

FIRST REGULAR SESSION

# HOUSE BILL NO. 734

## 94TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES YATES (Sponsor), WILSON (130), KRAUS, DUSENBERG, FISHER, SCHNEIDER, NANCE, NOLTE, WILSON (119), FAITH, RUESTMAN, SCHARNHORST, WALLACE, SMITH (14) AND CUNNINGHAM (86) (Co-sponsors).

Read 1st time February 1, 2007 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

1948L.01I

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### AN ACT

To repeal section 376.421, RSMo, and to enact in lieu thereof one new section relating to group health insurance.

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

Section A. Section 376.421, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 376.421, to read as follows:

376.421. 1. Except as provided in subsection 2 of this section, no policy of group health insurance shall be delivered in this state unless it conforms to one of the following descriptions:

(1) A policy issued to an employer, or to the trustees of a fund established by an employer, which employer or trustees shall be deemed the policyholder, to insure employees of the employer for the benefit of persons other than the employer, subject to the following requirements:

(a) The employees eligible for insurance under the policy shall be all of the employees of the employer, or all of any class or classes thereof. The policy may provide that the term "employees" shall include the employees of one or more subsidiary corporations, and the employees, individual proprietors, and partners of one or more affiliated corporations, proprietorships or partnerships, if the business of the employer and of such affiliated corporations, proprietorships or partnerships is under common control. The policy may provide that the term "employees" shall include the individual proprietor or partners if the employer is

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

14 an individual proprietorship or partnership. The policy may provide that the term "employees"  
15 shall include retired employees, former employees and directors of a corporate employer. A  
16 policy issued to insure the employees of a public body may provide that the term "employees"  
17 shall include elected or appointed officials;

18 (b) The premium for the policy shall be paid either from the employer's funds or from  
19 funds contributed by the insured employees, or from both. Except as provided in paragraph (c)  
20 of this subdivision, a policy on which no part of the premium is to be derived from funds  
21 contributed by the insured employees must insure all eligible employees, except those who reject  
22 such coverage in writing; and

23 (c) An insurer may exclude or limit the coverage on any person as to whom evidence of  
24 individual insurability is not satisfactory to the insurer in a policy insuring fewer than ten  
25 employees and in a policy insuring ten or more employees if:

26 a. Application is not made within thirty-one days after the date of eligibility for  
27 insurance; or

28 b. The person voluntarily terminated the insurance while continuing to be eligible for  
29 insurance under the policy; or

30 c. After the expiration of an open enrollment period during which the person could have  
31 enrolled for the insurance or could have elected another level of benefits under the policy;

32 (2) A policy issued to a creditor or its parent holding company or to a trustee or trustees  
33 or agent designated by two or more creditors, which creditor, holding company, affiliate, trustee,  
34 trustees or agent shall be deemed the policyholder, to insure debtors of the creditor or creditors  
35 with respect to their indebtedness subject to the following requirements:

36 (a) The debtors eligible for insurance under the policy shall be all of the debtors of the  
37 creditor or creditors, or all of any class or classes thereof. The policy may provide that the term  
38 "debtors" shall include:

39 a. Borrowers of money or purchasers or lessees of goods, services, or property for which  
40 payment is arranged through a credit transaction;

41 b. The debtors of one or more subsidiary corporations; and

42 c. The debtors of one or more affiliated corporations, proprietorships or partnerships if  
43 the business of the policyholder and of such affiliated corporations, proprietorships or  
44 partnerships is under common control;

45 (b) The premium for the policy shall be paid either from the creditor's funds or from  
46 charges collected from the insured debtors, or from both. Except as provided in paragraph (c)  
47 of this subdivision, a policy on which no part of the premium is to be derived from funds  
48 contributed by insured debtors specifically for their insurance must insure all eligible debtors;

49 (c) An insurer may exclude any debtors as to whom evidence of individual insurability  
50 is not satisfactory to the insurer in a policy insuring fewer than ten debtors and in a policy  
51 insuring ten or more debtors if:

52 a. Application is not made within thirty-one days after the date of eligibility for  
53 insurance; or

54 b. The person voluntarily terminated the insurance while continuing to be eligible for  
55 insurance under the policy; or

