FIRST REGULAR SESSION

SENATE COMMITTEE SUBSTITUTE FOR

HOUSE COMMITTEE SUBSTITUTE FOR

# HOUSE BILL NO. 523

## 96TH GENERAL ASSEMBLY

Reported from the Committee on Small Business, Insurance and Industry, May 5, 2011, with recommendation that the Senate Committee Substitute do pass.

TERRY L. SPIELER, Secretary.

1529S.07C

## AN ACT

To repeal sections 384.015, 384.017, 384.021, 384.043, 384.051, 384.057, 384.061, 385.200, 385.206, and 385.208, RSMo, and to enact in lieu thereof twenty-five new sections relating to insurance, with penalty provisions, an emergency clause for certain sections, and an effective date for certain sections.

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

Section A. Sections 384.015, 384.017, 384.021, 384.043, 384.051, 384.057, 384.061, 385.200, 385.206, and 385.208, RSMo, are repealed and twenty-five new sections enacted in lieu thereof, to be known as sections 379.1500, 379.1505, 379.1510, 379.1515, 379.1520, 379.1525, 379.1530, 379.1535, 379.1540, 379.1545, 379.1550, 384.015, 384.017, 384.021, 384.043, 384.051, 384.057, 384.061, 385.200, 385.205, 385.206, 385.207, 385.208, 385.209, and 385.211, to read as follows:

**379.1500. As used in sections 379.1500 to 379.1550, the following terms shall mean:**

**(1) "Director", the director of the department of insurance, financial institutions and professional registration;**

**(2) "Insurance company" or "insurer", any person, reciprocal exchange, interinsurer, or any other legal entity licensed and authorized by the director to write inland marine coverage;**

**(3) "Insurance producer" or "producer", a person required to be licensed under the laws of this state to sell, solicit, or negotiate insurance;**

**(4) "License", the same meaning as such term is defined in section**

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

**375.012;**

**(5) "Location", any physical location in this state or any website, call center site, or similar location directed to residents of this state;**

**(6) "Person", an individual or business entity;**

**(7) "Portable electronics", electronic devices that are portable in nature, their accessories, and services related to the use of the device. Portable electronics does not include telecommunication and cellular equipment used by a telecommunication company to provide telecommunication service to consumers;**

**(8) "Portable electronics insurance", an insurance policy issued by an insurer which may be offered on a month-to-month or other periodic basis as a group or master commercial inland marine policy issued to a vendor of portable electronics under which individual customers may elect to enroll for coverage for the repair or replacement of portable electronics which may cover portable electronics against any one or more of the following causes of loss: loss, theft, mechanical failure, malfunction, damage, or other applicable perils, but does not include:**

**(a) A service contract governed by sections 385.300 to 385.321;**

**(b) A policy of insurance covering a seller's or manufacturer's obligations under a warranty; or**

**(c) A homeowner's, renter's, private passenger automobile, commercial multiperil, similar policy, or endorsement to such policy that covers any portable electronics;**

**(9) "Portable electronics insurance license", a license to sell or solicit portable electronics insurance;**

**(10) "Portable electronics transaction", the sale or lease of portable electronics by a vendor to a customer or the sale of a service related to the use of portable electronics by a vendor to a customer;**

**(11) "Negotiate", the same meaning as such term is defined in section 375.012;**

**(12) "Sell", the same meaning as such term is defined in section 375.012;**

**(13) "Solicit", the same meaning as such term is defined in section 375.012;**

**(14) "Supervising business entity", the insurer or a licensed business entity producer designated by the insurer to supervise the**

**actions of a vendor;**

**(15) "Vendor", a person in the business of engaging in portable electronics transactions directly or indirectly.**

**379.1505. 1. No vendor shall sell or solicit portable electronics insurance coverage in this state unless such vendor has obtained a portable electronics insurance license.**

**2. A vendor applying for a portable electronics insurance license shall make application to the director on the prescribed form as required. On the prescribed form, the vendor shall be required to provide the name for an employee or officer of the vendor that is designated by the vendor as the person responsible for the vendor's compliance with the requirements of this section and such designated responsible person shall not be required to hold an insurance producer license. Such license shall authorize an employee or authorized representative of a vendor to sell or offer coverage under a policy of portable electronics insurance to a customer at each location at which the vendor engages in a portable electronics transaction.**

**3. Any vendor licensed under sections 379.1500 to 379.1550 shall pay an initial license fee to the director in an amount prescribed by the director by rule, but not to exceed one thousand dollars, and shall pay a renewal fee in an amount prescribed by the director by rule, but not to exceed five hundred dollars. License fees shall be deposited in the insurance dedicated fund.**

**4. Notwithstanding any provision of sections 375.012 to 375.018, a portable electronics insurance license, if not renewed by the director by its expiration date, shall terminate on its expiration date and shall not after such date authorize its holder to sell or solicit any portable electronics insurance under sections 379.1500 to 379.1550.**

**379.1510. 1. A vendor shall have the obligation to ensure that every location that is authorized to sell, solicit, or negotiate portable electronics insurance to customers shall have specific brochures and actual policies or certificates of coverage available to prospective customers which:**

**(1) Disclose that portable electronics insurance may provide a duplication of coverage already provided by a customer's homeowner's, renter's, or other source of coverage, and that the portable electronics insurance coverage is primary over any other collateral coverage;**

10 **(2) State that the enrollment by the customer in a portable**
11 **electronics insurance program is not required in order to purchase or**
12 **lease portable electronics or services;**
13 **(3) Summarize the material terms of the insurance coverage,**
14 **including:**
15 **(a) The identity of the insurer;**
16 **(b) The identity of the supervising business entity;**
17 **(c) The amount of any applicable deductible and how it is to be**
18 **paid;**
19 **(d) Benefits of the coverage; and**
20 **(e) Key terms and conditions of coverage, such as whether**
21 **portable electronics may be repaired or replaced with similar make and**
22 **model reconditioned or nonoriginal manufacturer parts or equipment;**
23 **(4) Summarize the process for filing a claim, including any**
24 **requirement to return portable electronics and the maximum fee**
25 **applicable in the event the customer fails to comply with any**
26 **equipment return requirements; and**
27 **(5) State that the customer may cancel enrollment for coverage**
28 **under a portable electronics insurance policy at any time and receive**
29 **a refund of any unearned premium on a pro rata basis.**
30 **2. Eligibility and underwriting standards for customers electing**
31 **to enroll in coverage shall be established for each portable electronics**
32 **insurance program. Each insurer shall maintain all eligibility and**
33 **underwriting records for a period of five years. Portable electronics**
34 **insurance issued under sections 379.1500 to 379.1550 shall be deemed**
35 **primary coverage over any other collateral coverage.**
36 **3. Insurers offering portable electronics insurance coverage**
37 **through vendors shall appoint a supervising business entity to**
38 **supervise the administration of the program. The supervising business**
39 **entity shall be responsible for the development of a training program**
40 **for employees and authorized representatives of a vendor, and shall**
41 **include basic instruction about the portable electronics insurance**
42 **offered to customers and the disclosures required under this section.**
43 **4. Insurers and applicable supervising business entities offering**
44 **portable electronics insurance shall share all complaint, grievance, or**
45 **inquiries regarding any conduct that is specific to a vendor and that**
46 **may not comply with applicable state laws and regulations.**

