

FIRST REGULAR SESSION

HOUSE BILL NO. 419

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE YATES.

Read 1st time January 16, 2007 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

1142L.011

AN ACT

To repeal sections 86.590, 375.320, 375.330, 375.340, 375.345, 375.480, 375.532, 375.534, 375.1070, 375.1072, 375.1075, 376.170, 376.190, 376.280, 376.300, 376.301, 376.303, 376.305, 376.307, 376.320, 376.672, 376.1012, 377.100, 377.200, 381.068, and 409.950, RSMo, and to enact in lieu thereof thirty-five new sections relating to insurance company investments.

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

Section A. Sections 86.590, 375.320, 375.330, 375.340, 375.345, 375.480, 375.532, 375.534, 375.1070, 375.1072, 375.1075, 376.170, 376.190, 376.280, 376.300, 376.301, 376.303, 376.305, 376.307, 376.320, 376.672, 376.1012, 377.100, 377.200, 381.068, and 409.950, RSMo, are repealed and thirty-five new sections enacted in lieu thereof, to be known as sections 86.590, 375.320, 375.330, 375.340, 375.345, 375.480, 375.532, 375.534, 375.1070, 375.1072, 375.1075, 376.170, 376.190, 376.280, 376.291, 376.292, 376.293, 376.294, 376.295, 376.296, 376.297, 376.298, 376.300, 376.301, 376.302, 376.303, 376.304, 376.305, 376.306, 376.307, 376.1012, 377.100, 377.200, 381.068, and 409.950, to read as follows:

86.590. The board of trustees of police and firemen's pension systems, established under the provisions of section 86.583, may invest and reinvest the moneys of the system, and may hold, purchase, sell, assign, transfer or dispose of any of the securities and investments in which such moneys shall have been invested, as well as the proceeds of such investments and such moneys; except that such investment and reinvestments shall be subject to all the terms, conditions, limitations, and restrictions imposed by law upon life insurance or casualty

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.

7 companies in the state of Missouri in making and disposing of their investments[, except that the
8 percentage limitations of subsection 2 of section 376.305, RSMo, shall not apply]. The board
9 of trustees of police and firemen's pension systems, established under the provisions of section
10 86.583, shall comply with the prudent investor standard for investment fiduciaries as provided
11 in section 105.688, RSMo, when investing the assets of the system.

375.320. 1. No insurance company formed under the laws of this state shall, directly or
2 indirectly, deal or trade in any goods, wares, merchandise or other commodities whatsoever,
3 except such as may be incident to and necessary in connection with the ownership and operation
4 of property held under the provisions of sections 375.330 and 375.340.

5 **2. This section shall not apply to an insurer organized under chapter 376, RSMo.**

375.330. 1. No insurance company formed under the laws of this state shall be permitted
2 to purchase, hold or convey real estate, excepting for the purpose and in the manner herein set
3 forth, to wit:

4 (1) Such as shall be necessary for its accommodation in the transaction of its business;
5 provided that before the purchase of real estate for any such purpose, the approval of the director
6 of the department of insurance must be first had and obtained, and except with the approval of
7 the director, the value of such real estate, together with all appurtenances thereto, purchased for
8 such purpose shall not exceed twenty percent of the insurance company's capital and surplus as
9 shown by its last annual statement; or

10 (2) Such as shall have been mortgaged in good faith by way of security for loans
11 previously contracted, or for moneys due; or

12 (3) Such as shall have been conveyed to it in satisfaction of debts contracted in the
13 course of its dealings; or

14 (4) Such as shall have been purchased at sales upon the judgments, decrees or mortgages
15 obtained or made for such debts; or

16 (5) Such as shall be necessary and proper for carrying on its legitimate business under
17 the provisions of the Urban Redevelopment Corporations Act; or

18 (6) Such as shall have been acquired under the provisions of the Urban Redevelopment
19 Corporations Act permitting such company to purchase, own, hold or convey real estate; or

20 (7) Such real estate, or any interest therein, as may be acquired or held by it by purchase,
21 lease or otherwise, as an investment for the production of income, which real estate or interest
22 therein may thereafter be held, improved, developed, maintained, managed, leased, sold or
23 conveyed by it as real estate necessary and proper for carrying on its legitimate business; or

24 (8) A reciprocal or interinsurance exchange may, in its own name, purchase, sell,
25 mortgage, hold, encumber, lease, convey, or otherwise affect the title to real property for the
26 purposes and objects of the reciprocal or interinsurance exchange. Such deeds, notes, mortgages

27 or other documents relating to real property may be executed by the attorney in fact of the
28 reciprocal or interinsurance exchange. This provision shall be retroactive and shall apply to real
29 estate owned or sold by a reciprocal insurer prior to August 28, 1990.

30 2. The investments acquired under subdivision (7) of subsection 1 of this section may
31 be in either existing or new business or industrial properties, or for new residential properties or
32 new housing purposes.

33 3. Provided, no such insurance company shall invest more than ten percent of its
34 admitted assets, as shown by its last annual statement preceding the date of acquisition, as filed
35 with the director of the department of insurance of the state of Missouri, in the total amount of
36 real estate acquired under subdivision (7) of subsection 1, nor more under subdivision (7) of
37 subsection 1 than one percent of its admitted assets or ten percent of its capital and surplus,
38 whichever is greater, in any one property, nor more under subdivision (7) of subsection 1 than
39 one percent of its admitted assets or ten percent of its capital and surplus, whichever is greater,
40 in total properties leased or rented to any one individual, partnership or corporation.

41 4. It shall not be lawful for any company incorporated as aforesaid to purchase, hold or
42 convey real estate in any other case or for any other purpose; and all such real estate acquired in
43 payment of a debt, by foreclosure or otherwise, and real estate exchanged therefor, shall be sold
44 and disposed of within ten years after such company shall have acquired absolute title to the
45 same, unless the company owning such real estate or interest therein shall elect to hold it
46 pursuant to subdivision (7) of subsection 1.

47 5. The director of the department of insurance may, for good cause shown, extend the
48 time for holding such real estate acquired in paying of a debt, by foreclosure or otherwise, and
49 real estate exchanged therefor, and not held by the company under subdivision (7) of subsection
50 1, for such period as he may find to be to the best interests of the policyholders of said company.

51 6. If a life insurance company depositing under section 376.170, RSMo, becomes the
52 owner of real estate pursuant to this section, the company may execute its own deed for the real
53 estate to the director of the department of insurance, as trustee. The deed may be deposited with
54 the director as proper security, under and according to the provisions of sections 376.010 to
55 376.670, RSMo, the value to be subject to the approval of the director.

56 **7. This section shall not apply to an insurer organized under chapter 376, RSMo.**

375.340. **1.** In all cases in which life insurance companies, benefit societies or other
2 associations doing business in this state shall have legally acquired by foreclosure or in payment
3 of a debt previously contracted any real estate or personal property situated in this state or
4 elsewhere, said company, society or association may upon the sale of said property take in
5 payment or part payment thereof the stocks or bonds of any company or corporation purchasing

6 said property and may exchange any real estate acquired in foreclosure or in payment of debts,
7 in whole or in part, for other real estate.

8 **2. This section shall not apply to an insurer organized under chapter 376, RSMo.**
375.345. 1. As used in this section, the following words and terms mean:

2 (1) "Admitted assets", assets permitted to be reported as admitted assets on the statutory
3 financial statement of the insurance company most recently required to be filed with the director,
4 but excluding assets of separate accounts, the investments of which are not subject to the
5 provisions of law governing the general investment account of the insurance company;

6 (2) "Cap", an agreement obligating the seller to make payments to the buyer, with each
7 payment based on the amount by which a reference price, level, performance, or value of one or
8 more underlying interests exceeds a predetermined number, sometimes called the strike rate or
9 strike price;

10 (3) "Collar", an agreement to receive payments as the buyer of an option, cap, or floor
11 and to make payments as the seller of a different option, cap, or floor;

12 (4) "Counterparty exposure amount":

13 (a) The amount of credit risk attributable to an over-the-counter derivative instrument.
14 The amount of credit risk equals:

15 a. The market value of the over-the-counter derivative instrument if the liquidation of
16 the derivative instrument would result in a final cash payment to the insurance company; or

17 b. Zero if the liquidation of the derivative instrument would not result in a final cash
18 payment to the insurance company;

19 (b) If over-the-counter derivative instruments are entered into under a written master
20 agreement which provides for netting of payments owed by the respective parties, and the
21 domicile of the counterparty is either within the United States or within a foreign jurisdiction
22 listed in the Purposes and Procedures of the Securities Valuation Office as eligible for netting,
23 the net amount of credit risk shall be the greater of zero or the net sum of:

24 a. The market value of the over-the-counter derivative instruments entered into under
25 the agreement, the liquidation of which would result in a final cash payment to the insurance
26 company; and

27 b. The market value of the over-the-counter derivative instruments entered into under
28 the agreement, the liquidation of which would result in a final cash payment by the insurance
29 company to the business entity;

30 (c) For open transactions, market value shall be determined at the end of the most recent
31 quarter of the insurance company's fiscal year and shall be reduced by the market value of
32 acceptable collateral held by the insurance company or placed in escrow by one or both parties;

33 (5) "Derivative instrument", an agreement, option, instrument, or a series or combination
34 thereof that makes, takes delivery of, assumes, relinquishes, or makes a cash settlement in lieu
35 of a specified amount of one or more underlying interests, or that has a price, performance, value,
36 or cash flow based primarily upon the actual or expected price, level, performance, value or cash
37 flow of one or more underlying interests. Derivative instruments also include options, warrants
38 used in a hedging transaction and not attached to another financial instrument, caps, floors,
39 collars, swaps, forwards, futures and any other agreements, options or instruments substantially
40 similar thereto, and any other agreements, options, or instruments permitted under rules or orders
41 promulgated by the director;

42 (6) "Derivative transaction", a transaction involving the use of one or more derivative
43 instruments;

44 (7) "Director", the director of the department of insurance of this state;

45 (8) "Floor", an agreement obligating the seller to make payments to the buyer in which
46 each payment is based on the amount by which a predetermined number, sometimes called the
47 floor rate or price, exceeds a reference price, level, performance, or value of one or more
48 underlying interests;

49 (9) "Forward", an agreement other than a future to make or take delivery of, or effect a
50 cash settlement based on the actual or expected price, level, performance or value of, one or
51 more underlying interests, but not including spot transactions effected within customary
52 settlement periods, when issued purchases or other similar cash market transactions;

53 (10) "Future", an agreement traded on an exchange to make or take delivery of, or effect
54 a cash settlement based on the actual or expected price, level, performance or value of one or
55 more underlying interests and which includes an insurance future;

56 (11) "Hedging transaction", a derivative transaction that is entered into and maintained
57 to reduce:

58 (a) The risk of economic loss due to a change in the value, yield, price, cash flow or
59 quantity of assets or liabilities that the insurance company has acquired or incurred or anticipates
60 acquiring or incurring;

61 (b) The currency exchange rate risk or the degree of exposure as to assets or liabilities
62 that the insurance company has acquired or incurred or anticipates acquiring or incurring; or

63 (c) Risk through such other derivative transactions as may be specified to constitute
64 hedging transactions by rules or orders adopted by the director;

65 (12) "Income generation transaction":

66 (a) A derivative transaction involving the writing of covered call options, covered put
67 options, covered caps or covered floors that is intended to generate income or enhance return;

68 or

69 (b) Such other derivative transactions as may be specified to constitute income
70 generation transactions in rules or orders adopted by the director;

71 (13) "Initial margin", the amount of cash, securities or other consideration initially
72 required to be deposited to establish a futures position;

73 (14) "NAIC", the National Association of Insurance Commissioners;

74 (15) "Option", an agreement giving the buyer the right to buy or receive, sell or deliver,
75 enter into, extend, terminate or effect a cash settlement based on the actual or expected price,
76 level, performance or value of one or more underlying interests;

77 (16) "Over-the-counter derivative instrument", a derivative instrument entered into with
78 a business entity other than through an exchange or clearinghouse;

79 (17) "Potential exposure", the amount determined in accordance with the NAIC Annual
80 Statement Instructions;

81 (18) "Replication transaction", a derivative transaction effected either separately or in
82 conjunction with cash market investments included in the insurer's investment portfolio and
83 intended to replicate the investment characteristic of another authorized transaction, investment
84 or instrument or to operate as a substitute for cash market transactions. A derivative transaction
85 that is entered into as a hedging transaction or an income generation transaction shall not be
86 considered a replication transaction;

87 (19) "SVO", the Securities Valuation Office of the NAIC or any successor office
88 established by the NAIC;

89 (20) "Swap", an agreement to exchange or to net payments at one or more times based
90 on the actual or expected price, level, performance or value of one or more underlying interests;

91 (21) "Underlying interest", the assets, liabilities, other interests, or a combination thereof
92 underlying a derivative instrument, such as any one or more securities, currencies, rates, indices,
93 commodities or derivative instruments;

94 (22) "Warrant", an instrument that gives the holder the right to purchase an underlying
95 financial instrument at a given price and time or at a series of prices and times outlined in the
96 warrant agreement.

