hundred dollars,
26 and the annual maximum aggregate tax shall be two hundred thousand dollars.

27 4. Every captive insurance company shall, on or before February first each year, make
28 a return on a form provided by the director, verified by the affidavit of the company's president

29 and secretary or other authorized officers, to the director stating the amount of all direct
30 premiums received and assumed reinsurance premiums received, whether in cash or in notes,
31 during the year ending on December thirty-first next preceding. Upon receipt of such returns,
32 the director of the department of insurance, financial institutions and professional registration
33 shall verify the same and certify the amount of tax due from the various companies on the basis
34 and at the rate provided in subsections 1 to 3 of this section, and shall certify the same to the
35 director of revenue, on or before March thirty-first of each year. The director of revenue shall
36 immediately thereafter notify and assess each company the amount of tax due.

37 5. A captive insurance company failing to make returns as required by subsection 4 of
38 this section or failing to pay within the time required all taxes assessed by this section shall be
39 subject to the provisions of sections 148.375 and 148.410, RSMo.

40 6. Two or more captive insurance companies under common ownership and control shall
41 be taxed as though they were a single captive insurance company.

42 7. For the purposes of this section, "common ownership and control" shall mean:

43 (1) In the case of stock corporations, the direct or indirect ownership of eighty percent
44 or more of the outstanding voting stock of two or more corporations by the same shareholder or
45 shareholders; and

46 (2) In the case of mutual or nonprofit corporations, the direct or indirect ownership of
47 eighty percent or more of the surplus and the voting power of two or more corporations by the
48 same member or members.

49 8. The tax provided for in this section shall constitute all taxes collectible under the laws
50 of this state from any captive insurance company, and no other occupation tax or other taxes
51 shall be levied or collected from any captive insurance company by the state or any county, city,
52 or municipality within this state, except ad valorem taxes on real and personal property used in
53 the production of income.

54 9. [The state treasurer shall annually transfer the premium tax revenues collected under
55 this section to the general revenue fund, except as provided in section 379.1332] **Upon receiving**
56 **the taxes collected under this section from the director of revenue, the state treasurer shall**
57 **receipt ten percent thereof into the insurance dedicated fund established under section**
58 **374.150, RSMo, subject to a maximum of three percent of the current fiscal year's**
59 **appropriation from such fund, and he or she shall place the remainder of such taxes**
60 **collected to the general revenue fund of the state.**

61 10. The tax provided for in this section shall be calculated on an annual basis,
62 notwithstanding policies or contracts of insurance or contracts of reinsurance issued on a
63 multiyear basis. In the case of multiyear policies or contracts, the premium shall be prorated for
64 purposes of determining the tax under this section.

65 11. A captive insurance company may deduct from premium taxes payable to this state,
66 in addition to all other credits allowed by law, license fees and renewal fees payable under
67 section 379.1302. A deduction for fees which exceeds a captive insurance company's premium
68 tax liability for the same tax year shall not be refundable, but may be carried forward to any
69 subsequent tax year, not to exceed five years, until the full deduction is claimed.

379.1332. 1. (1) The insurance dedicated fund under section 374.150, RSMo, shall be
2 adequately funded through the collection of fees and taxes for the purpose of providing the
3 financial means for the director of the department of insurance, financial institutions and
4 professional registration to administer sections 379.1300 to 379.1350 and for reasonable
5 expenses incurred in promoting the captive insurance industry in Missouri. All fees and
6 assessments received by the department for the administration of sections 379.1300 to 379.1350
7 shall be paid into the fund. [In addition, the transfer of twenty percent of the premium tax under
8 section 375.1014, RSMo, shall be made to the insurance dedicated fund until two hundred
9 thousand dollars has been transferred. Thereafter, up to ten percent of the premium tax under
10 section 379.1326 may be transferred to the insurance dedicated fund for the administration of
11 sections 379.1300 to 379.1350, and up to two percent of the premium tax under section 379.1326
12 may be transferred to the department of economic development, with approval of the
13 commissioner of administration, for promotional expenses.] All fees received by the department
14 from reinsurers who assume risk solely from captive insurance companies and are subject to the
15 provisions of section 375.246, RSMo, shall be deposited into the insurance dedicated fund.