**5. A supervising business entity shall maintain a registry of vendor locations which are authorized to sell or solicit portable electronics insurance coverage in this state. Upon request by the director and with ten days' notice to the supervising business entity, the registry shall be open to inspection and examination by the director during regular business hours of the supervising business entity.**

**6. Within thirty days of a supervising business entity terminating a vendor location's appointment to sell or solicit portable electronics insurance, the supervising business entity shall update the registry with the effective date of termination. If a supervising business entity has possession of information relating to any cause for discipline under section 375.141, the supervising business entity shall notify the director of such information in writing. The privileges and immunities applicable to insurers under section 375.022 shall apply to supervising business entities for any information reported under this subsection.**

**7. The supervising business entity shall not charge a fee for adding or removing a vendor location from the registry.**

**8. No employee or authorized representative of a vendor shall advertise, represent, or otherwise hold himself or herself out as an insurance producer, unless such employee or authorized representative is otherwise licensed as an insurance producer.**

**9. The training required in subsection 3 of this section shall be delivered to all employees and authorized representatives of the vendors who are directly engaged in the activity of selling portable electronics insurance in this state. The training may be provided in electronic form. However, if conducted in an electronic form, the supervising business entity shall implement a supplemental education program regarding the portable electronics insurance product that is conducted and overseen by licensed employees of the supervising business entity.**

**10. The charges for portable electronics insurance coverage may be billed and collected by the vendor. Any charge to the customer that is not included in the cost associated with the purchase or lease of portable electronics or related services shall be separately itemized on the customer's bill. If the portable electronics insurance is included in the purchase or lease of portable electronics or related services, the vendor shall clearly and conspicuously disclose to the customer that**

**the portable electronics insurance coverage is included with the portable electronics or related services. Vendors billing and collecting such charges shall not be required to maintain such funds in a segregated account, provided that the insurer authorized the vendor to hold such funds in an alternative manner and remits such amounts to the supervising business entity within forty-five days of receipt. All funds received by a vendor from a customer for the sale of portable electronics insurance shall be considered funds held in trust by the vendor in a fiduciary capacity for the benefit of the insurer. Vendors shall maintain all records related to the purchase of portable electronics insurance for a period of three years from the date of purchase.**

**379.1515. Persons licensed as vendors shall be subject to the provisions of sections 375.012 to 375.014, 375.018, 375.031, 375.046, 375.051, 375.052, 375.071, 375.106, 375.116, 375.141, and 375.144 of the insurance producers act.**

**379.1520. 1. The director may suspend, revoke, refuse to issue, or refuse to issue any license or renew any license required by the provisions of sections 379.1500 to 379.1550 for any reason listed in section 375.141 or for any one or more of the following causes:**

**(1) Use of any advertisement or solicitation that is false, misleading, or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed;**

**(2) Obtaining or attempting to obtain any fee, charge, tuition, or other compensation by fraud, deception, or misrepresentation;**

**(3) Violation of any professional trust or confidence.**

**2. The director may impose other penalties that the director deems necessary and reasonable to carry out the purposes of sections 379.1500 to 379.1550, including:**

**(1) Suspending the privilege of transacting portable electronics insurance under sections 379.1500 to 379.1550 at specific locations where violations have occurred; and**

**(2) Suspending or revoking the ability of individual employees or authorized representatives to act under the license.**

**379.1525. Vendors shall be subject to the investigation and examination provisions of section 374.190.**

**379.1530. Premiums received by a vendor or supervising business**

**entity shall be deemed received by the insurer. Insurers may require consumers to provide proof of purchase.**

**379.1535. If the director determines that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice, or course of business constituting a violation of sections 379.1500 to 379.1550 or rule adopted or order issued thereunder, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of sections 379.1500 to 379.1550, or a rule adopted or order issued thereunder, the director may:**

**(1) Issue such administrative orders as authorized under section 374.046; or**

**(2) Maintain a civil action for relief authorized under section 374.048.**

**A violation of sections 379.1500 to 379.1550 or rule adopted or order issued thereunder is a level two violation under section 374.049.**

**379.1540. The license of a supervising business entity may be suspended, revoked, renewal refused, or an application refused if the director finds that a violation by a portable electronics insurance vendor was known or should have been known by the supervising business entity and the violation was neither reported to the director nor corrective action taken. A violation of this section is a level three violation under section 374.049.**

**379.1545. Notwithstanding any other provision of law:**

**(1) An insurer may terminate or otherwise change the terms and conditions of a policy of portable electronics insurance only upon providing the policyholder and enrolled customers with at least thirty days' notice;**

**(2) If the insurer changes the terms and conditions of a policy of portable electronics insurance, the insurer shall provide the vendor and any policyholders with a revised policy or endorsement and each enrolled customer with a revised certificate, endorsement, updated brochure, or other evidence indicating a change in the terms and conditions has occurred and a summary of material changes;**

**(3) Notwithstanding subdivision (1) of this section, an insurer may terminate an enrolled customer's enrollment under a portable electronics insurance policy upon fifteen days' notice for discovery of**

15 **fraud or material misrepresentation in obtaining coverage or in the**
16 **presentation of a claim thereunder;**
17 **(4) Notwithstanding subdivision (1) of this section, an insurer**
18 **may immediately terminate an enrolled customer's enrollment under a**
19 **portable electronics insurance policy:**
20 **(a) For nonpayment of premium;**
21 **(b) If the enrolled customer ceases to have an active service with**
22 **the vendor of portable electronics; or**
23 **(c) If an enrolled customer exhausts the aggregate limit of**
24 **liability, if any, under the terms of the portable electronics insurance**
25 **policy and the insurer sends notice of termination to the customer**
26 **within thirty calendar days after exhaustion of the limit. However, if**
27 **the notice is not timely sent, enrollment and coverage shall continue**
28 **notwithstanding the aggregate limit of liability until the insurer sends**
29 **notice of termination to the enrolled customer;**
30 **(5) Where a portable electronics insurance policy is terminated**
31 **by a policyholder, the policyholder shall mail or deliver written notice**
32 **to each enrolled customer advising the customer of the termination of**
33 **the policy and the effective date of termination. The written notice**
34 **shall be mailed or delivered to the customer at least thirty days prior**
35 **to the termination;**
36 **(6) Whenever notice is required under this section, it shall be in**
37 **writing and may be mailed or delivered to the vendor at the vendor's**
38 **mailing address and to its affected enrolled customers' last known**
39 **mailing addresses on file with the insurer. If notice is mailed, the**
40 **insurer or vendor, as the case may be, shall maintain proof of mailing**
41 **in a form authorized or accepted by the U.S. Postal Service or other**
42 **commercial mail delivery service. Alternatively, an insurer or vendor**
43 **policyholder may comply with any notice required by this section by**
44 **providing electronic notice to a vendor or its affected enrolled**
45 **customers, as the case may be, by electronic means. Additionally, if an**
46 **insurer or vendor policyholder provides electronic notice to an affected**
47 **enrolled customer and such delivery by electronic means is not**
48 **available or is undeliverable, the insurer or vendor policyholder shall**
49 **provide written notice to the enrolled customer by mail in accordance**
50 **with this section. If notice is accomplished through electronic means,**
51 **the insurer or vendor of portable electronics, as the case may be, shall**