97 2. An insurance company, **including those organized under chapter 376, RSMo**, may,
98 directly or indirectly through an investment subsidiary, engage in derivative transactions pursuant
99 to this section under the following conditions:

100 (1) In general:

101 (a) An insurance company may use derivative instruments pursuant to this chapter to
102 engage in hedging transactions and certain income generation transactions;

103 (b) Upon request, an insurance company shall demonstrate to the director the intended
104 hedging characteristics and the ongoing effectiveness of the derivative transaction or
105 combination of the transactions through cash flow testing or other appropriate analyses;

106 (2) An insurance company shall only maintain its position in any outstanding derivative
107 instrument used as part of a hedging transaction for as long as the hedging transaction continues
108 to be effective;

109 (3) An insurance company may enter into hedging transactions if as a result of and after
110 giving effect to the transaction:

111 (a) The aggregate statement value of options, caps, floors and warrants not attached to
112 another financial instrument purchased and used in hedging transactions then engaged in by the
113 insurer does not exceed seven and one-half percent of its admitted assets;

114 (b) The aggregate statement value of options, caps and floors written in hedging
115 transactions then engaged in by the insurer does not exceed three percent of its admitted assets;
116 and

117 (c) The aggregate potential exposure of collars, swaps, forwards and futures used in
118 hedging transactions then engaged in by the insurer does not exceed six and one-half percent of
119 its admitted assets;

120 (4) An insurance company may only enter into the following types of income generation
121 transactions if as a result of and after giving effect to an income generation transaction, the
122 aggregate statement value of the fixed income assets that are subject to call or that generate the
123 cash flows for payments under the caps or floors, plus the face value of fixed income securities
124 underlying a derivative instrument subject to call, plus the amount of the purchase obligations
125 under the puts, shall not exceed ten percent of its admitted assets:

126 (a) Sales of covered call options on noncallable fixed income securities, callable fixed
127 income securities if the option expires by its terms prior to the end of the noncallable period, or
128 derivative instruments based on fixed income securities;

129 (b) Sales of covered call options on equity securities if the insurance company holds in
130 its portfolio or can immediately acquire through the exercise of options, warrants or conversion
131 rights already owned, the equity securities subject to call during the complete term of the call
132 option sold;

133 (c) Sales of covered puts on investments that the insurance company is permitted to
134 acquire under the applicable insurance laws of the state, if the insurance company has escrowed
135 or entered into a custodian agreement segregating cash or cash equivalents with a market value
136 equal to the amount of its purchase obligations under the put during the complete term of the put
137 option sold; or

138 (d) Sales of covered caps or floors if the insurance company holds in its portfolio the
139 investments generating the cash flow to make the required payments under the caps or floors
140 during the complete term that the cap or floor is outstanding;

141 (5) An insurance company may use derivative instruments for replication transactions
142 only after the director promulgates reasonable rules that set forth methods of disclosure,
143 reserving for risk-based capital, and determining the asset valuation reserve for these
144 instruments. Any asset being replicated is subject to all the provisions and limitations on the
145 making thereof specified in this chapter and chapters 376 and 379, RSMo, with respect to
146 investments by the insurer as if the transaction constituted a direct investment by the insurer in
147 the replicated asset;

148 (6) An insurance company shall include all counterparty exposure amounts in
149 determining compliance with this state's single-entity investment limitations;

150 (7) The director may approve, by rule or order, additional transaction conditions
151 involving the use of derivative instruments for other risk management purposes.

152 3. Written investment policies and record-keeping procedures shall be approved by the
153 board of directors of the insurance company or by a committee authorized by such board before
154 the insurance company may engage in the practices and activities authorized by this section.
155 These policies and procedures must be specific enough to define and control permissible and
156 suitable investment strategies with regard to derivative transactions with a view toward the
157 protection of the policyholders. The minutes of any such committee shall be recorded and
158 regular reports of such committee shall be submitted to the board of directors.

159 4. The director may promulgate reasonable rules and regulations pursuant to the
160 provisions of chapter 536, RSMo, not inconsistent with this section and any other insurance laws
161 of this state, establishing standards and requirements relating to practices and activities
162 authorized in this section, including, but not limited to, rules which impose financial solvency
163 standards, valuation standards, and reporting requirements.

375.480. 1. When any company, which has on deposit the securities named in [sections]
2 **section** 376.170 [and 376.300], RSMo, with the director of the insurance department, shall desire
3 to relinquish and cease its business in this state, said director shall, upon application of such
4 company, under the oath of the president or vice president and secretary or assistant secretary,
5 give notice of such intention in any newspaper of general circulation published in the county or
6 city in which said company is located, if it is a company of this state, or in some newspaper
7 published in the city of St. Louis, if it is a company of another state or government, at least twice
8 a week for six weeks.

9 2. After such publication he shall deliver up and transfer to said company the securities
10 held by him and belonging to the company; but before making such transfer, the director shall

11 be satisfied, by an examination of the books and papers of such company, to be made by himself
12 or some competent person to be appointed by him, or by the oath of the acting president and
13 secretary or assistant secretary of said company if it be a company organized under the laws of
14 this state, that all debts and liabilities of every kind that are due, or may become due, upon all
15 contracts or agreements made with the policyholders in said company, or in any company
16 reinsured by said company, if the deposit is that of a reinsured company and is held for the
17 security of the policyholders of said reinsured company under sections 375.010 to 375.920, are
18 released, satisfied or extinguished; or if it be a company not organized under the laws of this
19 state, that all debts and liabilities of every kind, whether fixed or contingent, due or that may
20 become due to this state or to any county or municipality or citizen thereof, are released, satisfied
21 or extinguished; and the said director may, from time to time, authorize the delivery in the
22 manner aforesaid, to such company or its assigns, of any portion of such securities, on being
23 satisfied in the manner and form aforesaid, that all debts and liabilities of every kind as aforesaid
24 are less than one-half the amount of the said securities which are retained.

375.532. 1. The capital, reserve and surplus of a domestic insurer may be invested in
2 bonds, notes or other evidences of indebtedness, or preferred or guaranteed stocks or shares,
3 issued, assumed or guaranteed by an institution organized under the laws of the United States,
4 any state, territory or possession of the United States, or the District of Columbia, if such bonds,
5 notes or other evidences of indebtedness, or preferred or guaranteed stocks or shares, shall carry
6 at least the second highest designation or quality rating conferred by the Securities Valuation
7 Office of the National Association of Insurance Commissioners, or some similar or equivalent
8 rating by a nationally recognized rating agency which has been approved by the director.

9 2. As used in this section, the term "institution" means a corporation, a joint stock
10 company, an association, a trust, a business partnership, a business joint venture or similar entity.

11 **3. This section shall not apply to an insurer organized under chapter 376, RSMo.**

375.534. 1. In addition to other foreign investments permitted by Missouri law for the
2 type or kind of insurance company involved, the capital, reserves and surplus of all insurance
3 companies of whatever kind and character organized under the laws of this state, having admitted
4 assets of not less than one hundred million dollars, may be invested in securities, investments
5 and deposits issued, guaranteed or assumed by a foreign government or foreign corporation, or
6 located in a foreign country, whether denominated in United States dollars or in foreign currency,
7 subject to the following conditions:

8 (1) Such securities, investments and deposits shall be of substantially the same kind,
9 class and quality of like United States investments eligible for investment by an insurance
10 company under Missouri law;

11 (2) An insurance company shall not invest or deposit in the aggregate more than five
12 percent of its admitted assets under this section, except that an insurance company may reinvest
13 or redeposit any income or profits generated by investments permitted under this section; and

14 (3) Such securities, investments and deposits shall be aggregated with United States
15 investments of the same class in determining compliance with percentage limitations imposed
16 under Missouri law for investments in that class for the type or kind of insurance company
17 involved.

18 **2. This section shall not apply to an insurer organized under chapter 376, RSMo.**

375.1070. 1. Sections 375.1070 to 375.1075 may be cited as the "Investments in
2 Medium and Lower Quality Obligations Law".

3 **2. Sections 375.1070 to 375.1075 shall not apply to an insurer organized under**
4 **chapter 376, RSMo.**

375.1072. As used in sections 375.1070 to 375.1075, the following terms mean:

2 (1) "Admitted assets", the amount thereof as of the last day of the most recently
3 concluded annual statement year, computed in the same manner as admitted assets in [sections
4 376.300 to 376.309, RSMo, for life insurers and] section 379.080, RSMo, for insurers other than
5 life;

6 (2) "Aggregate amount of medium to lower quality obligations", the aggregate statutory
7 statement value thereof;

8 (3) "Institution", a corporation, a joint-stock company, an association, a trust, a business
9 partnership, a business joint venture or similar entity;

10 (4) "Medium to lower quality obligations", obligations which are rated three, four, five
11 and six by the Securities Valuation Office of the National Association of Insurance
12 Commissioners.

375.1075. 1. No domestic insurer shall acquire, directly or indirectly, any medium or
2 lower quality obligation of any institution if, after giving effect to any such acquisition, the
3 aggregate amount of all medium and lower quality obligations then held by the domestic insurer
4 would exceed twenty percent of its admitted assets, and no more than ten percent of its admitted
5 assets consists of obligations rated four, five or six by the Securities Valuation Office, and no
6 more than three percent of its admitted assets consists of obligations rated five or six by the
7 Securities Valuation Office, and no more than one percent of its admitted assets consists of
8 obligations rated six by the Securities Valuation Office. Attaining or exceeding the limit of any
9 one category shall not preclude an insurer from acquiring obligations in other categories subject
10 to the specific and multicategory limits.

11 2. The provisions of this section shall not prohibit a domestic insurer from acquiring any
12 obligations which it has committed to acquire if the insurer would have been permitted to acquire

13 that obligation pursuant to this section on the date on which such insurer committed to purchase
14 that obligation.

15 3. Notwithstanding the other provisions of this section, a domestic insurer may acquire
16 an obligation of an institution in which the insurer already has one or more obligations, if the
17 obligation is acquired in order to protect an investment previously made in the obligations of the
18 institution, provided that all such acquired obligations shall not exceed one-half of one percent
19 of the insurer's admitted assets.

20 4. The board of directors of any domestic insurance company which acquires or invests
21 in, directly or indirectly, medium or lower quality obligations of any institution shall adopt a
22 written plan for the making of such investments. The plan, in addition to guidelines with respect
23 to the quality of the obligations invested in, shall contain diversification standards including, but
24 not limited to, standards for issuer, industry, duration, liquidity and geographic location.

25 5. No investments in excess of the limitations provided by this act shall be recognized
26 as an asset of the insurer pursuant to [section 376.307, RSMo, and] section 379.080, RSMo.

376.170. All life insurance companies organized under the provisions of sections
2 376.010 to 376.670 shall deposit with the director of the insurance department, in addition to
3 other amounts required by law to be deposited by life insurance companies before such
4 companies are permitted to engage in the business of issuing policies of life insurance and
5 annuity bonds, cash or securities of the kind and type in which life insurance companies are
6 required to invest their funds under [section 376.300] **sections 376.291 to 376.307**, as same now
7 is or as same may be hereafter amended, in an amount sufficient to equal the net value on all
8 policies or annuity bonds hereafter issued by such companies, the amount thereof to be
9 determined by an evaluation made in accord with the provisions of sections 376.010 to 376.670.

376.190. The director shall annually cause the registered policies and annuity bonds of
2 each company outstanding and in force to be carefully valued, and whenever the total of the
3 actual net value of such policies and annuity bonds exceeds the market value of the securities on
4 deposit, the company issuing such policies or annuity bonds shall immediately deposit sufficient
5 securities of the same kind and type provided for in [section 376.300] **sections 376.291 to**
6 **376.307** to equal the net value of such policies and annuity bonds so that the market value of the
7 securities deposited shall always be equal to the actual net value of the registered policies and
8 annuity bonds issued by such company and still in force[; provided, however, that bonds and
9 other evidences of debt having a fixed term and rate may be valued in accordance with the
10 provisions of section 376.320].

376.280. 1. No joint stock or stock and mutual company formed under the provisions
2 of sections 376.010 to 376.670, or the laws of this state, for any purpose mentioned in section
3 376.010, shall commence to do business or issue policies unless upon an actual capital of at least

4 six hundred thousand dollars and a surplus of at least six hundred thousand dollars, nor shall any
5 such company commence to do any business unless the full amount of capital stock and surplus
6 named in its charter or articles of association has been paid in and invested in such securities and
7 in accordance with all the provisions as is provided for in [section 376.300] **sections 376.291 to**
8 **376.307**, or as the same may be subsequently amended.

9 2. In order to continue writing new business, any stock company organized under the
10 provisions of sections 376.010 to 376.670, or the laws of this state, for any purpose mentioned
11 in section 376.010, shall maintain an actual capital and surplus in the amount required to
12 commence business.

13 3. Any other provision of this section notwithstanding, a joint stock or stock and mutual
14 company licensed to do business in this state on August 13, 1982, may renew its license for
15 business specified therein until December 31, 1984, by maintaining in lieu of the capital and
16 surplus requirements an actual capital and surplus of at least nine hundred thousand dollars.

17 4. No mutual company formed under the provisions of sections 376.010 to 376.670, or
18 of the laws of this state, shall commence or continue to do any business mentioned in section
19 376.010 until agreement, in writing, with such company shall have been entered into by not less
20 than one hundred persons for assurance upon their own lives, or the lives of other persons for
21 their benefit, nor until it shall have received premiums on the same in cash, to an aggregate
22 amount of not less than six hundred thousand dollars and in addition shall have a surplus of six
23 hundred thousand dollars; provided further, that nothing herein contained shall be so construed
24 as to prohibit any such company from complying with the provisions of sections 362.180 to
25 362.195, RSMo.

26 5. Any other provision of this section notwithstanding, a mutual company licensed to do
27 business in this state on August 13, 1982, may renew its license for business specified therein
28 until December 31, 1984, by maintaining in lieu of the surplus requirement paid-in premiums
29 in an aggregate amount of not less than nine hundred thousand dollars.

30 6. Violation of any of the provisions of this section by any insurer is grounds for the
31 revocation of its certificate of authority by the director.