16 (2) All payments from the insurance dedicated fund for the maintenance of staff and
17 expenses associated with the administration of sections 379.1300 to 379.1350, including
18 contractual services as necessary, shall be disbursed from the state treasury only upon warrants
19 issued by the director, after receipt of proper documentation regarding services rendered and
20 expenses incurred.

21 2. The director may anticipate receipts to the insurance dedicated fund through the
22 administration of sections 379.1300 to 379.1350 and issue warrants based thereon.

**379.1339. 1. An association captive insurance company or industrial insured
2 captive insurance company formed as a stock or mutual corporation may be converted to
3 or merged with and into a reciprocal insurer in accordance with a plan therefor and the
4 provisions of this section.**

**5 2. Any plan for such conversion or merger shall provide a fair and equitable plan
6 for purchasing, retiring, or otherwise extinguishing the interests of the stockholders and
7 policyholders of a stock insurer, and the members and policyholders of a mutual insurer,
8 including a fair and equitable provision for the rights and remedies of dissenting
9 stockholders, members, or policyholders.**

10 **3. In the case of a conversion authorized under subsection 1 of this section:**

11 **(1) Such conversion shall be accomplished under such reasonable plan and**
12 **procedure as may be approved by the director; provided, however, that the director shall**
13 **not approve any such plan of conversion unless such plan:**

14 **(a) Satisfies the provisions of subsection 2 of this section;**

15 **(b) Provides for a hearing, of which notice is given or to be given to the captive**
16 **insurance company, its directors, officers, and policyholders, and in the case of a stock**
17 **insurer, its stockholders, and in the case of a mutual insurer, its members, all of which**
18 **persons shall be entitled to attend and appear at such hearing; provided, however, that if**
19 **notice of a hearing is given and no director, officer, policyholder, member, or stockholder**
20 **requests a hearing, the director may cancel such hearing;**

21 **(c) Provides a fair and equitable plan for the conversion of stockholder, member,**
22 **or policyholder interests into subscriber interests in the resulting reciprocal insurer**
23 **substantially proportionate to the corresponding interests in the stock or mutual insurer;**
24 **provided, however, that this requirement shall not preclude the resulting reciprocal insurer**
25 **from applying underwriting criteria that could affect ongoing ownership interests; and**

26 **(d) Is approved:**

27 **a. In the case of a stock insurer, by a majority of the shares entitled to vote**
28 **represented in person or by proxy at a duly called regular or special meeting at which a**
29 **quorum is present; and**

30 **b. In the case of a mutual insurer, by a majority of the voting interests of**
31 **policyholders represented in person or by proxy at a duly called regular or special meeting**
32 **thereof at which a quorum is present;**

33 **(2) The director shall approve such plan of conversion if the director finds that the**
34 **conversion will promote the general good of the state in conformity with those standards**
35 **set forth in subdivision (1) of subsection 4 of section 379.1310;**

36 **(3) If the director approves the plan, the director shall amend the converting**
37 **insurer's certificate of authority to reflect conversion to a reciprocal insurer and issue such**
38 **amended certificate of authority to the company's attorney-in-fact;**

39 **(4) Upon the issuance of an amended certificate of authority of a reciprocal insurer**
40 **by the director, the conversion shall be effective; and**

41 **(5) Upon the effectiveness of such conversion the corporate existence of the**
42 **converting insurer shall cease and the resulting reciprocal insurer shall notify the secretary**
43 **of state of such conversion.**

44 **4. A merger authorized under subsection 1 of this section shall be accomplished**
45 **substantially in accordance with such procedures and plan of merger adopted by the board**

46 of directors of the captive insurance company and as authorized by the director; except
47 that, solely for purposes of such merger:

48 (1) The plan of merger shall satisfy the provisions of subsection 2 of this section;

49 (2) The subscribers' advisory committee of a reciprocal insurer shall be equivalent
50 to the board of directors of a stock or mutual insurance company;

51 (3) The subscribers of a reciprocal insurer shall be the equivalent of the
52 policyholders of a mutual insurance company;

53 (4) If a subscribers' advisory committee does not have a president or secretary, the
54 officers of such committee having substantially equivalent duties shall be deemed the
55 president or secretary of such committee;