52 **maintain proof that the notice was sent.**

**379.1550. 1. The director may promulgate rules to implement the**
2 **provisions of sections 379.1500 to 379.1550. Any rule or portion of a**
3 **rule, as that term is defined in section 536.010, that is created under**
4 **the authority delegated in sections 379.1500 to 379.1550 shall become**
5 **effective only if it complies with and is subject to all of the provisions**
6 **of chapter 536 and, if applicable, section 536.028. Sections 379.1500 to**
7 **379.1550 and chapter 536 are nonseverable and if any of the powers**
8 **vested with the general assembly pursuant to chapter 536 to review, to**
9 **delay the effective date, or to disapprove and annul a rule are**
10 **subsequently held unconstitutional, then the grant of rulemaking**
11 **authority and any rule proposed or adopted after August 28, 2011, shall**
12 **be invalid and void.**

13 **2. The provisions of sections 379.1500 to 379.1550 shall become**
14 **effective January 1, 2012.**

384.015. As used in sections 384.011 to 384.071**, the following terms**
2 **shall mean**:

3 (1) "Admitted insurer" **[**means**],** an insurer licensed to do an insurance
4 business in this state;

5 (2) "Capital" **[**means**],** funds paid in for stock or other evidence of
6 ownership;

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

9 (4) "Eligible surplus lines insurer" **[**means**],** a nonadmitted insurer with
10 which a surplus lines licensee may place surplus lines insurance;

11 (5) **"Exempt commercial purchaser", any person purchasing**
12 **commercial insurance that, at the time of placement, meets the**
13 **following requirements:**

14 **(a) The person employs or retains a qualified risk manager to**
15 **negotiate insurance coverage;**

16 **(b) The person has paid aggregate nationwide commercial**
17 **property and casualty insurance premiums in excess of one hundred**
18 **thousand dollars in the immediately preceding twelve months; and**

19 **(c) a. The person meets at least one of the following criteria:**

20 **i. The person possesses a net worth in excess of twenty million**
21 **dollars, as such amount is adjusted under subparagraph b. of this**
22 **paragraph;**

23 **ii. The person generates annual revenues in excess of fifty**
24 **million dollars, as such amount is adjusted under subparagraph b. of**
25 **this paragraph;**
26 **iii. The person employs more than five hundred full-time or full-**
27 **time equivalent employees per individual insured or is a member of an**
28 **affiliated group employing more than one thousand employees in the**
29 **aggregate;**
30 **iv. The person is a not-for-profit organization or public entity**
31 **generating annual budgeted expenditures of at least thirty million**
32 **dollars, as such amount is adjusted under subparagraph b. of this**
33 **paragraph; or**
34 **v. The person is a municipality with a population in excess of**
35 **fifty thousand persons.**
36 **b. Effective on the fifth January first occurring after the date of**
37 **the enactment of United States Public Law 111-203 and each fifth**
38 **January first occurring thereafter, the amounts in items i, ii, and iv of**
39 **subparagraph a. of this paragraph shall be adjusted to reflect the**
40 **percentage change for such five-year period in the consumer price**
41 **index for all urban consumers published by the United States Bureau**
42 **of Labor Statistic of the Department of Labor;**
43 **(6)** "Export" **[**means**],** to place surplus lines insurance with a nonadmitted
44 insurer;
45 **(7) "Home state":**
46 **(a) Except as provided in paragraph (b) of this subdivision, the**
47 **term "home state" means, with respect to an insured:**
48 **a. The state in which an insured maintains its principal place of**
49 **business or, in the case of an individual, the individual's principal**
50 **residence; or**
51 **b. If one hundred percent of the insured risk is located out of the**
52 **state referred to in subparagraph a. of this paragraph, the state to**
53 **which the greatest percentage of the insured's taxable premium for that**
54 **insurance contract is allocated;**
55 **(b) If more than one insured from an affiliated group are named**
56 **insureds on a single nonadmitted insurance contract, the term "home**
57 **state" means the home state, as determined under paragraph (a) of this**
58 **subdivision, of the member of the affiliated group that has the largest**
59 **percentage of premium attributed to it under such insurance contract;**

**(c) The principal place of business is the state where the insured maintains its headquarters and where the insured's high-level officers direct, control and coordinate the business activities of the insured;**

**[**(6)**]** **(8)** "Kind of insurance" **[**means**],** one of the types of insurance required to be reported in the annual statement which must be filed with the director by admitted insurers;

**(9) "Nonadmitted insurance", any property and casualty insurance permitted to be placed directly or through a surplus lines licensee with a nonadmitted insurer eligible to accept such insurance;**

**[**(7)**]** **(10)** "Nonadmitted insurer" **[**means**],** an insurer not licensed to do an insurance business in this state, including insurance exchanges authorized under the laws of other states;

**[**(8)**]** **(11)** "Producing broker" **[**means**],** the individual broker or agent dealing directly with the party seeking insurance;

**(12) "Qualified risk manager", shall have the same meaning prescribed in the Nonadmitted and Reinsurance Reform Act of 2010 (15 U.S.C. Section 8206);**

**[**(9)**]** **(13)** "Surplus" **[**means**],** funds over and above liabilities and capital of the company for the protection of policyholders;

**[**(10)**]** **(14)** "Surplus lines insurance" **[**means**],** any insurance of risks resident, located or to be performed in this state, permitted to be placed through a surplus lines licensee with a nonadmitted insurer eligible to accept such insurance, other than reinsurance, **[**wet marine and transportation insurance independently procured,**]** and life and health insurance and annuities;

**[**(11)**]** **(15)** "Surplus lines licensee" **[**means**],** a person licensed to place insurance on risks resident, located or to be performed in this state with nonadmitted insurers eligible to accept such insurance;

**[**(12)**]** **(16)** "Wet marine and transportation insurance" **[**means**]**:

(a) Insurance upon vessels, crafts, hulls and of interests therein or with relation thereto;

(b) Insurance of marine builder's risks, marine war risks and contracts of marine protection and indemnity insurance;

(c) Insurance of freights and disbursements pertaining to a subject of insurance coming within this section; and

(d) Insurance of personal property and interests therein, in the course of exportation from or importation into any country, or in the course of

transportation coastwise or on inland waters, including transportation by land, water or air from point of origin to final destination, in connection with any and all risks or periods of navigation, transit or transportation, and while being prepared for and while awaiting shipment, and during any delays, transshipment, or reshipment incident thereto.