**376.291. Sections 376.291 to 376.307 shall apply only to investments and investment
2 practices of domestic insurers organized under the provisions of this chapter. Sections
3 376.291 to 376.307 shall not apply to separate accounts of an insurer except to the extent
4 that the provisions of section 376.309 so provide.**

376.292. As used in sections 376.291 to 376.307, the following terms mean:

2 (1) "Acceptable collateral", as to securities lending repurchase and reverse
3 repurchase transactions, any financial assets of a type for which, when taken as collateral
4 by an insurer in such transactions, would permit the subject securities or repurchase

5 agreements, as the case may be, to constitute admitted assets of the insurer under the
6 relevant statutory accounting principles promulgated from time to time by the NAIC as
7 adopted by the director;

8 (2) "Acceptable private mortgage insurance", insurance written by a private
9 insurer protecting a mortgage lender against loss occasioned by a mortgage loan default
10 and issued by a licensed mortgage insurance company with an SVO "1" designation or a
11 rating issued by a nationally recognized statistical rating organization equivalent to an
12 SVO "1" designation that covers losses to an eighty percent loan-to-value ratio;

13 (3) "Accident and health insurance", protection that provides payment of benefits
14 for covered sickness or accidental injury, excluding credit insurance, disability insurance,
15 accidental death and dismemberment insurance, and long-term care insurance;

16 (4) "Accident and health insurer", a licensed life or health insurer or health service
17 corporation whose insurance premiums and required statutory reserves for accident and
18 health insurance constitute at least ninety-five percent of total premium considerations or
19 total statutory required reserves, respectively;

20 (5) "Admitted assets", assets permitted to be reported as admitted assets on the
21 statutory financial statement of the insurer most recently required to be filed with the
22 director but excluding assets of separate accounts;

23 (6) "Affiliate", as to any person, another person that, directly or indirectly through
24 one or more intermediaries controls, is controlled by, or is under common control with the
25 person;

26 (7) "Asset-backed security", a security or other instrument, excluding shares in a
27 mutual fund, evidencing an interest in or the right to receive payments from, or payable
28 from distributions on an asset, a pool of assets, or specifically divisible cash flows which
29 are legally transferred to a trust or another special purpose bankruptcy-remote business
30 entity on the following conditions:

31 (a) The trust or other business entity is established solely for the purpose of
32 acquiring specific types of assets or rights to cash flows, issuing securities and other
33 instruments representing an interest in or right to receive cash flows from those assets or
34 rights, and engaging in activities required to service the assets or rights and any credit
35 enhancement or support features held by the trust or other business entity; and

36 (b) The assets of the trust or other business entity consist solely of interest bearing
37 obligations or other contractual obligations representing the right to receive payment from
38 the cash flow from the assets. However, the existence of credit enhancements, such as
39 letters of credit or guarantees or support features, such as swap agreements, shall not cause
40 a security or other instrument to be ineligible as an asset-backed security;

41 (8) "Business entity", a sole proprietorship, limited liability company, association,
42 partnership, joint stock company, joint venture, mutual fund, trust, joint tendency, or
43 other similar form of business organization, whether organized for-profit or not-for-profit;

44 (9) "Capital and surplus", the sum of the capital and surplus of the insurer
45 required to be shown on the statutory financial statement of the insurer most recently
46 required to be filed with the director;

47 (10) "Cash equivalents", short-term, highly rated, and highly liquid investments
48 or securities readily convertible to known amounts of cash without penalty and so near
49 maturity that they present insignificant risk of change in value. Cash equivalents include
50 government money market mutual funds and class one money market mutual funds. For
51 purposes of this subdivision:

52 (a) "Short-term" means investments with a remaining term to maturity of ninety
53 days or less; and

54 (b) "Highly rated" means an investment rated "P-1" by Moody's Investors Service,
55 Inc., or "A-1" by Standard and Poor's division of The McGraw Hill Companies, Inc., or
56 its equivalent rating by a nationally recognized statistical rating organization recognized
57 by the SVO;

58 (11) "Class one bond mutual fund", a mutual fund that at all times qualifies for
59 investment using the bond class one reserve factor under the Purpose and Procedures of
60 the Securities Valuation Office or any successor publication;

61 (12) "Class one money market mutual fund", a money market mutual fund that at
62 all times qualifies for investment using the bond class one reserve factor under the Purpose
63 and Procedures of the Securities Valuation Office or any successor publication;

64 (13) "Code", this chapter and chapters 374, 375, and 382, RSMo;

65 (14) "Commercial mortgage loan", a loan secured by a mortgage other than a
66 residential mortgage loan;

67 (15) "Construction loan", a loan less than three years in term made for financing
68 the cost of construction of a building or other improvement to real estate that is secured
69 by the real estate;

70 (16) "Control", the possession, directly or indirectly, of the power to direct or cause
71 the direction of the management and policies of a person, whether through the ownership
72 of voting securities, by contract, other than a commercial contract for goods or
73 nonmanagement service, or otherwise, unless the power is the result of an official position
74 with or corporate office held by the person. Control shall be presumed to exist if a person,
75 directly or indirectly, owns, controls, holds with power to vote, or holds proxies
76 representing ten percent or more of the voting securities of another person. This

77 presumption may be rebutted by a showing that control does not exist in fact. The director
78 may determine after furnishing all interested persons notice and an opportunity to be
79 heard and making specific findings of fact to support the determination that control exists
80 in fact, notwithstanding the absence of a presumption to that effect;

81 (17) "Credit tenant loan", a mortgage loan which is made primarily in reliance on
82 the credit standing of a major tenant, structured with an assignment of the rental payments
83 to the lender with real estate pledged as collateral in the form of a first lien;

84 (18) "Direct" or "directly", in connection with an obligation, the designated obligor
85 primarily liable on the instrument representing the obligation;

86 (19) "Dollar roll transaction", two simultaneous transactions with different
87 settlement dates no more than ninety-six days apart so that in the transaction with the
88 earlier settlement date an insurer sells to a business entity, and in the other transaction the
89 insurer is obligated to purchase, from the same business entity, substantially similar
90 securities of the following types:

91 (a) Asset-backed securities issued, assumed or guaranteed by the Government
92 National Mortgage Association, the Federal National Mortgage Association, or the Federal
93 Home Loan Mortgage Corporation or their respective successors; and

94 (b) Other asset-backed securities referred to in section 106 of Title I of the
95 Secondary Mortgage Market Enhancement Act of 1984 (15 U.S.C. 77r-1), as amended;

96 (20) "Domestic jurisdiction", the United States, Canada, any state, any province
97 of Canada, or any political subdivision of the foregoing;

98 (21) "Equity interest", any of the following that are not rated credit instruments:

99 (a) Common stock;

100 (b) Preferred stock;

101 (c) Trust certificate;

102 (d) Equity investment in an investment company other than a money market
103 mutual fund or a class one bond mutual fund;

104 (e) Investment in a common trust fund of a bank regulated by a federal or state
105 agency;

106 (f) An ownership interest in mineral, oil, or gas to which the rights have been
107 separated from the underlying fee interest in the real estate where the mineral, oil, or gas
108 are located;

109 (g) Instruments which are mandatory, or at the option of the issuer, convertible to
110 equity;

111 (h) Limited partnership interest and those general partnership interests authorized
112 under subdivision (4) of section 376.294;

- 113 (i) Member interests in limited liability companies;
- 114 (j) Warrants or other rights to acquire equity interests that are created by the
115 person that owns or would issue the equity to be acquired; or
- 116 (k) Instruments that would be rated credit instruments except for the provisions
117 under subdivision (48) of this section;
- 118 (22) "Foreign currency", currency other than that of a domestic jurisdiction;
- 119 (23) (a) "Foreign investment", an investment in a foreign jurisdiction or an
120 investment in a person, real estate, or asset domiciled in a foreign jurisdiction that is
121 substantially of the same type as those eligible for investment under this chapter other than
122 under section 376.304. An investment shall not be deemed foreign if the issuing person,
123 qualified primary credit source, or qualified guarantor is a domestic jurisdiction or a
124 person domiciled in a domestic jurisdiction unless:
- 125 a. The issuing person is a shell business entity; and
- 126 b. The investment is not assumed, accepted, guaranteed, or insured or otherwise
127 backed by a domestic jurisdiction, or a person that is not a shell business entity domiciled
128 in a domestic jurisdiction;
- 129 (b) For purposes of this definition:
- 130 a. "Shell business entity" means a business entity having no economic substance
131 except as a vehicle for owning interests in assets issued, owned, or previously owned by a
132 person domiciled in a foreign jurisdiction;
- 133 b. "Qualified guarantor" means a guarantor against which an insurer has a direct
134 claim for full and timely payment, evidenced by a contractual right for which an
135 enforcement action can be brought in a domestic jurisdiction;
- 136 c. "Qualified primary credit score" means the credit score to which an insurer
137 looks for payment as to an investment and against which an insurer has a direct claim for
138 full and timely payment evidenced by a contractual right for which an enforcement action
139 can be brought in a domestic jurisdiction;
- 140 (24) "Foreign jurisdiction", a jurisdiction other than a domestic jurisdiction;
- 141 (25) "Government money market mutual fund", a money market mutual fund that
142 at all times:
- 143 (a) Invests only in obligations issued, guaranteed, or insured by the federal
144 government of the United States or collateralized repurchase agreements composed of these
145 obligations; and
- 146 (b) Qualifies for investment without a reserve under the Purposes and Procedures
147 of the Securities Valuation Office or any successor publication;
- 148 (26) "Government sponsored enterprise", a:

- 149 (a) **Government agency; or**
- 150 (b) **Corporation, limited liability company, association, partnership, joint stock**
- 151 **company, joint venture, trust, or other entity or instrumentality organized under the laws**
- 152 **of any domestic jurisdiction to accomplish a public policy or other governmental purpose;**
- 153 (27) **"Guaranteed" or "insured", in connection with an obligation acquired under**
- 154 **this chapter, the guarantor or insurer has agreed to:**
- 155 (a) **Perform or insure the obligation of the obligor or purchase the obligation; or**
- 156 (b) **Be unconditionally obligated until the obligation is repaid to maintain in the**
- 157 **obligor a minimum net worth, fixed charge coverage, stockholders' equity or sufficient**
- 158 **liquidity to enable the obligor to pay the obligation in full;**
- 159 (28) **"High grade investment", a rated credit instruments rated "1", "2", "P1",**
- 160 **"P2", "PSF1", or "PSF2" by the SVO;**
- 161 (29) **"Investment company", an investment company as defined in section 3(a) of**
- 162 **the Investment Company Act of 1940 (15 U.S.C. 80a-1), as amended, and a person**
- 163 **described in section 3(c) of that Act;**
- 164 (30) **"Investment company series", an investment portfolio of an investment**
- 165 **company that is organized as a series company and to which assets of the investment**
- 166 **company have been specifically allocated;**
- 167 (31) **"Investment subsidiary", a subsidiary of an insurer engaged or organized to**
- 168 **engage exclusively in the ownership and management of assets authorized as investments**
- 169 **for the insurer if such subsidiary limits its investment in any asset so that its investments**
- 170 **will not cause the amount of the total investment of the insurer to exceed any of the**
- 171 **investment limitation or avoid any other provisions of this chapter applicable to the**
- 172 **insurer. As used in this subdivision, the total investment insurer shall include:**
- 173 (a) **Direct investment by the insurer in an asset; and**
- 174 (b) **The insurer's proportionate share of an investment in an asset by an investment**
- 175 **subsidiary of the insurer which shall be calculated by multiplying the amount of the**
- 176 **subsidiary's investment by the percentage of the insurer's ownership interest in the**
- 177 **subsidiary;**
- 178 (32) **"Investment strategy", the techniques and methods used by an insurer to meet**
- 179 **its investment objectives, such as active bond portfolio management, passive bond portfolio**
- 180 **management, interest rate anticipation, growth investing, and value investing;**
- 181 (33) **"Letter of credit", a clean, irrevocable, and unconditional letter of credit**
- 182 **issued or confirmed by and payable and presentable at a financial institution on the list of**
- 183 **financial institutions meeting the standards for issuing letters of credit under the Purposes**
- 184 **and Procedures of the Securities Valuation Office or any successor publication. To**

185 constitute applicable collateral for the purposes of section 376.303, a letter of credit shall
186 have an expiration date beyond the term of the subject transaction;

187 (34) "Limited liability company", a business organization, excluding partnerships
188 and ordinary business corporations, organized or operating under the laws of the United
189 States or any state thereof that limits the personal liability of investors to the equity
190 investment of the investor in the business entity;

191 (35) "Lower grade investment", a rated credit instrument rated "4", "5", "6",
192 "P4", "P5", "P6", "PSF4", "PSF5", or "PSF6" by the SVO;

193 (36) "Market value":

194 (a) As to cash and credit, the amounts thereof; and

195 (b) As to a security as of any date, the price for the security in that date obtained
196 from a generally recognized source or the most recent quotation from a source, or to the
197 extent no generally recognized source exists, the price for the security reasonably as
198 determined by the insurer plus accrued but unpaid income thereon to the extent not
199 included in the price as of that date;

200 (37) "Medium grade investment", a rated credit instrument rated "3", "P3", or
201 "PSF3" by the SVO;

202 (38) "Money market mutual fund", a mutual fund that meets the conditions of 17
203 C.F.R. 270.2a-7 under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.), as
204 amended or renumbered;

205 (39) "Mortgage loan", an obligation secured by a mortgage, deed of trust, trust
206 deed, or other consensual lien on real estate;

207 (40) "Multilateral development bank", an international development organization
208 of which the United States is a member;

209 (41) "Mutual fund", an investment company or in the case of an investment
210 company that is organized as a series company, an investment company series, that in
211 either case is registered with the United States Securities and Exchange Commission under
212 the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.), as amended;

213 (42) "NAIC", the National Association of Insurance Commissioners;

214 (43) "Obligation", a bond, note, debenture, trust certificate, including an
215 equipment trust certificate, production payment, negotiable bank certificate of deposit,
216 bankers' acceptance, credit tenant loan, loan secured by financing net leases, and other
217 evidence of indebtedness for the payment of money, or participations, certificates, or other
218 evidence of an interest in any of the foregoing, whether constituting a general obligation
219 of the issuer or payable only out of certain revenues or certain funds pledged or otherwise
220 dedicated for payment;

221 (44) "Person", an individual, a business entity, a multilateral development bank,
222 or a government or quasi-government body, such as a political subdivision or a
223 government sponsored enterprise;

224 (45) "Preferred stock", preferred, preference, or guaranteed stock of a business
225 entity authorized to issue the stock that has a preference in liquidation over the common
226 stock of the business entity;

227 (46) "Qualified business entity", a business entity that is:

228 (a) An issuer of obligations or preferred stock that are rated "1" or "2" by the
229 SVO or an issuer of obligations, preferred stock, or derivative instruments that are rated
230 the equivalent of "1" or "2" by the SVO or the equivalent by a nationally recognized
231 statistical rating organization recognized by the SVO;

232 (b) A primary dealer in the United States government securities recognized by the
233 Federal Reserve Bank of New York; or

234 (c) With respect to section 376.303, an affiliate of an entity that is a qualified
235 business entity under paragraph (a) or (b) of this subdivision whose arrangement with the
236 insurer is guaranteed by the affiliated entity that is a qualified business entity under
237 paragraph (a) or (b) of this subdivision;

238 (47) "Rated credit instrument":

239 (a) An obligation or other instrument which gives its holder a contractual right to
240 receive cash or another rated credit instrument from another entity if the instrument:

241 a. Is rated or required to be rated by the SVO;

242 b. In the case of an instrument with a maturity of three hundred ninety-seven days
243 or less, is issued, guaranteed, or insured by an entity that is rated by or another instrument
244 of such entity is rated by the SVO or by a nationally recognized statistical rating
245 organization recognized by the SVO;

246 c. In the case of an instrument with a maturity of ninety days or less, is issued,
247 assumed, accepted, guaranteed, or insured by a qualified bank;

248 d. Is a share of a class one bond mutual fund; or

249 e. Is a share of a money market mutual fund;

250 (b) "Rated credit instrument" shall not mean:

251 a. An instrument that is mandatorily, or at the option of the issuer, convertible to
252 an equity interest; or