56 (5) The director shall approve the articles of merger if the director finds that the
57 merger will promote the general good of the state in conformity with those standards set
58 forth in subdivision (1) of subsection 4 of section 379.1310. If the director approves the
59 articles of merger, the director shall endorse the director's approval thereon and the
60 surviving insurer shall present the same to the secretary of state at the secretary of state's
61 office;

62 (6) Notwithstanding section 379.1306, the director may permit the formation,
63 without surplus, of a captive insurance company organized as a reciprocal insurer into
64 which an existing captive insurance company may be merged for the purpose of facilitating
65 a transaction under this section; provided, however, that there shall be no more than one
66 authorized insurance company surviving such merger; and

67 (7) An alien insurer may be a party to a merger authorized under subsection 1 of
68 this section; provided that such alien insurer shall be treated as a foreign insurer and such
69 other jurisdictions shall be the equivalent of a state.

70 5. To the extent such effects are not inconsistent with the provisions of sections
71 379.1300 to 379.1350, a conversion or merger under this section shall have all of the
72 following effects:

73 (1) The several insurers which are parties to the agreement of merger or
74 consolidation shall be a single insurer which such single insurer shall have all of the rights,
75 privileges, immunities, and powers and shall be subject to all of the duties and liabilities
76 of an insurer organized under sections 379.1300 to 379.1350;

77 (2) Such single insurer shall thereupon and thereafter possess all the rights,
78 privileges, immunities, powers, and franchises of a public as well as of a private nature of
79 each of the insurers so merged or consolidated; and all property, real, personal, and mixed,
80 and all debts due on whatever account, including subscriptions to shares of capital stock,
81 and all other choses in action and all and every other interest of or belonging to or due to

82 each of the insurers so merged or consolidated shall be taken and deemed to be transferred
83 to and vested in such single insurer without further act or deed; and the title to any real
84 estate, or any interest therein, under the laws of this state vested in any of such insurers
85 shall not revert or be in any way impaired by reason of such merger or consolidation; and

86 (3) Such single insurer shall thenceforth be responsible and liable for all the
87 liabilities and obligations of each of the insurers so merged or consolidated in the same
88 manner and to the same extent as if such single insurer had itself incurred the same or
89 contracted therefor; and any claim existing or action or proceeding pending by or against
90 any of such insurers may be prosecuted to judgment as if such merger or consolidation had
91 not taken place. Neither the rights of creditors nor any liens upon the property of any such
92 insurers shall be impaired by such merger or consolidation, but such liens shall be limited
93 to the property upon which they were liens immediately prior to the time of such merger
94 or consolidation, unless otherwise provided in the agreement of merger or consolidation.

379.1373. 1. Activities of a SPLRC must be limited to those necessary to accomplish
2 its purpose as outlined in its plan of operation.

3 2. The name must not be deceptively similar to or likely to be confused with another
4 existing business name registered in the state.

5 3. The SPLRC must have at least three incorporators or organizers of whom not fewer
6 than [two] **one** must be [residents] **a resident** of the state.

7 4. The capital stock of a SPLRC incorporated as a stock company must be issued at not
8 less than par value.

379.1388. 1. A SPLRC may recognize as an admitted asset on its financial statements
2 filed with the director:

3 (1) Permitted investments;

4 (2) Letters of credit [issued without recourse to the SPLRC];

5 (3) Financial guarantee policies issued for the sole benefit of the ceding company
6 [without recourse to the SPLRC] by an insurer having a rating of no less than AAA by Standard
7 and Poor's or less than AAA by Moody's Investor Service; and

8 (4) Surety bonds issued for the sole benefit of the ceding company [without recourse to
9 the SPLRC] by an insurer having a rating of no less than AAA by Standard and Poor's or no less
10 than AAA by Moody's Investors Service.