384.017. **Surplus lines** insurance may be **[**procured through**] placed by** a surplus lines licensee **[**from nonadmitted insurers**]** if:

(1) Each insurer is an eligible surplus lines insurer;

(2) **Each insurer is authorized to write the type of insurance in its domiciliary jurisdiction;**

**(3)** The full amount or kind of insurance is not obtainable from admitted insurers who are actually transacting in this state the class of insurance required by the insured. Insurance shall be deemed "obtainable" within the meaning of this section if there is available a market with admitted insurers that can supply the insured's requirements both as to type of coverage and as to quality of service. "Type of coverage", as used in this section, refers to hazards covered and limits of coverage. "Quality of security and service", as used in this section, refers to the rating by a recognized financial service; and

**[**(3)**]** **(4)** All other requirements of sections 384.011 to 384.071 are met.

384.021. **[**No**]** **1. A** surplus lines licensee shall **not** place **[**any**]** coverage with a nonadmitted insurer, unless**,** at the time of placement, **[**such nonadmitted insurer**] the surplus lines licensee has determined that the nonadmitted insurer**:

(1) **[**Has established satisfactory evidence of good repute and financial integrity;

(2) Qualified under one of the following paragraphs:

(a)**]** Has capital and surplus or its equivalent under the laws of its domiciliary jurisdiction, which equals **[**this state's**] the greater of the** minimum capital and surplus requirements under the laws of this state **[**as defined in sections 379.010 and 379.080; or

(b) In the case of Lloyd's or other similar groups including incorporated and individual unincorporated underwriters, the incorporated members of which shall not be engaged in any business other than underwriting as a member of the group and shall be subject to the same level of solvency regulation and control by the group's domiciliary regulator as are the unincorporated members, maintains a trust fund of not less than fifty million dollars as security to the full amount

18 thereof for all policyholders and creditors in the United States of each member
19 of the group, and such trust shall likewise comply with the terms and conditions
20 established in subdivision (1) of this section for alien insurers; and
21 (c) In the case of an "insurance exchange" created by the laws of
22 individual states, maintain capital and surplus, or the substantial equivalent
23 thereof, of not less than fifteen million dollars in the aggregate. For insurance
24 exchanges which maintain funds for the protection of all insurance exchange
25 policyholders, each individual syndicate shall maintain minimum capital and
26 surplus, or the substantial equivalent thereof, of not less than one million five
27 hundred thousand dollars. In the event the insurance exchange does not
28 maintain funds for the protection of all insurance exchange policyholders, each
29 individual syndicate shall meet the minimum capital and surplus requirements
30 of paragraph (a) of this subdivision;
31 (3) Has caused to be provided to the director a copy of its current annual
32 statement certified by such insurer, such statement to be provided no more than
33 six months after the close of the period reported upon and which is either:
34 (a) Filed with and approved by the regulatory authority in the domicile
35 of the nonadmitted insurer; or
36 (b) Certified by an accounting or auditing firm licensed in the jurisdiction
37 of the insurer's domicile; or
38 (c) In the case of an insurance exchange, the statement may be an
39 aggregate combined statement of all underwriting syndicates operating during the
40 period reported;
41 (4) In addition to meeting the requirements in subdivisions (1) to (3) of
42 this section, an insurer shall be an eligible surplus lines insurer if it**] or fifteen**
43 **million dollars, except that the requirements of this subdivision may be**
44 **satisfied by an insurer's possessing less than the minimum capital and**
45 **surplus upon an affirmative finding of acceptability by the director**
46 **provided that the finding shall be based upon such factors as quality**
47 **of management, capital and surplus of any parent company, company**
48 **underwriting profit and investment income trends, market availability**
49 **and company record and reputation within the industry, and in no**
50 **event shall the director make an affirmative finding of acceptability**
51 **when the nonadmitted insurer's capital and surplus is less than four**
52 **million five hundred thousand dollars; and**
53 **(2)** Appears on the most recent list of eligible surplus lines insurers

published by the director from time to time but at least semiannually**[**. The director shall be required to place and maintain the name of any nonadmitted insurer which is eligible and which makes a request to be on the list of eligible surplus lines insurers**] or on the most recent quarterly listing of alien insurers maintained by the international insurers department of the National Association of Insurance Commissioners**.

**2. Notwithstanding any other provision of this chapter or rules adopted to implement the provisions of this chapter, a surplus lines licensee seeking to procure or place nonadmitted insurance in Missouri for an exempt commercial purchaser shall not be required to satisfy any requirement to make a due diligence search to determine whether the full amount or type of insurance sought by such exempt commercial purchaser can be obtained from nonadmitted insurers if:**

**(1) The surplus lines licensee procuring or placing the surplus lines insurance has disclosed to the exempt commercial purchaser that such insurance may or may not be available from the admitted market that may provide greater protection with more regulatory oversight; and**

**(2) The exempt commercial purchaser has subsequently requested in writing the surplus lines licensee to procure or place such insurance from a nonadmitted insurer.**

384.043. 1. No insurance producer shall procure any contract of surplus lines insurance with any nonadmitted insurer, unless he possesses a current surplus lines insurance license issued by the director.

2. The director shall issue a surplus lines license to any qualified holder of a current resident or nonresident property and casualty insurance producer license but only when the licensee has:

(1) Remitted the one hundred dollar initial fee to the director;

(2) Submitted a completed license application on a form supplied by the director; and

(3) Passed a qualifying examination approved by the director, except that all holders of a license prior to July 1, 1987, shall be deemed to have passed such an examination.

3. Each surplus lines license shall be renewed for a term of two years on the biennial anniversary date of issuance and continue in effect until refused, revoked or suspended by the director in accordance with section 384.065; except

that if the biennial renewal fee for the license is not paid on or before the anniversary date, the license terminates. The biennial renewal fee is one hundred dollars.