253 b. A security that has a par value and whose terms provide that the issuer's net
254 obligation to repay all or part of the security's par value is determined by reference to the
255 performance of an equity, a commodity, a foreign currency, or an index of equities,
256 commodities, foreign currencies, or combination thereof;

- 257 **(48) "Real estate":**
258 **(a) Real property;**
259 **(b) Interests in real property, such as leaseholds, mineral, oil, and gas that have not**
260 **been separated from the underlying fee interest;**
261 **(c) Improvements and fixtures located on or in real property; and**
262 **(d) The seller's equity in a contract providing for a deed of real estate;**
263
- 264 **As to a mortgage on a leasehold estate, real estate shall include the leasehold estate only if**
265 **it has an unexpired term, including renewal options exercisable at the option of the lessee**
266 **extending beyond the scheduled maturity date of the obligation that is secured by a**
267 **mortgage on a leasehold estate by a period equal to at least twenty percent of the original**
268 **term of the obligation or ten years, whichever is greater;**
- 269 **(49) "Repurchase transaction", a transaction in which an insurer purchases**
270 **securities from a business entity that is obligated to repurchase the purchased securities**
271 **or substantially the same securities from the insurer at a specified price within a specified**
272 **period of time or on demand;**
- 273 **(50) "Required liabilities", total liabilities required to be reported on the statutory**
274 **financial statement of the insurer most recently required to be filed with the director;**
- 275 **(51) "Residential mortgage loan", a loan primarily secured by a mortgage on real**
276 **estate improved with a one-to-four family residence;**
- 277 **(52) "Reverse repurchase transaction", a transaction in which an insurer sells**
278 **substantially the same securities to a business entity and is obligated to repurchase the sold**
279 **securities or substantially the same securities from the business entity at a specified price**
280 **within a specified period of time or upon demand;**
- 281 **(53) "Secured location", the contiguous real estate owned by one person;**
- 282 **(54) "Securities lending transaction", a transaction in which securities are loaned**
283 **by an insurer to a business entity that is obligated to return the loaned securities or**
284 **substantially the same securities to the insurer within a specified period of time or upon**
285 **demand;**
- 286 **(55) "Series company", an investment company that is organized as series**
287 **company, as defined in Rule 18f-2 under the Investment Company Act of 1940 (15 U.S.C.**
288 **80a-1 et seq.), as amended;**
- 289 **(56) "Sinking fund stock", preferred stock that:**
290 **(a) Is subject to a mandatory sinking fund or similar arrangement that will provide**
291 **for the redemption or open market purchase of the entire issue over a period not longer**
292 **than forty years from the date of acquisition; and**

293 (b) Provides for mandatory sinking fund installments or open market purchases
294 commencing not more than ten and one-half years from the date of issue with the sinking
295 fund installments providing for the purchase or redemption on a cumulative basis
296 commencing ten years from the date of issue of at least two and one-half percent per year
297 of the original number of shares of that issue of preferred stock;

298 (57) "Special rated credit instrument", a rated credit instrument that is:

299 (a) Structured so that if it is held until retired by or on behalf of the issuer, its rate
300 of return based on its purchase cost and any cash flow stream possible under the structure
301 of the transaction may become negative due to reasons other than the credit risk associated
302 with the issuer of the instrument; however, a rated credit instrument shall not be a special
303 rated credit instrument under this paragraph if it is:

304 a. A share in a class one bond mutual fund;

305 b. An instrument other than an asset-backed security with payments of par value
306 fixed as to an amount and timing or callable but in any event payable only at par value or
307 greater and interest or dividend cash flows that are based on a fixed or variable rate
308 determined by reference to a specified rate or index;

309 c. An instrument other than an asset-backed security that has a par value and is
310 purchased at a price no greater than one hundred ten percent of par;

311 d. An instrument, including an asset-backed security, whose rate of return would
312 become negative only as a result of prepayment due to casualty, condemnation, or
313 economic obsolescence of collateral or change of law;

314 e. An asset-backed security that relies on collateral that meets the requirements of
315 subparagraph b. of this paragraph and the par value of which collateral:

316 (i) Is not permitted to be paid sooner than one-half of the remaining term to
317 maturity from the date of acquisition;

318 (ii) Is permitted to be paid prior to maturity only at a premium sufficient to provide
319 a yield to maturity for the investment, considering the amount of prepaid and reinvestment
320 rates at the time of early repayment, at least equal to the yield to maturity of the initial
321 investment; or

322 (iii) Is permitted to be paid prior to maturity at a premium at least equal to the
323 yield of a treasury issue of comparable remaining life; or

324 f. An asset-backed security that relies on cash flow from assets that are not
325 prepayable at any time at par but is not otherwise governed by subparagraph e. of this
326 paragraph if the asset-backed security has a par value reflecting principal payments to be
327 received if held until retired by or on behalf of the issuer and is purchased at a price no
328 greater than one hundred five percent of such par amount;

- 329 (b) An asset-backed security that:
- 330 a. Relies on cash flow from assets that are prepayable at par at any time;
- 331 b. Does not make payments of par that are fixed as to amount and timing; and
- 332 c. Has a negative rate of return at the time of acquisition if a prepayment threshold
- 333 assumption is used with such prepayment threshold assumption defined as either:
- 334 (i) Two times the prepayment expectation reported by a recognized publicly
- 335 available source as being the median of expectations contributed by broker dealers or other
- 336 entities except insurers engaged in the business of selling or evaluating such securities or
- 337 assets. At the insurer's election, the prepayment expectation used in this calculation shall
- 338 be the prepayment expectation for pass-through securities of the Federal National
- 339 Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government
- 340 National Mortgage Association, or for other assets of the same type of assets that underlie
- 341 the asset-backed security in a gross weighted average coupon comparable to the gross
- 342 weighted average coupon of the assets that underlie the asset-backed security; or
- 343 (ii) Another prepayment threshold assumption specified by the director by
- 344 regulation;
- 345 (c) For purposes of paragraph (b) of this subdivision, if the asset-backed security
- 346 is purchased in combination with one or more other asset-backed securities that are
- 347 supported by identical underlying collateral, the insurer may calculate the rate of return
- 348 for these specific combined asset-backed securities in combination. The insurer shall
- 349 maintain documentation demonstrating that such securities were acquired and are
- 350 continuing to be held in combination;
- 351 (58) "State", a state, territory, or possession of the United States, District of
- 352 Columbia, or the Commonwealth of Puerto Rico;
- 353 (59) "Substantially the same securities", securities that meet all criteria for
- 354 substantially the same securities specified in the NAIC Accounting Practices and
- 355 Procedures Manual, as amended, as adopted by the director;
- 356 (60) "Subsidiary", as to any person, an affiliate controlled by such person, directly
- 357 or indirectly, through one or more intermediaries;
- 358 (61) "SVO", the Securities Valuation Office of the NAIC or any successor office
- 359 established by the NAIC;
- 360 (62) "Unrestricted surplus", the amount by which total admitted assets exceed one
- 361 hundred and twenty-five percent of the insurer's required liabilities.

376.293. 1. (1) Insurers may acquire, hold, or invest in investments or engage in
2 investment practices as set forth in this chapter or section 375.345, RSMo. Insurers may
3 also acquire, hold, or invest in investments not conforming to the requirements of this

4 section that are not otherwise prohibited by this chapter or section 375.345, RSMo,
5 provided however, that investments not conforming to this section shall not be admitted
6 assets. The provisions and definitions of terms of section 375.345, RSMo, related to
7 derivative transactions shall also apply to investments under this chapter.

8 (2) Subject to subdivision (3) of this subsection, an insurer shall not acquire or hold
9 an investment as an admitted asset unless at the time of acquisition:

10 (a) It is eligible for the payment or accrual of interest or discount, whether in cash
11 or other forms of income or securities, eligible to receive dividends or other distributions
12 or is otherwise income producing; or

13 (b) It is acquired under section 375.345, RSMo, subsection 3 of section 376.302,
14 section 376.303 or 376.307 or under the authority of sections of the code other than sections
15 376.291 to 376.307.

16 (3) An insurer may acquire or hold as admitted assets investments that do not
17 otherwise qualify, as provided in sections 376.291 to 376.307, if this insurer has not
18 acquired the assets investments for the purpose of circumventing any limitations contained
19 in sections 376.291 to 376.307 and if the insurer acquires the investments in the following
20 circumstances and complies with the provisions of sections 376.291 to 376.307 as to the
21 investments:

22 (a) As a payment on account of existing indebtedness or in connection with the
23 refinancing, restructuring, or workout of existing indebtedness, if taken to protect the
24 insurer's interest in that investment;

25 (b) As realization of collateral for indebtedness;

26 (c) In connection with an otherwise qualified investment or investment practice as
27 interest on, or a dividend, or other distribution related to the investment or investment
28 practice or in connection with the refinancing of the investment. In each case, no
29 additional or only nominal consideration is necessary;

30 (d) Under lawful and bona fide agreement of recapitalization or voluntary or
31 involuntary reorganization in connection with an investment held by the insurer; or

32 (e) Under a bulk reinsurance, merger, or consolidation transaction approved by the
33 director if the assets constitute admissible investments for the ceding, merged, or
34 consolidated companies.

35 (4) An investment or portion of an investment acquired by an insurer under
36 subdivision (3) of this subsection shall become a nonadmitted asset three years, or five
37 years in the case of mortgage loans and real estate, from the date of its acquisition unless
38 within that period the investment has become a qualified investment under a section of this
39 chapter other than subdivision (3) of this subsection, but an investment acquired under an

40 agreement of bulk reinsurance, merger, or consolidation may be qualified for a longer
41 period if so provided in the plan for reinsurance, merger, or consolidation as approved by
42 the director. Upon application by the insurer and a showing that the nonadmission of an
43 asset held under subdivision (3) of this subsection would materially injure the interests of
44 the insurer, the director may extend the period of admissibility for an additional,
45 reasonable period of time.

46 (5) Except as provided in subdivisions (6) and (8) of this subsection, an investment
47 shall qualify under this chapter if on the date the insurer committed to acquire the
48 investment or on the date of its acquisition it would have qualified under this chapter. For
49 the purposes of determining limitations contained in this chapter, an insurer shall give
50 appropriate recognition to any commitments to acquire investments.

51 (6) (a) An investment held as an admitted asset by an insurer on August 28, 2007,
52 which qualified under this chapter, or chapter 375, RSMo, shall remain qualified as an
53 admitted asset.

54 (b) Each specific transaction constituting an investment practice of the type
55 described in this chapter that was lawfully entered into by an insurer and was in effect on
56 August 28, 2007, shall continue to be permitted under this chapter until its expiration or
57 termination under its terms, including any expiration or termination after an extension
58 under its terms.

59 (7) Unless otherwise specified, an investment limitation computed on the basis of
60 an insurer's admitted assets or capital and surplus shall relate to the amount required to
61 be shown on the statutory balance sheet of the insurer most recently required to be filed,
62 annual or last quarter, with the director. Solely for the purposes of computing any
63 limitation based upon admitted assets, the insurer shall deduct from the amount of its
64 admitted assets the amount of the liability recorded on such statutory balance sheet for:

65 (a) The return of acceptable collateral received in a reverse repurchase transaction
66 or a securities lending transaction;

67 (b) Cash received in a dollar roll transaction; and

68 (c) The amount reported as borrowed money in such statutory balance sheet to the
69 extent not included in paragraph (b) and this paragraph of this subdivision.

70 (8) An investment qualified, in whole or in part, for acquisition or holding as an
71 admitted asset may be qualified or requalified at the time of acquisition or a later date, in
72 whole or in part, under any section if the relevant conditions contained in the other section
73 are satisfied at the time of the qualification or requalification.

74 (9) An insurer shall maintain documentation demonstrating that investments were
75 acquired in accordance with this chapter.

76 **(10) An insurer shall not enter into an agreement to purchase securities in advance**
77 **of their issuance for resale to the public as part of a distribution of the securities by the**
78 **issuer or otherwise guarantee the distribution, except that an insurer may acquire privately**
79 **placed securities with registration rights.**

80 **(11) Notwithstanding the provisions of this chapter, the director, for good cause,**
81 **may order an insurer to nonadmit, limit, dispose of, withdraw from, or discontinue an**
82 **investment or investment practice. The authority of the director under this subsection is**
83 **in addition to any other authority of the director.**

84 **2. (1) Within three months after August 28, 2007, an insurer's board of directors**
85 **shall adopt a written plan for acquiring and holding investments and for engaging in**
86 **investment practices that specifies guidelines as to the quality, maturity, and diversification**
87 **of the investments and other specifications, including investment strategies intended to**
88 **assure that the investments and investment practices are appropriate for the business**
89 **conducted by the insurer, its liquidity needs, and its capital and surplus. The board shall**
90 **review and assess the insurer's technical investment and administrative capabilities and**
91 **expertise before adopting a written plan concerning an investment strategy or investment**
92 **practice.**

93 **(2) Investments acquired and held under this chapter and section 375.345, RSMo,**
94 **shall be acquired and held under the supervision and direction of the board of directors**
95 **of the insurer. The board of directors shall evidence by formal resolution at least annually**
96 **that it has determined whether all investments have been made in accordance with**
97 **delegations, standards, limitations, and investment objectives prescribed by the board or**
98 **a committee of the board charged with the responsibility to direct its investments.**

99 **(3) On no less than a quarterly basis and more often if deemed appropriate, an**
100 **insurer's board of directors or committee of the board of directors shall:**

101 **(a) Receive and review a summary report on the insurer's investment portfolio, its**
102 **investment activities, and investment practices engaged in under delegated authority in**
103 **order to determine whether the investment activity of the insurer is consistent with its**
104 **written plan; and**

105 **(b) Review and revise, as appropriate, the written plan.**

106 **(4) In discharging its duties under this section, the board of directors shall require**
107 **that records of any authorization or approvals, other documentation as the board may**
108 **require, and reports of any action taken under authority delegated under the plan referred**
109 **to in subsection 1 of this section shall be made available on a regular basis to the board of**
110 **directors.**

111 **(5) In discharging their duties under this section, the directors of an insurer shall**
112 **perform their duties in good faith and with that degree of care that ordinarily prudent**
113 **individuals in like positions would use under similar circumstances.**

114 **(6) If an insurer does not have a board of directors, all references to the board of**
115 **directors in sections 376.291 to 376.307 shall be deemed to be references to the governing**
116 **body of the insurer having authority equivalent to that of a board of directors.**

376.294. 1. An insurer shall not directly or indirectly:

2 **(1) Invest in an obligation or security or make a guarantee for the benefit of or in**
3 **favor of an officer or director of the insurer except as provided in section 376.295;**

4 **(2) Invest in an obligation or security, make a guarantee for the benefit of or in**
5 **favor of, or make other investments in a business entity of which ten percent or more of the**
6 **voting securities or equity interests are owned directly or indirectly by or for the benefit**
7 **of one or more officers or directors in the insurer except under a transaction entered into**
8 **in compliance with section 382.195, RSMo, or provided in section 376.295;**

9 **(3) Engage on its own behalf or through one or more affiliates in a transaction or**
10 **series of transactions designed to evade the prohibitions of section 375.345, RSMo, and**
11 **sections 376.291 to 376.307, or section 376.311;**

12 **(4) Invest in a partnership as a general partner, except that an insurer may make**
13 **an investment as a general partner:**

14 **(a) If all other partners in the partnership are subsidiaries of the insurer or other**
15 **insurance company affiliates of the insurer;**

16 **(b) For the purpose of:**

17 **a. Meeting cash calls committed to prior to August 28, 2007;**

18 **b. Completing those specific projects or activities of the partnership in which the**
19 **insurer was a general partner as of August 28, 2007, that had been undertaken as of that**
20 **date; or**

21 **c. Making capital improvements to property owned by the partnership on August**
22 **28, 2007, if the insurer was a general partner as of that date; or**

23 **(c) In accordance with subdivision (3) of subsection 1 of section 376.293; or**

24 **(5) Invest or lend its funds upon the security of shares of its own stock, except as**
25 **authorized by other provisions of this chapter. However, no such shares shall be admitted**
26 **assets of the insurer.**

27 **2. Subdivision (4) of subsection 1 of this section shall not prohibit a subsidiary or**
28 **other affiliate of the insurer from becoming a general partner.**

376.295. 1. (1) Except as provided in subsection 2 of this section, an insurer shall
2 **not without written approval of the director, directly or indirectly:**

3 (a) **Make a loan to or other investment in an officer or director of the insurer or a**
4 **person in which the officer has any direct or indirect financial interest;**

5 (b) **Make a guarantee for the benefit of or in favor of an officer or director of the**
6 **insurer or a person in which the officer or director has any direct or indirect financial**
7 **interest; or**

8 (c) **Enter into an agreement for the purchase or sale of property from or to an**
9 **officer or director of the insurer or a person in which the officer or director has any direct**
10 **or indirect financial interest.**

11 (2) **For purposes of this section, an officer or director shall not be deemed to have**
12 **a financial interest by reason of an interest that is held directly or indirectly through the**
13 **ownership of equity interests representing less than two percent of all outstanding equity**
14 **interest issued by a person that is a party to the transaction or solely by reason of that**
15 **individual's position as a director or officer of a person that is a party to the transaction.**

16 (3) **This subsection shall not permit an investment that is prohibited by section**
17 **376.294.**

18 (4) **This subsection shall not apply to a transaction between an insurer and any of**
19 **its subsidiaries or affiliates that is entered into in compliance with chapter 382, RSMo,**
20 **other than a transaction between an insurer and its officer or director.**

21 **2. An insurer may, without the prior written approval of the director make:**

22 (1) **Policy loans in accordance with the terms of the policy or contract and section**
23 **376.306;**

24 (2) **Advances to officers or directors for expenses reasonably expected to be**
25 **incurred in the ordinary course of the insurer's business or guarantees associated with**
26 **credit or charge cards issued or credit extended for the purpose of financing these**
27 **expenses;**

28 (3) **Loans secured by the principal residence of an existing or new officer of the**
29 **insurer made in connection with the officer's relocation at the insurer's request if the loans**
30 **comply with the requirements of section 376.302 and the terms and conditions otherwise**
31 **are the same as those generally available from unaffiliated third parties;**

32 (4) **Loans and advances to officers or directors made in compliance with state or**
33 **federal law specifically related to the loans and advances by a regulated noninsurance**
34 **subsidiary or affiliate of the insurer in the ordinary course of business and on terms no**
35 **more favorable than available to other customers of the entity; and**

36 (5) **Secured loans to an existing or new officer of the insurer made in connection**
37 **with the officer's relocation at the insurer's request, if the loans:**

38 (a) **Do not have a term exceeding two years;**

39 (b) Are required to finance mortgage loans outstanding at the same time on the
40 prior and new residences of the officer;

41 (c) Do not exceed an amount equal to the equity of the officer in the prior residence;

42 (d) Are required to be fully repaid upon the earlier of the end of the two-year
43 period or the sale of the prior residence.

376.296. The value or amount of an investment acquired or held or an investment
2 practice engaged in under this chapter, unless otherwise specified in this code, shall be the
3 value at which assets of an insurer are required to be reported for statutory accounting
4 purposes as determined in accordance with procedures prescribed in published accounting
5 and valuation standards of the NAIC, including the Purposes and Procedures of the
6 Securities Valuation Office, the Valuation of Securities Manual, the Accounting Practices
7 and Procedures Manual, the Annual Statement Instructions, or any successor valuation
8 procedures officially adopted by the NAIC.

376.297. 1. (1) Except as otherwise specified in this chapter, an insurer shall not
2 acquire an investment directly or indirectly through an investment subsidiary if, as a result
3 of and after giving effect to the investment, the insurer would hold more than three percent
4 of its admitted assets in the investments of all kinds issued, assumed, accepted, insured, or
5 guaranteed by a single person, or five percent of its admitted assets in investments in the
6 voting securities of a depository institution or any company that controls the institution.

7 (2) The three percent limitation described in subdivision (1) of this subsection shall
8 not apply to the aggregate amounts insured by a single financial guaranty insurer with the
9 highest generic rating issued by a nationally recognized statistical rating organization.

10 (3) Asset-backed securities shall not be subject to the limitations of subdivision (1)
11 of this subsection; however, an insurer shall not acquire an asset-backed security if as a
12 result of and after giving effect to the investment the aggregate amount of asset-backed
13 securities secured by or evidencing an interest in a single asset or single pool of assets held
14 by a trust or other business entity then held by the insurer would exceed three percent of
15 its admitted assets.

16 2. (1) An insurer shall not acquire directly or indirectly through an investment
17 subsidiary an investment under sections 376.298, 376.301, and 376.304, or counterparty
18 exposure under subdivision (6) of subsection 2 of section 375.345, RSMo, if as a result of
19 and after giving effect to the investment:

20 (a) The aggregate amount of medium and lower grade investments then held by the
21 insurer would exceed twenty percent of its admitted assets;

22 (b) The aggregate amount of lower grade investments then held by the insurer
23 would exceed ten percent of its admitted assets;

24 (c) The aggregate amount of investments rated "5" or "6" by the SVO then held
25 by the insurer would exceed three percent of its admitted assets;

26 (d) The aggregate amount of investments rated "6" by the SVO then held by the
27 insurer would exceed one percent of its admitted assets; or

28 (e) The aggregate amount of lower grade investments then held by the insurer that
29 receive cash income less than the equivalent yield for treasury issues with a comparative
30 average life would exceed one percent of its admitted assets.

31 (2) An insurer shall not acquire directly or indirectly through an investment
32 subsidiary an investment under sections 376.298, 376.301, and 376.304, or counterparty
33 exposure under subdivision (6) of subsection 2 of section 375.345, RSMo, if as a result of
34 and after giving effect to the investment:

35 (a) The aggregate amount of medium and lower grade investments issued, assumed,
36 accepted, guaranteed, or insured by any one person or as to asset-backed securities secured
37 by or evidencing an interest in a single asset or pool of assets then held by the insurer
38 would exceed one percent of its admitted assets; or

39 (b) The aggregate amount of lower grade investments issued, assumed, accepted,
40 guaranteed, or insured by any one person or as to asset-backed securities secured by or
41 evidencing an interest in a single asset or pool of assets then held by the insurer would
42 exceed one-half of one percent of its admitted assets.

43 (3) If an insurer attains or exceeds the limit of any one rating category referred to
44 in this subsection, the insured shall not thereby be precluded from acquiring investments
45 in other rating categories subject to the specific and multi-category limits applicable to
46 those investments.

47 3. An insurer shall not acquire directly or indirectly through an investment
48 subsidiary a Canadian investment authorized by this chapter, if as a result of and after
49 giving effect to the investment, the aggregate amount of these investments then held by the
50 insurer would exceed forty percent of its admitted assets or if the aggregate amount of
51 Canadian investments not acquired under subsection 2 of section 376.298 then held by the
52 insurer would exceed twenty-five percent of its admitted assets. However, as to an insurer
53 that is authorized to do business in Canada or that has outstanding insurance, annuity, or
54 reinsurance contracts on lives or risks resident or located in Canada and denominated in
55 Canadian currency, the limitations of this section shall be increased by the greater of:

56 (1) The amount the insurer is required by Canadian law to invest in Canada or to
57 be denominated in Canadian currency; or

58 (2) One hundred fifteen percent of the amount of its reserves and other obligations
59 under contracts on lives or risks resident or located in Canada.

376.298. 1. Subject to the limitations of subsection 6 of this section and subsection 2 of section 376.297, an insurer may acquire rated credit instruments issued, assumed, guaranteed or issued by:

(1) The United States; or

(2) A government sponsored enterprise of the United States if the instruments of the government sponsored enterprise are assumed, guaranteed, or insured by the United States or are otherwise backed or supported by the full faith and credit clause of the United States.

2. Subject to the limitations of subdivision (6) of this section and subsection 2 of section 376.297, an insurer may acquire rated credit instruments issued, assumed, guaranteed, or insured by:

(1) Canada; or

(2) A government sponsored enterprise of Canada if the instruments of the government sponsored enterprise are assumed, guaranteed, or insured by Canada or are otherwise backed or supported by the full faith and credit clause of Canada.

An insurer shall not acquire an instrument under this subsection if as a result of and after giving effect to the investment the aggregate amount of investments then held by the insurer under this subsection would exceed forty percent of its admitted assets.

3. Subject to the limitations of subsection 6 of this section and subsection 2 of section 376.297, an insurer may acquire rated credit instruments excluding asset-backed securities:

(1) Issued by a government money market mutual fund, a class one money market mutual fund, or a class one bond mutual fund;

(2) Issued, assumed, guaranteed, or insured by a government sponsored enterprise of the United States other than those eligible under subsection 1 of this section;

(3) Issued, assumed, guaranteed, or insured by a state if the instruments are general obligations of the state; or

(4) Issued by a multilateral development bank.

An insurer shall not acquire an instrument of any one fund, any one enterprise or entity, or any one state under this subsection if as a result of and after giving effect to the investment the aggregate amount of investments then held by the insurer in any one fund, enterprise, entity, or state under this subsection would exceed ten percent of its admitted assets.

36 **4. Subject to the limitations of subsection 6 of this section and section 376.297, an**
37 **insurer may acquire preferred stocks that are not foreign investments and that meet the**
38 **requirement of rated credit instruments if as a result of and after giving effect to the**
39 **investment:**

40 **(1) The aggregate amount of preferred stocks then held by the insurer under this**
41 **subsection does not exceed twenty percent of its admitted assets; and**

42 **(2) The aggregate amount of preferred stocks then held by the insurer under this**
43 **subsection which are not sinking fund stocks or rated "P1" or "P2" by the SVO does not**
44 **exceed ten percent of its admitted assets.**

45 **5. Subject to the limitations of subsection 6 of this section and section 376.297, in**
46 **addition to those investments eligible under subsections 1 to 4 of this section, an insurer**
47 **may acquire rated credit instruments that are not foreign investments.**

48 **6. An insurer shall not acquire special rated credit instruments under this section**
49 **if as a result of and after giving effect to the investment the aggregate amount of special**
50 **rated credit instruments then held by the insurer would exceed five percent of its admitted**
51 **assets. The director may by rule under section 376.305 identify certain special rated credit**
52 **instruments that will be exempt from the limitation imposed by this subsection.**

 376.300. 1. [All other laws to the contrary notwithstanding, the capital, reserve and
2 surplus of all life insurance companies of whatever kind and character organized pursuant to the
3 laws of this state shall be invested only in the following:

4 (1) Bonds, notes or other evidences of indebtedness, issued, assumed or guaranteed as
5 to principal and interest, by the United States, any state, territory or possession of the United
6 States, the District of Columbia, or of an administration, agency, authority or instrumentality of
7 any of the political units enumerated, and of the Dominion of Canada;

8 (2) Bonds, notes or other evidences of indebtedness issued, assumed or guaranteed as
9 to principal and interest by any foreign country or state not mentioned in subdivision (1) insofar
10 as such bonds, notes or other evidences of indebtedness may be necessary or required in order
11 to do business in such foreign state or country;

12 (3) Bonds, notes or other evidences of indebtedness issued, guaranteed or insured as to
13 principal and interest by a city, county, drainage district, levee district, road district, school
14 district, tax district, town, township, village or other civil administration, agency, authority,
15 instrumentality or subdivision of a city, county, state, territory or possession of the United States
16 or of the District of Columbia, provided such obligations are authorized by law;

17 (4) Loans evidenced by bonds, notes or other evidences of indebtedness guaranteed or
18 insured, but only to the extent guaranteed or insured by the United States, any state, territory or

19 possession of the United States, the District of Columbia, or by any agency, administration,
20 authority or instrumentality of any of the political units enumerated;

21 (5) Bonds, notes or other evidences of indebtedness issued, assumed or guaranteed by
22 a corporation organized under the laws of the United States, any state, territory or possession of
23 the United States, or the District of Columbia, provided such bonds, notes or other evidences of
24 indebtedness shall meet with the requirements of section 375.532, RSMo, and sections 375.1070
25 to 375.1075, RSMo;

26 (6) (a) Notes, equipment trust certificates or obligations which are adequately secured,
27 or other adequately secured instruments evidencing an interest in any equipment leased or sold
28 to a corporation, other than the life insurance company making the investment or its parent or
29 affiliates, which qualifies under subdivision (5) of this subsection for investment in its bonds,
30 notes, or other evidences of indebtedness, or to a common carrier, domiciled within the United
31 States or the Dominion of Canada, with gross revenues exceeding one million dollars in the
32 fiscal year immediately preceding purchase, which provide a right to receive determined rental,
33 purchase, or other fixed obligatory payments for the use or purchase of such equipment and
34 which obligatory payments are adequate to retire the obligations within twenty years from date
35 of issue; or