11 2. (1) The assets of a SPLRC shall be valued in the same manner as the assets of a
12 Missouri domestic life insurer[. Notwithstanding the preceding, the director may by order
13 authorize a SPLRC to value one or more of its assets through an alternative method] ; **however,**
14 **letters of credit, financial guarantee policies, and surety bonds issued without recourse to**
15 **the SPLRC, or with recourse to the SPLRC with a priority no higher than afforded to class**

16 **7 claims under section 375.1218, RSMo, shall be valued as follows.** Letters of credit shall be
17 valued at the amount available for drawings by the SPLRC or its ceding company as of the time
18 of valuation. A financial guarantee policy shall be valued at the amount available to pay
19 aggregate claims as of the time of valuation. A surety bond shall be valued at the amount
20 available to pay aggregate claims as of the time of valuation.

21 **(2) Notwithstanding the preceding, the director may by order authorize a SPLRC**
22 **to value one or more of its assets through an alternative method.**

379.1412. 1. Each SPLRC shall pay to the director of revenue on or before May first of
2 each year a premium tax at the rate of two hundred fourteen thousandths of one percent on the
3 first twenty million dollars of assumed reinsurance premium, and one hundred forty-three
4 thousandths of one percent on the next twenty million dollars and forty-eight thousandths of one
5 percent on the next twenty million dollars and twenty-four thousandths of one percent of each
6 dollar thereafter. No reinsurance premium tax shall be payable in connection with the receipt
7 of assets in exchange for the assumption of loss reserves and other liabilities of another insurer
8 under common ownership and control if such transaction is part of a plan to discontinue the
9 operations of such other insurer, and if the intent of the parties to such transaction is to renew
10 or maintain such business with the captive insurance company.

11 2. The premium tax imposed by subsection 1 of this section shall constitute all taxes
12 collectible under the laws of this state from any SPLRC, and no other occupation tax or other
13 taxes shall be levied or collected from any captive insurance company by the state or any county,
14 city, or municipality within this state, except ad valorem taxes on real and personal property used
15 in the production of income.

16 3. The annual minimum aggregate tax to be paid by a SPLRC calculated under
17 subsection 1 of this section shall be seven thousand five hundred dollars, and the annual
18 maximum aggregate tax shall be two hundred thousand dollars.

19 4. A SPLRC may deduct from premium taxes payable to this state, in addition to all
20 other credits allowed by law, application fees payable under section 379.1359 and license fees
21 and renewal fees payable under section 379.1364. A deduction for fees which exceeds a
22 SPLRC's premium tax liability for the same tax year shall not be refundable, but may be carried
23 forward to any subsequent tax year, not to exceed five years, until the full deduction is claimed.

24 5. Every SPLRC shall, on or before February first each year, make a return on a form
25 provided by the director, verified by the affidavit of the company's president and secretary or
26 other authorized officers, to the director stating the amount of all direct premiums received and
27 assumed reinsurance premiums received, whether in cash or in notes, during the year ending on
28 December thirty-first next preceding. Upon receipt of such returns, the director shall verify the
29 same and certify the amount of tax due from the various companies on the basis and at the rate

30 provided in this section, and shall certify the same to the director of revenue, on or before March
31 thirty-first of each year. The director of revenue shall immediately thereafter notify and assess
32 each company the amount of tax due.

33 6. A SPLRC failing to make returns as required by subsection 5 of this section, or failing
34 to pay within the time required all taxes assessed by this section, shall be subject to the
35 provisions of sections 148.375 and 148.410, RSMo.

36 **7. Upon receiving the taxes collected under this section from the director of**
37 **revenue, the state treasurer shall receipt ninety percent thereof into the general revenue**
38 **fund of the state and the state treasurer shall place the remainder of such taxes collected**
39 **to the credit of the insurance dedicated fund established under section 374.150, RSMo,**
40 **subject to a maximum of three percent of the current fiscal year's appropriation from such**
41 **fund, and he or she shall place the remainder of such taxes collected to the general revenue**
42 **fund of the state.**

Section B. Because of the need to ensure that employees or members in this state may
2 continue health care coverage upon termination of employment or membership to the same
3 extent as similarly situated employees or members in other states, section 376.428 of section A
4 of this act is deemed necessary for the immediate preservation of the public health, welfare,
5 peace and safety, and is hereby declared to be an emergency act within the meaning of the
6 constitution, and section 376.428 of section A of this act shall be in full force and effect upon
7 its passage and approval.

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