**4. Beginning on or before July 1, 2012, the director shall participate in the national insurance producer database of the National Association of Insurance Commissioners, or any other equivalent uniform national database, for the licensure of surplus lines licensees and the renewal of such licenses.**

**5. Notwithstanding any other provision of this chapter, a person selling, soliciting, or negotiating nonadmitted insurance with respect to an insured shall be required to obtain or possess a current surplus lines insurance license issued by the director only if this state is such insured's home state.**

384.051. 1. Every insured **[**in**]** **whose home state is** this state who procures or causes to be procured or continues or renews insurance in any surplus lines insurer, or any self-insurer **[**in**]** **whose home state is** this state who so procures or continues with, any surplus lines insurer, excess of loss, catastrophe or other insurance, **[**upon a subject of insurance resident, located or to be performed within this state,**]** other than insurance procured through a surplus lines broker pursuant to sections 384.011 to 384.071, shall before March second of the year next succeeding the year in which the insurance was so procured, continued or renewed, file a written report of the same with the director on forms prescribed by the director and furnished to such an insured upon request. The report shall show:

(1) The name and address of the insured or insureds;

(2) The name and address of the insurer or insurers;

(3) The subject of the insurance;

(4) A general description of the coverage;

(5) The amount of premium currently charged therefor;

(6) Such additional pertinent information as may be reasonably requested by the director.

2. **[**If any such insurance covers also a subject of insurance resident, located or to be performed outside this state, for the purposes of this section, a proper pro rata portion of the entire premium payable for all such insurance shall be allocated as to the subjects of insurance resident, located or to be performed in this state.

3. Any insurance in a surplus lines insurer procured through negotiations or an application in whole or in part occurring or made within or from within this state, or for which premiums in whole or in part are remitted directly or indirectly from within this state, shall be deemed to be insurance procured or continued or renewed in this state within the intent of subsection 1 of this section.

4.**]** For the general support of the government of this state there is levied upon the insured or self-insurer who procures insurance pursuant to **[**subsections 1 and 3**] subsection 1** of this section a tax at the rate of five percent of the **[**net**] gross** amount of the premium **[**in respect of risks located in this state**]**. Before April sixteenth of the year next succeeding the year in which the insurance was so procured, continued or renewed, the insured shall remit to the department of revenue the amount of the tax. The department of revenue shall notify the director of the sums collected from each insured or self-insurer.

384.057. 1. Before March second of each year, each surplus lines broker shall report under oath to the director on forms prescribed by him or her a statement showing, with respect to the year ending the immediately preceding December thirty-first **for nonadmitted insurance where the home state of the insured is this state**:

(1) The gross amounts charged for surplus lines insurance **[**with respect to risks located within this state**]**, exclusive of sums collected for the payment of federal, state or local taxes;

(2) The amount of net premiums with respect to the insurance. For the purpose of this section, "net premiums" means the gross amount of charges for surplus lines insurance **[**with respect to risks located within this state**]**, exclusive of sums collected for the payment of federal, state and local taxes, less returned premiums.

2. No later than within forty-five days after the end of each calendar quarter ending March thirty-first, June thirtieth, September thirtieth, and December thirty-first each surplus lines broker shall report under oath to the director on forms prescribed by him or her a statement showing, with respect to each respective calendar quarter **for nonadmitted insurance where the home state of the insured is this state**:

(1) The gross amounts charged for surplus lines insurance **[**with respect to risks located within this state**]**, exclusive of sums collected for the payment of federal, state, or local taxes;

23 (2) The amount of net premiums with respect to the insurance. For the
24 purpose of this section, "net premiums" means the gross amount of charges for
25 surplus lines insurance **[**with respect to risks located within this state**]**, exclusive
26 of sums collected for the payment of federal, state, and local taxes, less returned
27 premiums.

384.061. **1. Notwithstanding any other provision of this chapter**
2 **or regulation implementing a provision of this chapter,** the five percent
3 tax on net premiums imposed by sections 384.051 and 384.059 shall be levied
4 **upon and** only upon **[**risks or portions of risks which are located within this
5 state. If a surplus lines policy covers risks only partially located in this state, the
6 tax payable shall be computed on the portions of the premium properly allocable
7 to that portion of the risks located in this state and no Missouri tax shall be
8 charged for that portion of risk which is located outside of the state of Missouri**]**
9 **the entire gross premium for nonadmitted or surplus lines insurance**
10 **policies for which the home state of the insured is Missouri.**
11 **2. Notwithstanding any other provision of this chapter or**
12 **regulation implementing a provision of this chapter:**
13 **(1) The placement of nonadmitted insurance shall be subject to**
14 **the statutory and regulatory requirements of this chapter only if this**
15 **state is the insured's home state; and**
16 **(2) A surplus lines broker is required to be licensed as a surplus**
17 **lines licensee under the provisions of this chapter only if this state is**
18 **the insured's home state**.

385.200. As used in sections 385.200 to 385.220, the following terms
2 mean:
3 (1) "Administrator", the person other than a provider who is responsible
4 for the administration of the service contracts or the service contracts plan or for
5 any filings required by sections 385.200 to 385.220;
6 (2) **"Business entity", any partnership, corporation, incorporated**
7 **or unincorporated association, limited liability company, limited**
8 **liability partnership, joint stock company, reciprocal, syndicate, or any**
9 **similar entity;**
10 **(3)** "Consumer", a natural person who buys other than for purposes of
11 resale any tangible personal property that is distributed in commerce and that
12 is normally used for personal, family, or household purposes and not for business
13 or research purposes;

14 **[**(3)**]** **(4)** "Dealers", any motor vehicle dealer or boat dealer licensed or
15 required to be licensed under the provisions of sections 301.550 to 301.573;
16 **[**(4)**]** **(5)** "Director", the director of the department of insurance, financial
17 institutions and professional registration;
18 **[**(5)**]** **(6)** "Maintenance agreement", a contract of limited duration that
19 provides for scheduled maintenance only;
20 **[**(6)**]** **(7)** "Manufacturer", any of the following:
21 (a) A person who manufactures or produces the property and sells the
22 property under the person's own name or label;
23 (b) A subsidiary of the person who manufacturers or produces the
24 property;
25 (c) A person who owns one hundred percent of the entity that
26 manufactures or produces the property;
27 (d) A person that does not manufacture or produce the property, but the
28 property is sold under its trade name label;
29 (e) A person who manufactures or produces the property and the property
30 is sold under the trade name or label of another person;
31 (f) A person who does not manufacture or produce the property but, under
32 a written contract, licenses the use of its trade name or label to another person
33 who sells the property under the licensor's trade name or label;
34 **[**(7)**]** **(8)** "Mechanical breakdown insurance", a policy, contract, or
35 agreement issued by an authorized insurer who provides for the repair,
36 replacement, or maintenance of a motor vehicle or indemnification for repair,
37 replacement, or service, for the operational or structural failure of a motor vehicle
38 due to a defect in materials or workmanship or to normal wear and tear;
39 **[**(8)**]** **(9)** "Motor vehicle extended service contract" or "service contract",
40 a contract or agreement for a separately stated consideration and for a specific
41 duration to perform the repair, replacement, or maintenance of a motor vehicle
42 or indemnification for repair, replacement, or maintenance, for the operational
43 or structural failure due to a defect in materials, workmanship, or normal wear
44 and tear, with or without additional provision for incidental payment of
45 indemnity under limited circumstances, including but not limited to towing,
46 rental, and emergency road service, but does not include mechanical breakdown
47 insurance or maintenance agreements;
48 **[**(9)**]** **(10)** "Nonoriginal manufacturer's parts", replacement parts not
49 made for or by the original manufacturer of the property, commonly referred to