36 (b) Notes, trust certificates, or other instruments which are adequately secured. Such
37 notes, trust certificates, or other instruments shall be considered adequately secured for the
38 purposes of this paragraph if a corporation or corporations which qualify under subdivision (5)
39 of this subsection for investment in their bonds, notes, or other evidences of indebtedness, are
40 jointly or severally obliged under a binding lease or agreement to make rental, purchase, use, or
41 other payments for the benefit of the life insurance company making the investment which are
42 adequate to retire the instruments according to their terms within twenty years from date of issue;

43 (7) Preferred or guaranteed stocks or shares of any solvent corporation created or
44 existing under the laws of the United States, any state, territory or possession of the United
45 States, or the District of Columbia, if all of the prior obligations including prior preferred stocks,
46 if any, of such corporation, at the date of acquisition, are eligible as investments under any
47 provisions of this section; and if qualified under section 375.532, RSMo, and sections 375.1070
48 to 375.1075, RSMo;

49 (8) Stocks or shares of insured state-chartered building and loan associations, federal
50 savings and loan associations, if such shares are insured by the Federal Savings and Loan
51 Insurance Corporation pursuant to the terms of Title IV of the act of the Congress of the United
52 States, entitled "The National Housing Act" (12 U.S.C.A. Sections 1724 to 1730), as the same
53 presently exists or may subsequently be amended, and federal home loan banks;

54 (9) Loans evidenced by notes or other evidences of indebtedness and secured by first
55 mortgage liens on unencumbered real estate or unencumbered leaseholds having at least
56 twenty-five years of unexpired term, such real estate or leaseholds to be located in the United
57 States, any territory or possession of the United States. Such loans shall not exceed eighty
58 percent of the fair market value of the security of the loan for insurance companies. However,
59 insurance companies may make loans in excess of eighty percent of the fair market value of the
60 security for the loan, but not to exceed ninety-five percent of the fair market value of the security
61 for the loan, if that portion of the total indebtedness in excess of seventy-five percent of the value
62 of the security for the loan is guaranteed or insured by a mortgage insurance company authorized
63 by the director of insurance to do business in this state, and provided the mortgage insurance
64 company is not affiliated with the entity making the loan. In addition, an insurance company
65 may not place more than two percent of its admitted assets in loans in which the amount of the
66 loan exceeds ninety percent of the fair market value of the security for the loan. An entity which
67 is restricted by section 104.440, RSMo, in making investments to those authorized life insurance
68 companies may make loans in excess of eighty percent of the fair market value of the security
69 of the loan if that portion of the total indebtedness in excess of eighty percent of the fair market
70 value is insured by a mortgage insurance company authorized by the director of insurance to do
71 business in this state. Any life insurance company may sell any real estate acquired by it and
72 take back a purchase money mortgage or deed of trust for the whole or any part of the sale price;
73 and such percentage may be exceeded if and to the extent such excess is guaranteed or insured
74 by the United States, any state, territory or possession of the United States, any city within the
75 United States having a population of one hundred thousand or more or by an administration,
76 agency, authority or instrumentality of any such governmental units; and such percentage shall
77 not exceed one hundred percent if such a loan is made to a corporation which qualifies pursuant
78 to subdivision (5) for investment in its bonds, notes or other evidences of indebtedness, or if the
79 borrower assigns to the lender a lease or leases on the real estate providing rentals payable to the
80 borrower in amounts sufficient to repay such loan with interest in the manner specified by the
81 note or notes evidencing such loan and executed as lessee or lessees by a corporation or
82 corporations, which qualify pursuant to subdivision (5) for investment in its or their bonds, notes
83 or other evidences of indebtedness. No mortgage loan upon a leasehold shall be made or
84 acquired pursuant to this subdivision unless the terms of the mortgage loan shall provide for
85 amortization payments to be made by the borrower on the principal thereof at least once in each
86 year in amounts sufficient to completely amortize the loan within four-fifths of the term of the
87 leasehold which is unexpired at the time the loan is made, but in no event exceeding thirty years.
88 Real estate or a leasehold shall not be deemed to be encumbered by reason of the existence in
89 relation thereto of:

90 (a) Liens inferior to the lien securing the loan made by the life insurance company;
91 (b) Taxes or assessment liens not delinquent;
92 (c) Instruments creating or reserving mineral, oil or timber rights, rights-of-way,
93 common or joint driveways, easements for sewers, walls or utilities;
94 (d) Building restrictions and other restrictive covenants; or
95 (e) An unassigned lease reserving rents or profits to the owner;

96 (10) Shares of stock, bonds, notes or other evidences of indebtedness issued, assumed
97 or guaranteed by an urban redevelopment corporation organized pursuant to the provisions of
98 chapter 353, RSMo, known as the "Urban Redevelopment Corporations Law", or any
99 amendments thereto, or any law enacted in lieu thereof; provided, that one or more such life
100 insurance companies may, with the approval of the director of the department of insurance,
101 subscribe to and own all of the shares of stock of any such urban redevelopment corporation; and
102 provided further, that the aggregate investment by any such company pursuant to the terms of
103 this subdivision shall not be in excess of five percent of the admitted assets of such company;

104 (11) Land situated in this state and located within an area subject to redevelopment
105 within the meaning of the urban redevelopment corporations law, or any amendments thereto,
106 or any law enacted in lieu thereof, which land is acquired for the purposes specified in such
107 urban redevelopment corporations law, and any such life insurance company may erect
108 apartments, tenements or other dwelling houses, not including hotels, but including
109 accommodations for retail stores, shops, offices and other community services reasonably
110 incident to such projects, and such company may thereafter own, hold, rent, lease, collect or
111 receive income, maintain and manage such land so acquired and the improvements thereon, as
112 real estate necessary and proper for the carrying on of its legitimate business; provided, that any
113 such life insurance company shall have power to own, hold, maintain and manage such land, and
114 all improvements thereon, in accordance with the urban redevelopment corporations law,
115 amendments thereto or any law enacted in lieu thereof, and shall have all the powers, duties,
116 obligations, privileges and immunities, including any tax exemption, credits or relief, granted
117 an urban redevelopment corporation, pursuant to the urban redevelopment corporations law,
118 amendments thereto or any law enacted in lieu thereof, the same as if such insurance company
119 were an urban redevelopment corporation organized pursuant to the provisions of that law;
120 provided, that two or more such life insurance companies may, with the approval of the director
121 of the department of insurance, enter into agreements whereby the ownership and management
122 and control of a redevelopment project is participated in by each such company; and provided
123 further that the aggregate investment by any such company pursuant to the terms of this
124 subdivision shall not be in excess of five percent of the admitted assets of such company;

125 (12) Investments in property and processes for the development and production of solar
126 or geothermal energy, fossil or synthetic fuels, or gasohol, whether made directly or as a
127 participant in a general partnership, limited partnership or joint venture] **Subject to the**
128 **limitations of section 376.297, an insurer may acquire equity interests in business entities**
129 **organized under the laws of any domestic jurisdiction.**

130 2. [No such life insurance company shall invest in any of the foregoing securities in
131 excess of the following percentages of the admitted assets of such company, as shown by its last
132 annual statement preceding the date of acquisition, as filed with the director of the insurance
133 department of the state of Missouri:

134 (1) Ten percent of its admitted assets in the securities issued by any one corporation or
135 governmental unit falling pursuant to the classification set forth in subdivisions (3), (5), (6), (7)
136 and (8) of subsection 1;

137 (2) One percent of its admitted assets or ten percent of its capital and surplus, whichever
138 is greater, in any single loan on real estate pursuant to subdivision (9) of subsection 1;

139 (3) Ten percent of the admitted assets in the total amount of securities described in
140 subdivision (7) of subsection 1, and no such life insurance company shall own securities
141 described in subdivision (7) of subsection 1 of any one corporation which, in the aggregate,
142 represents more than five percent of the total of all outstanding shares of stock of that
143 corporation;

144 (4) One percent of its admitted assets in the bonds, notes or other evidences of
145 indebtedness of the Dominion of Canada and mentioned in subdivision (1) of subsection 1;
146 provided, however, that in addition thereto any such life insurance company which has
147 outstanding insurance contracts on lives of persons residing in the Dominion of Canada may
148 invest in bonds, notes or other evidences of indebtedness of the Dominion of Canada and
149 mentioned in subdivision (1) of subsection 1, to an amount not in excess of the total amount of
150 its reserves and other accrued liabilities under such contracts;

151 (5) Five percent of its admitted assets in the notes or trust certificates secured by any
152 equipment leased or sold to a corporation falling under the classification set forth in subdivision
153 (5) of subsection 1 or to a common carrier domiciled in the Dominion of Canada and mentioned
154 in subdivision (6) of subsection 1;

155 (6) Three percent of its admitted assets in loans evidenced by notes or other evidences
156 of indebtedness and secured by liens on unencumbered leaseholds having at least twenty-five
157 years of unexpired term and mentioned in subdivision (9) of subsection 1;

158 (7) One percent of its admitted assets, or five percent of that portion of its admitted
159 assets in excess of two hundred fifty million dollars, whichever is greater, in energy-related
160 investments specified in subdivision (12) of subsection 1] **An insurer shall not acquire an**

161 investment under this section if as a result of and after giving effect to the investment the
162 aggregate amount of investments then held by the insurer under this section would exceed
163 twenty percent of its admitted assets, or except for mutual funds, the amount of equity
164 interests then held by the insurer that are not listed on a qualified exchange would exceed
165 five percent of its admitted assets.

166 3. [The term "corporation", as used in subdivisions (5) and (7) of subsection 1, shall
167 include private corporations, joint stock associations or business trusts. In applying the earnings
168 tests, provided herein, to any issuing, assuming or guaranteeing corporation, whether or not in
169 legal existence during the whole of the test period, and if such corporation has during the test
170 period acquired the assets of any other corporation or corporations by purchase, merger,
171 consolidation or otherwise, or has been reorganized pursuant to the bankruptcy law, the earnings
172 available for interest and dividends of such other predecessor or constituent corporation or the
173 corporation so reorganized shall be considered as the earnings of the issuing, assuming or
174 guaranteeing corporation] **An insurer shall not acquire under this section any investment**
175 **that the insurer may acquire under section 376.302.**

176 4. [Nothing contained in this section shall be construed as repealing or affecting the
177 provisions of sections 375.330, 375.340, and 375.355, RSMo] **An insurer shall not short sell**
178 **equity interests unless the insurer covers the short sale by owning the equity interest or an**
179 **unrestricted right to the equity interest exercisable within six months of the short sale.**

376.301. 1. [In addition to the investments permitted by section 376.300, the capital,
2 reserve and surplus of all life insurance companies of whatever kind and character, organized
3 under the laws of this state, may be invested in the following, and the same shall be eligible for
4 deposit under section 376.170:

5 (1) Bonds, notes or other evidences of indebtedness issued, assumed or guaranteed as
6 to principal and interest, by the Dominion of Canada, or any province thereof;

7 (2) Investments in Canada which are substantially of the same kinds, classes and
8 investment grades or quality as those specified in subsection 1 of section 376.300] **(1) Subject**
9 **to the limitations of section 376.297, an insurer may acquire tangible personal property or**
10 **equity interest therein located or used wholly or in part within a domestic jurisdiction**
11 **directly or indirectly through limited partnership interest and general partnership interest**
12 **not otherwise prohibited by subsection 4 of section 376.294, joint ventures, stock of an**
13 **investment subsidiary or membership interests in a limited liability company, trust**
14 **certificates, or other similar instruments.**

15 (2) Investments acquired under subdivision (1) of this subsection shall be eligible
16 only if:

17 **(a) The property is subject to a lease or other agreement with a person whose rated**
18 **credit instruments in the amount of the purchase prices of the personal property the**
19 **insurer could then acquire under section 376.298; and**

20 **(b) The lease or other agreement provides the insurer the right to receive rental,**
21 **purchase, or other fixed payments for this use or purchase of the property and the**
22 **aggregate value of the payments, together with the estimated residual value of the property**
23 **at the end of its useful life and the estimated tax benefits to the insurer resulting from**
24 **ownership of the property shall be adequate to return the cost of the insurer's investment**
25 **in the property plus a return deemed adequate by the insurer.**

26 **2. [No life insurance company shall invest in excess of one percent of its admitted assets**
27 **in any one investment under this section and the aggregate amount of all investments under this**
28 **section shall not exceed ten percent of its admitted assets; provided, however, that in addition**
29 **thereto any life insurance company which has outstanding insurance contracts on lives of persons**
30 **residing in the Dominion of Canada may make investments under this section to an amount not**
31 **in excess of the total amount of its reserves and other accrued liabilities under such contracts]**
32 **An insurer shall compute the amount of each investment under this section on the basis of**
33 **the out-of-pocket purchase price and applicable related expenses paid by the insurer for**
34 **the investment, net of each borrowing made to finance the purchase price, and expenses**
35 **to the extent the borrowing is without recourse to the insurer.**

36 **3. An insurer shall not acquire an investment under this section if as a result of and**
37 **after giving effect to the investment the aggregate amount of all investments then held by**
38 **the insurer under this section would exceed:**

39 **(1) Two percent of its admitted assets; or**

40 **(2) One-half of one percent of its admitted assets as to any single item of tangible**
41 **personal property.**

42 **4. For purposes of determining compliance with the limitations of section 376.297,**
43 **investments acquired by an insurer under this section shall be aggregated with those**
44 **acquired under section 376.298 and each lessee of the property under a lease referred to**
45 **in this section shall be deemed the issuer of an obligation in the amount of the investment**
46 **of the insurer in the property determined as provided in subsection 2 of this section.**

47 **5. Nothing in this section shall be applicable to tangible personal property lease**
48 **arrangements between an insurer and its subsidiaries and affiliates under a cost-sharing**
49 **arrangement or agreement permitted under chapter 382, RSMo.**

376.302. 1. (1) Subject to the limitations of section 376.297, an insurer may acquire
2 **directly or indirectly through limited partnership interests and general partnership**
3 **interests not otherwise prohibited by subsection 4 of section 376.294, joint ventures, stock**

4 of an investment subsidiary or membership interests in a limited liability company, trust
5 certificates, or other similar instruments or obligations secured by mortgages on real estate
6 situated within a domestic jurisdiction, but a mortgage loan which is secured by other than
7 a first lien shall not be acquired under this subdivision unless the insurer is the holder of
8 the first lien. The obligations held by the insurer and any obligations with an equal lien
9 priority shall not at the time of acquisition of the obligation exceed:

10 (a) Ninety percent of the fair market value of the real estate if the mortgage loan
11 is secured by a purchase money mortgage or like security received by the insurer upon
12 disposition of the real estate;

13 (b) Eighty percent of the fair market value of the real estate if the mortgage
14 requires immediate scheduled payment in periodic installments of principal and interest
15 and has an amortization period of thirty years or less and periodic payments not less than
16 annually. Each periodic payment shall be sufficient to assure that at all times:

17 a. The outstanding principal balance of the mortgage loan is not greater than the
18 outstanding principal balance that would be outstanding under a mortgage loan with the
19 same original principal balance and interest rate; and

20 b. There are equal payments of principal and interest with the same frequency over
21 the same amortization period.