50 as after-market parts;

51 **[**(10)**] (11)** "Person", an individual, partnership, corporation, incorporated
52 or unincorporated association, joint stock company, reciprocal, syndicate, or any
53 similar entity or combination of entities acting in concert;

54 **[**(11)**] (12)** "Premium", the consideration paid to an insurer for a
55 reimbursement insurance policy;

56 **[**(12)**] (13) "Producer", any business entity or individual person**
57 **selling, offering, negotiating, or soliciting a motor vehicle extended**
58 **service contract and required to be licensed as a producer under**
59 **subsection 1 of section 385.206;**

60 **(14)** "Provider", a person who is contractually obligated to the service
61 contract holder under the terms of a motor vehicle extended service contract;

62 **[**(13)**] (15)** "Provider fee", the consideration paid for a motor vehicle
63 extended service contract by a service contract holder;

64 **[**(14)**] (16)** "Reimbursement insurance policy", a policy of insurance
65 issued to a provider and under which the insurer agrees, for the benefit of the
66 motor vehicle extended service contract holders, to discharge all of the obligations
67 and liabilities of the provider under the terms of the motor vehicle extended
68 service contracts in the event of nonperformance by the provider. All obligations
69 and liabilities include, but are not limited to, failure of the provider to perform
70 under the motor vehicle extended service contract and the return of the unearned
71 provider fee in the event of the provider's unwillingness or inability to reimburse
72 the unearned provider fee in the event of termination of a motor vehicle extended
73 service contract;

74 **[**(15)**] (17)** "Service contract holder" or "contract holder", a person who
75 is the purchaser or holder of a motor vehicle extended service contract;

76 **[**(16)**] (18)** "Warranty", a warranty made solely by the manufacturer,
77 importer, or seller of property or services without charge, that is not negotiated
78 or separated from the sale of the product and is incidental to the sale of the
79 product, that guarantees indemnity for defective parts, mechanical or electrical
80 breakdown, labor, or other remedial measures, such as repair or replacement of
81 the property or repetition of services.

**385.205. 1. It is unlawful for any provider that has authorized a**
2 **motor vehicle extended service contract with a consumer to fail to**
3 **cause delivery to the consumer of a fully executed motor vehicle**
4 **extended service contract within a commercially feasible time period,**

**but no more than forty-five days from the date the consumer's initial payment is processed. It is the mailing, or actual delivery of the fully executed contract, whichever is earlier, that commences the free look period under subsection 14 of section 385.206.**

**2. It is unlawful for any provider, administrator, producer, or any other person who offers to a consumer a motor vehicle extended service contract, to fail, upon request, to cause delivery to the consumer of an unsigned copy of the written contract prior to the time the consumer's initial payment is processed. An offeror may comply with this provision by providing the consumer with the copy or by directing the consumer to a website containing an unsigned copy of the service contract.**

**3. A violation of this section is a level two violation under section 374.049.**

385.206. 1. **[**No person shall directly**] It is unlawful for any person in or from this state to** sell, offer **[**for sale**]**, **negotiate,** or solicit **[**the sale of**]** a motor vehicle extended service contract **[**to**] with** a consumer, other than the following:

(1) A **motor vehicle** dealer **licensed under sections 301.550 to 301.573, along with its authorized employees offering the service contract in connection with the sale of either a motor vehicle or vehicle maintenance or repair services**;

(2) A manufacturer of motor vehicles, as defined in section 301.010**, along with its authorized employees**;

(3) A federally insured depository institution**, along with its authorized employees**;

(4) A lender licensed and defined under sections 367.100 to 367.215**, along with its authorized employees**; **[**or**]**

(5) **[**An administrator, provider, manufacturer, or person working in concert with an administrator, provider, or manufacturer marketing or selling a motor vehicle extended service contract demonstrating**] A provider registered with the director and having demonstrated** financial responsibility as **[**set forth**] required** in section 385.202**, along with its subsidiaries and affiliated entities, and authorized employees of the provider, subsidiary, or affiliated entity;**

**(6) A business entity producer or individual producer licensed**

23 **under section 385.207;**

24 **(7) Authorized employees of an administrator under contract to**
25 **effect coverage, collect provider fees, and settle claims on behalf of a**
26 **registered provider, if the administrator is licensed as a business entity**
27 **producer under section 385.207; or**

28 **(8) A vehicle owner transferring an existing motor vehicle**
29 **extended service contract to a subsequent owner of the same vehicle**.

30 2. No administrator or provider shall use a dealer as a fronting company,
31 and no dealer shall act as a fronting company. For purposes of this subsection,
32 "fronting company" means a dealer that authorizes a third-party administrator
33 or provider to use its name or business to evade or circumvent the provisions of
34 subsection 1 of this section.

35 3. Motor vehicle extended service contracts issued, sold, or offered **[**for
36 sale**]** in this state shall be written in clear, understandable language, and the
37 entire contract shall be printed or typed in easy-to-read type and conspicuously
38 disclose the requirements in this section, as applicable.

39 4. Motor vehicle extended service contracts insured under a
40 reimbursement insurance policy under subsection 3 of section 385.202 shall
41 contain a statement in substantially the following form: "Obligations of the
42 provider under this service contract are guaranteed under a service contract
43 reimbursement insurance policy. If the provider fails to pay or provide service
44 on a claim within sixty days after proof of loss has been filed, the contract holder
45 is entitled to make a claim directly against the insurance company." A claim
46 against the provider also shall include a claim for return of the unearned provider
47 fee. The motor vehicle extended service contract also shall state conspicuously
48 the name and address of the insurer.

49 5. Motor vehicle extended service contracts not insured under a
50 reimbursement insurance policy pursuant to subsection 3 of section 385.202 shall
51 contain a statement in substantially the following form: "Obligations of the
52 provider under this service contract are backed only by the full faith and credit
53 of the provider (issuer) and are not guaranteed under a service contract
54 reimbursement insurance policy." A claim against the provider also shall include
55 a claim for return of the unearned provider fee. The motor vehicle extended
56 service contract also shall state conspicuously the name and address of the
57 provider.

58 6. Motor vehicle extended service contracts shall identify any

59 administrator, the provider obligated to perform the service under the contract,
60 the motor vehicle extended service contract seller, and the service contract holder
61 to the extent that the name and address of the service contract holder has been
62 furnished by the service contract holder.

63 7. Motor vehicle extended service contracts shall state conspicuously the
64 total purchase price and the terms under which the motor vehicle extended
65 service contract is sold. The purchase price is not required to be preprinted on
66 the motor vehicle extended service contract and may be negotiated at the time of
67 sale with the service contract holder.

68 8. If prior approval of repair work is required, the motor vehicle extended
69 service contracts shall state conspicuously the procedure for obtaining prior
70 approval and for making a claim, including a toll-free telephone number for claim
71 service and a procedure for obtaining emergency repairs performed outside of
72 normal business hours.

73 9. Motor vehicle extended service contracts shall state conspicuously the
74 existence of any deductible amount.

75 10. Motor vehicle extended service contracts shall specify the merchandise
76 and services to be provided and any limitations, exceptions, and exclusions.

77 11. Motor vehicle extended service contracts shall state the conditions
78 upon which the use of nonoriginal manufacturer's parts**[,] or parts of a like**
79 **kind and quality** or substitute service**[,]** may be allowed. Conditions stated
80 shall comply with applicable state and federal laws.

81 12. Motor vehicle extended service contracts shall state any terms,
82 restrictions, or conditions governing the transferability of the motor vehicle
83 extended service contract.

84 13. Motor vehicle extended service contracts shall state **[**the**] that**
85 **subsequent to the required free look period specified in subsection 14**
86 **of this section, a service contract holder may cancel the contract at any**
87 **time and the provider shall refund to the contract holder one hundred**
88 **percent of the unearned pro rata provider fee, less any claims paid. A**
89 **reasonable administrative fee may be surcharged by the provider in an**
90 **amount not to exceed fifty dollars. All** terms, restrictions, or conditions
91 governing termination of the service contract by the service contract holder **shall**
92 **be stated**. The provider of the motor vehicle extended service contract shall mail
93 a written notice to the contract holder within **[**fifteen**] forty-five** days of the date
94 of termination. **The written notice required by this subsection may be**

**included with any other correspondence required by this section.**

14. Motor vehicle extended service contracts shall **[**require**] contain a free look period that requires** every provider to permit the service contract holder to return the contract **to the provider** within at least twenty business days of **the** mailing date of the motor vehicle extended service contract or **[**within at least ten days if**] the contract date if** the service contract is **executed and** delivered at the time of sale or within a longer time period permitted under the contract. If no claim has been made under the contract **and the contract is returned**, the contract is void and the provider shall refund to the contract holder the full purchase price of the contract. A ten percent penalty **of the amount outstanding** per month shall be added to a refund that is not paid within **[**thirty**] forty-five** days of return of the contract to the provider. **If a claim has been made under the contract during the free look period and the contract is returned, the provider shall refund to the contract holder the full purchase price less any claims that have been paid.** The applicable free-look time periods on service contracts shall apply only to the original service contract purchaser.

15. Motor vehicle extended service contracts shall set forth all of the obligations and duties of the service contract holder, such as the duty to protect against any further damage and the requirement for certain service and maintenance.

16. Motor vehicle extended service contracts shall state clearly whether or not the service contract provides for or excludes consequential damages or preexisting conditions.

**17. The contract requirements of subsections 3 to 16 of this section shall apply to motor vehicle extended service contracts made with consumers in this state. A violation of subsections 3 to 16 of this section is a level two violation under section 374.049.**

**18. A violation of subsection 1 or 2 of this section is a level three violation under section 374.049.**

**385.207. 1. A business entity, prior to selling, offering, negotiating, or soliciting a motor vehicle extended service contract with a consumer under subdivision (6) or (7) of subsection 1 of section 385.206, shall apply for and obtain licensure with the director as a business entity producer in accordance with this section.**

**2. A business entity applying for a producer license under**

**sections 385.200 to 385.220 shall make application to the director on an application made available by the director and shall pay an initial and renewal licensure fee in an amount to be determined by the director, but which shall not exceed one hundred dollars for a business entity. All applications shall include information required by the director.**

**3. An individual, prior to selling, offering, negotiating, or soliciting a motor vehicle extended service contract with a consumer under subdivision (6) of subsection 1 of section 385.206, shall apply for and obtain licensure with the director as an individual producer in accordance with this section.**

**4. An individual applying for a producer license under sections 385.200 to 385.220 shall make application to the director on an application made available by the director and shall pay an initial and renewal licensure fee in an amount to be determined by the director, but which shall not exceed twenty-five dollars for an individual producer. No examination of an applicant under this subsection shall be required.**

**5. Unless licensure is refused by the director under section 385.209, persons applying for license under this section shall be issued a producer license for a term of two years. A producer's license shall be renewed biennially upon application for renewal and payment of the fee. Such license shall continue in effect unless terminated under subsection 6 of this section, or refused, revoked, or suspended under section 385.209.**

**6. A producer license issued under this section, if not renewed by the director by its expiration date, shall terminate on its expiration date and shall not after that date authorize its holder under sections 385.200 to 385.220 to sell, offer, negotiate, or solicit motor vehicle extended service contracts.**

**7. In connection with a business entity's application as a producer and at renewal, the business entity shall provide a list to the director of all locations in this state at which it offers motor vehicle extended service contracts.**

**8. The director shall adopt rules under section 385.218 relating to licensing and practices of persons acting as a producer under this section.**

385.208. 1. **[**A provider shall not**] It is unlawful for a provider, administrator, producer, or any other person selling, offering, negotiating, or soliciting a motor vehicle extended service contract to:**

**(1)** Use in its name the words insurance, casualty, guaranty, **warranty,** surety, mutual, or any other words descriptive of the insurance, casualty, guaranty, or surety business, nor shall such **[**provider**] person** use a name deceptively similar to the name or description of any insurance or surety corporation, or any other provider**[**. This section shall not apply to a company**], provided that this prohibition shall not apply to any provider or administrator** that was using any of the prohibited language in its name prior to **[**August 28, 2007. However, a company using the prohibited language in its name shall disclose**] January 1, 2011, and it discloses** conspicuously in its motor vehicle extended service contract the following statement: "This agreement is not an insurance contract."**;**

**(2) Directly or indirectly, represent in any manner, whether by telemarketing, broadcast marketing, electronic media, written solicitation or any other advertisement, offer, or solicitation, a false, deceptive, or misleading statement with respect to:**

**(a) An affiliation with a motor vehicle manufacturer or dealer;**

**(b) Possession of information regarding a motor vehicle owner's current motor vehicle manufacturer's original equipment warranty;**

**(c) The expiration of a motor vehicle owner's current motor vehicle manufacturer's original equipment warranty;**

**(d) A requirement that such motor vehicle owner register for a new motor vehicle extended service contract with such provider in order to maintain coverage under the motor vehicle owner's current motor vehicle extended service contract or manufacturer's original equipment warranty; or**