22
23 Mortgage loans permitted under this subsection are permitted notwithstanding the fact
24 that they provide for a payment of the principal balance prior to the end of the period of
25 the amortization of the loan. For residential mortgage loans, the eighty percent limitation
26 may be increased to ninety-seven percent if acceptable private mortgage insurance has
27 been obtained; or

28 (c) Seventy-five percent of the fair market value of the real estate for mortgage
29 loans that do not meet the requirements of paragraph (a) or (b) of this subdivision.

30 (2) For purposes of subdivision (1) of this subsection, the amount of an obligation
31 required to be included in the calculation of the loan-to-value ratio may be reduced to the
32 extent the obligation is insured by the Federal Housing Administration or guaranteed by
33 the Administrator of Veterans' Affairs, or their successor.

34 (3) Subject to the limitations of section 376.297, an insurer may acquire directly or
35 indirectly through limited partnership interests and general partnership interests not
36 otherwise prohibited by subsection 4 of section 376.294, joint ventures, stock of an
37 investment subsidiary or membership interests in a limited liability company, trust
38 certificates, or other similar instruments or obligations secured by a second mortgage on
39 real estate situated within a domestic jurisdiction other than as authorized in subdivision

40 (1) of this subsection. The obligation held by the insurer shall be the sole second lien
41 priority obligation and shall not at the time of acquisition of the obligation exceed seventy
42 percent of the amount by which the fair market value of the real estate exceeds the amount
43 outstanding under the first mortgage.

44 (4) A mortgage loan that is held by an insurer under subdivision (6) of subsection
45 1 of section 376.293 or acquired under this section and is restructured in a manner that
46 meets the requirements of a restructured mortgage loan in accordance with the NAIC
47 Accounting Practices and Procedures Manual or its successor publication shall continue
48 to qualify as a mortgage loan.

49 (5) Subject to the limitations of section 376.297, credit lease transactions that do not
50 qualify for investment under section 376.298 with the following characteristics shall be
51 exempt from the provisions of subdivision (1) of this subsection:

52 (a) The loan amortizes over the initial fixed lease term at least in an amount
53 sufficient so that the loan balance at the end of the lease term does not exceed the original
54 appraised value of the real estate;

55 (b) The lease payments cover or exceed the total debt service over the life of the
56 loan;

57 (c) A tenant or its affiliated entity whose rated credit instruments have a SVO "1"
58 or "2" designation or a comparable rating from a nationally recognized statistical rating
59 organization recognized by the SVO has a full faith and credit obligation to make the lease
60 payments;

61 (d) The insurer holds or is the beneficial holder of a first lien mortgage on the real
62 estate;

63 (e) The expenses of the real estate are passed through to the tenant, excluding
64 exterior structural, parking and heating, ventilation and air conditioning replacement
65 expenses, unless annual escrow contributions from cash flows derived from the lease
66 payments cover the expense shortfall; and

67 (f) There is a perfected assignment of the rents due under the lease to or for the
68 benefit of the insurer.

69 2. (1) An insurer may acquire, manage, and dispose of real estate situated in a
70 domestic jurisdiction directly or indirectly through limited partnership interests and
71 general partnership interests not otherwise prohibited by subsection 4 of section 376.294,
72 joint ventures, stock of an investment subsidiary or membership interests in a limited
73 liability company, trust certificates, or other similar instruments. The real estate shall be
74 income producing or intended for improvement or development for investment purposes

75 under an existing program in which case the real estate shall be deemed to be income
76 producing.

77 (2) The real estate may be subject to mortgages, liens, or other encumbrances, and
78 the amount of which shall, to the extent that the obligations secured by the mortgages,
79 liens, or encumbrances are without recourse to the insurer, be deducted from the amount
80 of the investment of the insurer in the real estate for purposes of determining compliance
81 with subdivisions (2) and (3) of subsection 4 of this section.

82 3. An insurer may acquire, manage, and dispose of real estate for the convenient
83 accommodation of the insurer's (which may include its affiliates) business operations,
84 including home office, branch office, and field office operations. Such real estate acquired
85 may:

86 (1) Include excess space for rent to others if the excess space at its fair market value
87 would otherwise be a permitted investment under subsection 2 of this section and is so
88 qualified by the insurer; or

89 (2) Be subject to one or more mortgage, lien, or other encumbrance, and the
90 amount of which shall, to the extent that the obligations secured by the mortgages, liens,
91 or encumbrances are without recourse to the insurer, be deducted from the amount of the
92 investment of the insurer in the real estate for purposes of determining compliance with
93 subsection 4 of this section.

94

95 For purposes of this subsection, business operations shall not include that portion of real
96 estate used for the direct provision of health care services by an accident and health insurer
97 for its insureds. An insurer may acquire real estate used for these purposes under
98 subsection 2 of this section.

99 4. An insurer may not acquire an investment:

100 (1) Under subsection 1 of this section, if as a result of, and after giving effect to the
101 investment, the aggregate amount of all investments then held by the insurer under
102 subsection 1 of this section would not exceed:

103 (a) One percent of its admitted assets in mortgage loans covering any one secured
104 location;

105 (b) One-fourth of one percent of its admitted assets in construction loans covering
106 any one secured location; or

107 (c) Two percent of its admitted assets in construction loans in the aggregate;

108 (2) Under subsection 2 of this section if as a result of and after giving effect to the
109 investment and any outstanding guarantees made by the insurer in connection with the

110 investment the aggregate amount of investments then held by the insurer under subsection
111 2 of this section plus the guarantees then outstanding would exceed:

112 (a) One percent of its admitted assets in one parcel or group of contiguous parcels
113 of real estate, except that this limitation shall not apply to that portion of real estate used
114 for the direct provision of health care services by an accident and health insurer for its
115 insureds, such as hospitals, medical clinics, medical professional buildings, or other health
116 facilities for the purposes of providing health services; or

117 (b) Fifteen percent of its admitted assets in the aggregate but not more than five
118 percent of its admitted assets in real estate to be improved or developed;

119 (3) Under subsection 1 or 2 of this section if as a result of and after giving effect to
120 the investment and any guarantees made by the insurer in connection with the investment
121 the aggregate amount of all investments then held by the insurer under subsections 1 and
122 2 of this section plus the guarantees then outstanding would exceed forty-five percent of
123 its admitted assets. However, an insurer may exceed this limitation by no more than thirty
124 percent of its admitted assets if:

125 (a) This increased amount is invested only in residential mortgage loans;

126 (b) The insurer has no more than ten percent of its admitted assets invested in
127 mortgage loans other than residential mortgage loans;

128 (c) The loan-to-value ratio of each residential mortgage loan does not exceed sixty
129 percent at the time the mortgage loan is qualified under this increased authority and the
130 fair market value is supported by an appraisal no more than two years old prepared by an
131 independent appraiser;

132 (d) A single mortgage loan qualified under this increased authority does not exceed
133 one-half of one percent of its admitted assets;

134 (e) The insurer files with the director and receives approval from the director for
135 a plan that is designed to result in a portfolio of residential mortgage loans that is
136 geographically diversified; and

137 (f) The insurer agrees to file annually with the director records that demonstrate
138 that its portfolio of residential mortgage loans is geographically diversified in accordance
139 with the plan.

140

141 The limitations of section 376.297 shall not apply to an insurer's acquisition of real estate
142 under subsection 3 of this section. An insurer shall not acquire real estate under subsection
143 3 of this section if as a result of and after giving effect to the acquisition the aggregate
144 amount of real estate then held by the insurer under subsection 3 of this section would

145 **exceed ten percent of its admitted assets. With the permission of the director, additional**
146 **amounts of real estate may be acquired under subsection 3 of this section.**

376.303. [In addition to the investments permitted by section 376.300, the capital,
2 reserve and surplus of all life insurance companies of whatever kind and character, organized or
3 doing business under this chapter, may be invested in bonds, notes, or other evidences of
4 indebtedness, payable in United States dollars, issued, assumed or guaranteed as to principal and
5 interest by the International Bank for Reconstruction and Development, Inter-American
6 Development Bank, the Asian Development Bank, or the African Development Bank, and such
7 securities shall be eligible for deposit under section 376.170, provided, however, that the amount
8 invested by any such life insurance company in such bonds, notes, or other evidences of
9 indebtedness shall not in the aggregate exceed two percent of the admitted assets of such life
10 insurance company.] **An insurer may enter into securities lending, repurchase, reverse**
11 **repurchase, and dollar roll transactions with business entities subject to the following**
12 **requirements:**

13 (1) **The insurer's board of directors shall adopt a written plan that is consistent**
14 **with the requirements of the written plan under subdivision (1) of subsection 2 of section**
15 **376.293 that specifies guidelines and objectives to be followed, such as:**

16 (a) **A description of how cash received will be invested or used for general**
17 **corporate purposes of the insurer;**

18 (b) **Operational procedures to manage interest rate risk, counterparty default risk,**
19 **the conditions under which proceeds from reverse repurchase transactions may be used**
20 **in the ordinary course of business, and use of acceptable collateral in a manner that reflects**
21 **the liquidity needs of the transaction; and**

22 (c) **The extent to which the insurer may engage in these transactions;**

23 (2) **The insurer shall enter into a written agreement for all transactions authorized**
24 **in this section other than dollar roll transactions. The written agreement shall require that**
25 **each transaction terminate no more than one year from its inception or upon the earlier**
26 **demand of the insurer. The agreement shall be with the business entity counterparty and**
27 **the agreement may be with an agent acting on behalf of the insurer if the agent is a**
28 **qualified business entity and if the agreement:**

29 (a) **Requires the agent to enter into separate agreements with each counterparty**
30 **that are consistent with the requirements of this section; and**

31 (b) **Prohibits securities lending transactions under the agreement with the agent or**
32 **its affiliates;**

33 (3) **Cash received in a transaction under this section shall be invested in accordance**
34 **with this chapter and in a manner that recognizes the liquidity needs of the transaction or**

35 used by the insurer for its general corporate purpose. So long as the transaction remains
36 outstanding, the insurer, its agent, or custodian shall maintain as to acceptable collateral
37 received in a transaction under this section either physically or through the book entry
38 systems of the Federal Reserve, Depository Trust Company, Participants Trust Company,
39 or other securities depositories approved by the director:

40 (a) Possession of the acceptable collateral;

41 (b) A perfected security interest in the acceptable collateral; or

42 (c) In the case of a jurisdiction outside of the United States, title to or rights of a
43 secured creditor to the acceptable collateral;

44 (4) The limitations of sections 376.297 and 376.304 shall not apply to the business
45 entity counterparty exposure created by transactions under this section. For purposes of
46 calculations made to determine compliance with this subsection, no effect will be given to
47 the insurer's future obligation to resell securities in the case of a repurchase transaction
48 or to repurchase securities in the case of a reverse repurchase transaction. An insurer shall
49 not enter into a transaction under this section if as a result of and after giving effect to the
50 transaction:

51 (a) The aggregate amount of securities then loaned, sold to, or purchased from any
52 one business entity counterparty under this section would exceed five percent of its
53 admitted assets. In calculating the amount sold to or repurchased from a business entity
54 counterparty under repurchase or reverse repurchase transactions, effect may be given to
55 netting provisions under a master written agreement; or

56 (b) The aggregate amount of all securities then loaned, sold to, or purchased from
57 all business entities under this section would exceed forty percent of its admitted assets;

58 (5) In a dollar roll transaction, the insurer shall receive cash in an amount at least
59 equal to the market value of the securities transferred by the insurer in the transaction as
60 of the transaction date.

376.304. 1. Subject to the limitations of section 376.297, an insurer may acquire
2 foreign investments or engage in investment practices with persons of or in foreign
3 jurisdictions of substantially the same types as those that an insurer is permitted to acquire
4 under this chapter, other than the type permitted under section 376.311 if as a result and
5 after giving effect to the investment:

6 (1) The aggregate amount of foreign investments then held by the insurer under
7 this subsection does not exceed twenty percent of the admitted assets; and

8 (2) The aggregate amount of foreign investments then held by the insurer under
9 this subsection in a single foreign jurisdiction does not exceed ten percent of its admitted

10 assets as to a foreign jurisdiction that has a sovereign debt rating of SVO "1" or three
11 percent of its admitted assets as to any other foreign jurisdiction.