**(e) Any term or provision of a motor vehicle extended service contract.**

**A violation of this subsection is a level three violation under section 374.049**.

2. **[**A provider or its representative shall not in its motor vehicle extended service contracts or literature make, permit, or cause to be made any false or misleading statement, or deliberately omit any material statement that would be considered misleading if omitted, in connection with the sale, offer to sell or

advertisement of a motor vehicle extended service contract**] It is unlawful for any person, in connection with the offer, sale, solicitation, or negotiation of a motor vehicle extended service contract, directly or indirectly to:**

**(1) Employ any deception, device, scheme, or artifice to defraud;**

**(2) As to any material fact, make or use any misrepresentation, concealment, or suppression;**

**(3) Engage in any pattern or practice of making any false statement of material fact; or**

**(4) Engage in any act, practice, or course of business which operates as a fraud or deceit upon any person.**

**A violation of this subsection is a level three violation under section 374.049**.

3. **Any person who knowingly employs, uses, or engages in any conduct in violation of subsection 2 of this section with the intent to defraud shall be guilty of a felony and, upon conviction, may be subject to imprisonment for a term not to exceed ten years. In addition to any fine or imprisonment imposed, a court may order restitution to the victim.**

**4.** A person, such as a bank, savings and loan association, lending institution, manufacturer or seller of any product, shall not require the purchase of a service contract as a condition of a loan or a condition for the sale of any property. **A violation of this subsection is a level one violation under section 374.049.**

**385.209. 1. The director may suspend, revoke, refuse to issue, or refuse to renew a registration or license under sections 385.200 to 385.220 for any of the following causes, if the applicant or licensee or the applicant's or licensee's subsidiaries or affiliated entities acting on behalf of the applicant or licensee in connection with the applicant's or licensee's motor vehicle extended service contract program has:**

**(1) Filed an application for license in this state within the previous ten years, which, as of the effective date of the license, was incomplete in any material respect or contained incorrect, misleading, or untrue information;**

**(2) Violated any provision in sections 385.200 to 385.220, or violated any rule, subpoena, or order of the director;**

**(3) Obtained or attempted to obtain a license through material**

**misrepresentation or fraud;**

**(4) Misappropriated or converted any moneys or properties received in the course of doing business;**

**(5) Been convicted of any felony;**

**(6) Used fraudulent, coercive, or dishonest practices, or demonstrated incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere;**

**(7) Been found in violation of law by a court of competent jurisdiction in an action instituted by any officer of any state or the United States in any matter involving motor vehicle extended service contracts, financial services, investments, credit, insurance, banking, or finance;**

**(8) Had a producer license or its equivalent, denied, suspended, or revoked in any other state, province, district, or territory;**

**(9) Been refused a license or had a license revoked or suspended by a state or federal regulator of service contracts, financial services, investments, credit, insurance, banking, or finance;**

**(10) Signed the name of another to an application for license or to any document related to a motor vehicle extended service contract transaction without authorization;**

**(11) Unlawfully acted as a producer without a license;**

**(12) Failed to comply with an administrative or court order imposing a child support obligation;**

**(13) Failed to comply with any administrative or court order directing payment of state or federal income tax; or**

**(14) Has within the last fifteen years been declared insolvent by the director or a motor vehicle extended service contract regulator of another state or has been the subject of a bankruptcy petition.**

**2. In the event that the action by the director is not to renew or to deny an application for a license, the director shall notify the applicant or licensee in writing and advise the applicant or licensee of the reason for the denial or nonrenewal. Appeal of the nonrenewal or denial of the application for a license shall be made pursuant to the provisions of chapter 621. Notwithstanding section 621.120, the director shall retain discretion in refusing a license or renewal and such discretion shall not transfer to the administrative hearing commission.**

**3. The license of a business entity producer may be suspended, revoked, renewal refused, or an application may be refused if the director finds that a violation by an individual acting under the direction of the business entity was known or should have been known by one or more of the partners, officers, or managers acting on behalf of the business entity and the violation was neither reported to the director nor corrective action taken.**

**4. The director may also revoke or suspend under subsection 1 of this section any license issued by the director where the licensee has failed to renew or has surrendered such license.**

**5. Every producer licensed under this section shall notify the director of any change of address, on forms prescribed by the director, within thirty days of the change. If the failure to notify the director of the change of address results in an inability to serve the producer with a complaint as provided by sections 621.045 to 621.198, then the director may immediately revoke the license of the producer until such time as service may be obtained.**

**6. A producer shall report to the director any license revocation or civil action taken against the producer in another jurisdiction or by another governmental agency in this state within thirty days of the final disposition of the matter. This report shall include a copy of the order, consent order, or other relevant legal documents.**

**7. Within thirty days of the initial pretrial hearing date or arraignment, a producer shall report to the director any felony proceeding initiated by any state or the United States for any violation of law by the producer. The report shall include a copy of the indictment or information filed, the order resulting from the hearing and any other relevant legal documents.**

**385.211. 1. A provider registered to issue motor vehicle extended service contracts in this state shall maintain a register of business entity producers who are authorized to sell, offer, negotiate, or solicit the sale of motor vehicle extended service contracts in this state, and shall make such list available for inspection upon request by the director. Within thirty days of a provider authorizing a producer to sell, offer, negotiate, or solicit motor vehicle extended service contracts, the provider shall enter the name and license number of the producer in the company registry of producers.**

10 **2. Within thirty days of a provider terminating a business entity**
11 **producer's appointment to sell, offer, negotiate, or solicit motor vehicle**
12 **extended service contracts, the provider shall update the registry with**
13 **the effective date of the termination. If a provider has possession of**
14 **information relating to any cause for discipline under section 385.209,**
15 **the provider shall notify the director of this information in**
16 **writing. The privileges and immunities applicable to insurers under**
17 **section 375.022 shall apply to providers for any information reported**
18 **under this subsection.**

Section B. Because immediate action is necessary to ensure the continued
2 application of Missouri law regulating and taxing surplus lines insurance in
3 accordance with Public Law 111-203, the repeal and reenactment of sections
4 384.015, 384.017, 384.021, 384.043, 384.051, 384.057, and 384.061 of section A of
5 this act is deemed necessary for the immediate preservation of the public health,
6 welfare, peace, and safety, and is hereby declared to be an emergency act within
7 the meaning of the constitution, and the repeal and reenactment of sections
8 384.015, 384.017, 384.021, 384.043, 384.051, 384.057, and 384.061 of section A of
9 this act shall be in full force and effect upon its passage and approval.

Section C. The repeal and reenactment of sections 385.200, 385.206, and
2 385.208, and the enactment of sections 385.205, 385.207, 385.209, and 385.211 of
3 section A of this act shall become effective January 1, 2012.

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