12 **2. Subject to the limitations of section 376.297, an insurer may acquire investments**
13 **or engage in investment practice denominated in foreign currencies whether or not they**
14 **are foreign investments acquired under subsection 1 of this section or additional foreign**
15 **currency exposure as a result of the termination or expiration of a hedging transaction**
16 **with respect to investments denominated in a foreign currency if as a result of and after**
17 **giving effect to the transaction:**

18 **(1) The aggregate amount of investments then held by the insurer under this**
19 **subsection denominated in foreign currencies does not exceed ten percent of its admitted**
20 **assets; and**

21 **(2) The aggregate amount of investments then held by the insurer under this**
22 **subsection denominated in the foreign currency of a single foreign jurisdiction does not**
23 **exceed ten percent of its admitted assets as to a foreign jurisdiction that has a sovereign**
24 **debt rating of SVO "1" or three percent of its admitted assets as to any other foreign**
25 **jurisdiction.**

26 **3. An investment shall not be considered denominated in a foreign currency if the**
27 **acquiring insurer enters into one or more contracts in transactions permitted under section**
28 **375.345, RSMo, in which the business entity counterparty agrees to exchange or grants to**
29 **the insurer the option to exchange all payments made on the foreign currency denominated**
30 **investment, or amounts equivalent to the payments that are or will be due to the insurer**
31 **in accordance with the terms of such investment, for United States currency during the**
32 **period the contract or contracts are in effect to insulate the insurer from loss caused by**
33 **diminution of the value of payments owed to the insurer due to future changes in currency**
34 **exchange rates.**

35 **4. In addition to investments permitted under subsections 1 to 3 of this section, an**
36 **insurer that is authorized to do business in a foreign jurisdiction and that has an**
37 **outstanding insurance, annuity, or reinsurance contract on lives or risks resident or located**
38 **in that foreign jurisdiction and denominated in foreign currency of that jurisdiction may**
39 **acquire investments denominated in the currency of that jurisdiction subject to the**
40 **limitations of section 376.297. However, investments made under this subsection in**
41 **obligations of foreign governments, their political subdivisions, and government sponsored**
42 **enterprises shall not be subject to the limitations of section 376.297 if those investments**
43 **carry an SVO rating of "1" or "2". The aggregate amount of investments acquired by the**
44 **insurer under this subsection shall not exceed the greater of:**

45 **(1) The amount the insurer is required by the law of the foreign jurisdiction to**
46 **invest in the foreign jurisdiction; or**

47 **(2) One hundred fifteen percent of the amount of its reserves, net of reinsurance,**
48 **and other obligations under the contracts on lives or risks resident or located in the foreign**
49 **jurisdiction.**

50 **5. In addition to investments permitted under subsections 1 to 3 of this section, an**
51 **insurer that is not authorized to do business in a foreign jurisdiction but which has**
52 **outstanding insurance, annuity, or reinsurance contracts on lives or risks resident or**
53 **located in that foreign jurisdiction and denominated in foreign currency of that**
54 **jurisdiction may acquire foreign investments respecting that foreign jurisdiction and may**
55 **acquire investments denominated in the currency of that jurisdiction, subject to the**
56 **limitations of section 376.297. However, investments made under this subsection in**
57 **obligations of foreign governments, their political subdivisions, and government sponsored**
58 **enterprises shall not be subject to the limitations of section 376.297 if those investments**
59 **carry an SVO rating of "1" or "2". The aggregate amount of investments acquired by the**
60 **insurer under this subsection shall not exceed one hundred five percent of the amount of**
61 **its reserves, net of reinsurance, and other obligations under the contracts on lives and risks**
62 **resident or located in the foreign jurisdiction.**

63 **6. Investments acquired under this section shall be aggregated with investments of**
64 **the same type made under this chapter and in a similar manner for purposes of**
65 **determining compliance with the limitations, if any, contained in this chapter. Investments**
66 **in obligations of foreign governments, their political subdivisions, and government**
67 **sponsored enterprises of these persons, except for those exempted under subsections 4 and**
68 **5 of this section, shall be subject to the limitations of section 376.297.**

 376.305. [1. In addition to the investments permitted by section 376.300, the capital,
2 reserve and surplus of all life insurance companies of whatever kind and character organized or
3 doing business under sections 376.010 to 376.670, may be invested in the common stock of any
4 solvent corporation, organized under the laws of the United States, any state, territory or
5 possession of the United States, or the District of Columbia, or of the Dominion of Canada, or
6 any province of the Dominion of Canada, provided the corporation's net worth as shown on its
7 balance sheet at the end of the last fiscal year preceding purchase shall have been at least ten
8 million dollars, and that such common stocks are registered on a national securities exchange or
9 quoted in established over-the-counter markets, or provided that such corporation is registered
10 and operated as an open-end regulated investment company in accordance with the Investment
11 Company Act of 1940, as amended. Common stocks meeting the preceding qualifications shall
12 be eligible for deposit, as provided under section 376.170.

13 2. No such life insurance company shall invest in excess of ten percent of its admitted
14 assets or an amount in excess of its combined capital and surplus, whichever is the lesser, as
15 shown by its last annual statement preceding the date of acquisition, as filed with the director of
16 the insurance department of the state of Missouri, in the total amount of such common stocks,
17 nor shall such life insurance company own securities described in subdivision (7) of subsection
18 1 of section 376.300, and subsection 1 of this section, which, in the aggregate, represent more
19 than five percent of the total of all outstanding shares of stock of the issuing corporation, nor
20 shall any such life insurance company own common stock described in subsection 1 issued by
21 any one corporation which represents more than two percent of the admitted assets of such life
22 insurance company.] **The director may promulgate rules to implement the provisions of**
23 **sections 376.291 to 376.307. Any rule or portion of a rule, as that term is defined in section**
24 **536.010, RSMo, that is created under the authority delegated in this section shall become**
25 **effective only if it complies with and is subject to all of the provisions of chapter 536,**
26 **RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are**
27 **nonseverable and if any of the powers vested with the general assembly under chapter 536,**
28 **RSMo, to review, to delay the effective date, or to disapprove and annul a rule are**
29 **subsequently held unconstitutional, then the grant of rulemaking authority and any rule**
30 **proposed or adopted after August 28, 2007, shall be invalid and void.**

376.306. A life insurer may lend to a policyholder on the security of the cash
2 **surrender value of the policyholder's policy a sum not to exceed the legal reserve that the**
3 **insurer is required to maintain on the policy.**

 376.307. 1. [Notwithstanding any direct or implied prohibitions in this chapter or
2 chapter 375, RSMo, the capital, reserve and surplus funds of all life insurance companies of
3 whatever kind and character organized or doing business under this chapter or chapter 375,
4 RSMo, may be invested in any investments which do not otherwise qualify under any other
5 provision of this chapter or chapter 375, RSMo, provided, however, the investments authorized
6 by this section are not eligible for deposit with the department of insurance and shall be subject
7 to all the limitations set forth in subsection 2.

8 2. No such life insurance company shall own such investments in an amount in excess
9 of the following limitations, to be based upon its admitted assets, capital and surplus as shown
10 in its last annual statement filed with the director of the department of insurance of the state of
11 Missouri:

12 (1) The aggregate amount of all such investments under this section shall not exceed the
13 lesser of:

14 (a) Eight percent of its admitted assets; or

15 (b) The amount of its capital and surplus in excess of nine hundred thousand dollars; and

16 (2) The amount of any one such investment under this section shall not exceed one
17 percent of its admitted assets.

18 3. If, subsequent to its acquisition hereunder, any such investment shall become
19 specifically authorized or permitted under any other section contained in chapter 375 or 376,
20 RSMo, any such company may thereafter consider such investment as held under such other
21 applicable section and not under this section.] **Solely for the purpose of acquiring investments**
22 **that exceed the quantitative limitations of sections 376.297 to 376.304, an insurer may**
23 **acquire under this subsection an investment or engage in investment practices described**
24 **in section 376.303, but an insurer shall not acquire an investment, or engage in investment**
25 **practices described in section 376.303, under this subsection if as a result of and after**
26 **giving effect to the transaction:**

27 (1) **The aggregate amount of investments then held by an insurer under this**
28 **subsection would exceed three percent of its admitted assets; or**

29 (2) **The aggregate amount of investments as to one limitation in sections 376.297 to**
30 **376.304 then held by the insurer under this subsection would exceed one percent of its**
31 **admitted assets.**

32 2. **In addition to the authority provided in subsection 1 of this section, an insurer**
33 **may acquire under this subsection an investment of any kind or engage in investment**
34 **practices described in section 376.303 that are not specifically prohibited by this chapter**
35 **without regard to the categories, conditions, standards, or other limitations of sections**
36 **376.297 to 376.304 if as a result of and after giving effect to the transaction the aggregate**
37 **amount of investments then held under this subsection would not exceed the lesser of:**

38 (1) **Ten percent of its admitted assets; or**

39 (2) **Seventy-five percent of its capital and surplus.**

40

41 **An insurer shall not acquire any investment or engage in any investment practice under**
42 **this subsection if as a result of and after giving effect to the transaction the aggregate**
43 **amount of all investments in any one person then held by the insurer under this subsection**
44 **would exceed three percent of its admitted assets.**

45 3. **In addition to the investments acquired under subsections 1 and 2 of this section,**
46 **an insurer may acquire under this subsection an investment of any kind or engage in**
47 **investment practices described in section 376.303 that are not specifically prohibited by this**
48 **chapter without regard to any limitations of sections 376.297 to 376.304 if:**

49 (1) **The director grants prior approval;**

50 (2) **The insurer demonstrates that its investments are being made in a prudent**
51 **manner and that the additional amounts will be invested in a prudent manner; and**

52 **(3) As a result of and after giving effect to the transaction, the aggregate amount**
53 **of investments then held by the insurer under this subsection does not exceed the greater**
54 **of:**

55 **(a) Twenty-five percent of its capital and surplus; or**

56 **(b) One hundred percent of its capital and surplus less ten percent of its admitted**
57 **assets.**

58 **4. Under this section, an insurer shall not acquire or engage in an investment**
59 **practice prohibited under section 376.294 or an investment that is a derivative transaction.**

376.1012. Funds collected from the participating employers under multiple employer
2 self-insured health plans shall be held in trust subject to the following requirements:

3 (1) A board of trustees elected by participating employers shall serve as fund managers
4 on behalf of participants. Trustees shall be plan participants. No participating employer may
5 be represented by more than one trustee. No trustee may represent more than one employer. A
6 minimum of three and a maximum of seven trustees may be elected. Trustees may not receive
7 remuneration but they may be reimbursed for actual and reasonable expenses incurred in
8 connection with duties as trustee. A trustee may not be an agent, or broker for or an owner,
9 officer or employee of any third-party administrator, insurance agency or insurer utilized by the
10 plan. The trustees shall have the authority to approve applications of association members for
11 participation in the arrangement and to contract with a licensed third-party administrator to
12 administer the day-to-day affairs of the plan;

13 (2) Each trustee shall be bonded in an amount of not less than one hundred fifty thousand
14 dollars by a licensed insurer;

15 (3) Investment of plan funds is subject to the same restrictions which are applicable to
16 insurers pursuant to sections [376.300 to 376.310] **376.291 to 376.307**; provided, however, that
17 no foreign plan shall be exempt under section 376.310 from the investment laws of this state
18 unless such plan is subject to laws in its state of domicile which are substantially similar to
19 sections 376.1032 to 376.1045. All investments shall be managed by a bank or other investment
20 entity licensed to operate in Missouri;

21 (4) Trustees, on behalf of the plan, shall file an annual report with the director of the
22 department of insurance by March first showing the condition and affairs of the plan as of the
23 preceding thirty-first day of December. The report shall be made on forms prescribed by the
24 director. The report shall summarize the financial condition of the fund, itemize collections from
25 participating employers, detail all fund expenditures and provide any additional information
26 which the director requires. More frequent reports may be required at the discretion of the
27 director.

377.100. Every corporation doing business under sections 377.010 to 377.190 shall
2 annually, on or before the first day of February, return to the director of the insurance
3 department, in such manner and form as he shall prescribe, a statement of its affairs for the year
4 ending on the preceding thirty-first day of December, and the director, in person or by deputy,
5 shall have the power of visitation of and examination into the affairs of any such corporation,
6 which is conferred upon him in the case of life insurance companies by the laws of this state; and
7 all companies are hereby declared to be subject to and required to conform to the provisions of
8 chapters 374 and 375, RSMo, and sections [376.300] **376.291** to 376.330, 376.580, 376.610 and
9 376.620, RSMo, and governed and controlled by all the provisions in said sections contained;
10 provided, always, that nothing herein contained shall subject any corporation doing business
11 under sections 377.010 to 377.190 to any other provisions or requirements of the general
12 insurance laws of this state, except as distinctly herein set forth and provided.

377.200. Any corporation, company or association issuing policies or certificates
2 promising money or other benefits to a member or policyholder, or upon his decease to his legal
3 representatives, or to beneficiaries designated by him, which money or benefit is derived from
4 stipulated premiums collected in advance from its members or policyholders, and from interest
5 and other accumulations and wherein the money or other benefits so realized is applied to or
6 accumulated solely for the use and purposes of the corporation as herein specified, and for the
7 necessary expenses of the corporation, and the prosecution and enlargement of its business, and
8 which shall comply with all the provisions of sections 377.200 to 377.460, shall be deemed to
9 be engaged in the business of life insurance upon the stipulated premium plan and shall be
10 subject only to the provisions of sections 377.200 to 377.460, except that the provisions of
11 chapters 374 and 375, RSMo, and sections [376.300] **376.291** to 376.330, 376.675, 376.770 to
12 376.795, 376.500 to 376.510, and 376.590 to 376.600, RSMo, shall be applicable. It shall be
13 unlawful for any corporation, company or association not having complied with the provisions
14 of sections 377.200 to 377.460 to use the term "stipulated premium" in its application or
15 contracts, or to print or write the same in its policies or literature.

381.068. In determining the financial condition of a title insurer doing business pursuant
2 to this chapter, the general investment provisions of sections [376.300 to 376.305] **376.291 to**
3 **376.307**, RSMo, shall apply; except that, an investment in a title plant or plants in an amount
4 equal to the actual cost shall be allowed as an admitted asset for title insurers. The aggregate
5 amount of the investment shall not exceed fifty percent of surplus to policyholders, as shown on
6 the most recent annual statement of the title insurer on file with the director.

409.950. Notwithstanding any other law to the contrary, securities or other obligations
2 issued by multinational development banks in which the United States is a member nation,
3 including the African Development Bank, shall be treated as eligible for investment by all

4 employee retirement systems and by all fiduciaries created or regulated pursuant to the laws of
5 this state. Nothing in this section or in section [376.303 or] 379.080, RSMo, shall be construed
6 to require such investments.

2 [376.320. All bonds or other evidences of debt having a fixed term and
3 rate held by any life insurance company, assessment life association or fraternal
4 beneficiary association authorized to do business in this state may, if amply
5 secured and not in default as to principal and interest, be valued as follows: If
6 purchased at par, at the par value; if purchased above or below par, on the basis
7 of the purchase price adjusted so as to bring the value to par at maturity and so
8 as to yield in the meantime the effective rate of interest at which the purchase was
9 made; provided, that the purchase price shall in no case be taken at a higher
10 figure than the actual market value at the time of purchase; and provided further,
11 that the director of insurance shall have full discretion in determining the method
of calculating values according to the foregoing rule.]

2 [376.672. The director of the department of insurance shall establish by
3 regulation the terms and conditions of policy loan interest rate provisions for all
4 policies issued or delivered by a life insurance company in this state after August
5 13, 1982. Such regulations shall include provisions for an adjustable maximum
6 interest rate based on the monthly average of the Moody's Corporate Bond Yield
7 Average--Monthly Average Corporates, as published by Moody's Investors
8 Service, Inc., the frequency at which the rate is to be determined and appropriate
9 notifications to policyholders. No other provision of law shall apply to policy
10 loan interest rates unless made specifically applicable to such rates. This section
11 shall also apply to loan interest rate provisions for certificates issued or delivered
12 by fraternal benefit societies in this state, and for purposes of this section the
word "policy" includes such certificates.]

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