56 c. After the expiration of an open enrollment period during which the person could have  
57 enrolled for the insurance or could have elected another level of benefits under the policy;

58 (d) The total amount of insurance payable with respect to an indebtedness shall not  
59 exceed the greater of the scheduled or actual amount of unpaid indebtedness to the creditor. The  
60 insurer may exclude any payments which are delinquent on the date the debtor becomes disabled  
61 as defined in the policy;

62 (e) The insurance may be payable to the creditor or to any successor to the right, title,  
63 and interest of the creditor. Such payment or payments shall reduce or extinguish the unpaid  
64 indebtedness of the debtor to the extent of each such payment and any excess of insurance shall  
65 be payable to the insured or the estate of the insured;

66 (f) Notwithstanding the preceding provisions of this subdivision, insurance on  
67 agricultural credit transaction commitments may be written up to the amount of the loan  
68 commitment, and insurance on educational credit transaction commitments may be written up  
69 to the amount of the loan commitment less the amount of any repayments made on the loan;

70 (3) A policy issued to a labor union or similar employee organization, which shall be  
71 deemed to be the policyholder, to insure members of such union or organization for the benefit  
72 of persons other than the union or organization or any of its officials, representatives, or agents,  
73 subject to the following requirements:

74 (a) The members eligible for insurance under the policy shall be all of the members of  
75 the union or organization, or all of any class or classes thereof;

76 (b) The premium for the policy shall be paid either from funds of the union or  
77 organization or from funds contributed by the insured members specifically for their insurance,  
78 or from both. Except as provided in paragraph (c) of this subdivision, a policy on which no part  
79 of the premium is to be derived from funds contributed by the insured members specifically for  
80 their insurance must insure all eligible members, except those who reject such coverage in  
81 writing;

82 (c) An insurer may exclude or limit the coverage on any person as to whom evidence of  
83 individual insurability is not satisfactory to the insurer in a policy insuring fewer than ten  
84 members and in a policy insuring ten or more members if:

85 a. Application is not made within thirty-one days after the date of eligibility for  
86 insurance; or

87 b. The person voluntarily terminated the insurance while continuing to be eligible for  
88 insurance under the policy; or

89 c. After the expiration of an open enrollment period during which the person could have  
90 enrolled for the insurance or could have elected another level of benefits under the policy;

91 (4) A policy issued to a trust, or to the trustee of a fund, established or adopted by two  
92 or more employers, or by one or more labor unions or similar employee organizations, or by one  
93 or more employers and one or more labor unions or similar employee organizations, which trust  
94 or trustee shall be deemed the policyholder, to insure employees of the employers or members  
95 of the unions or organizations for the benefit of persons other than the employers or the unions  
96 or organizations, subject to the following requirements:

97 (a) The persons eligible for insurance shall be all of the employees of the employers or  
98 all of the members of the unions or organizations, or all of any class or classes thereof. The  
99 policy may provide that the term "employees" shall include the employees of one or more  
100 subsidiary corporations, and the employees, individual proprietors, and partners of one or more  
101 affiliated corporations, proprietorships or partnerships if the business of the employer and of such  
102 affiliated corporations, proprietorships or partnerships is under common control. The policy may  
103 provide that the term "employees" shall include the individual proprietor or partners if the  
104 employer is an individual proprietorship or partnership. The policy may provide that the term  
105 "employees" shall include retired employees, former employees and directors of a corporate  
106 employer. The policy may provide that the term "employees" shall include the trustees or their  
107 employees, or both, if their duties are principally connected with such trusteeship;

108 (b) The premium for the policy shall be paid from funds contributed by the employer or  
109 employers of the insured persons or by the union or unions or similar employee organizations,  
110 or by both, or from funds contributed by the insured persons or from both the insured persons  
111 and the employer or union or similar employee organization. Except as provided in paragraph  
112 (c) of this subdivision, a policy on which no part of the premium is to be derived from funds  
113 contributed by the insured persons specifically for their insurance, must insure all eligible  
114 persons except those who reject such coverage in writing;

115 (c) An insurer may exclude or limit the coverage on any person as to whom evidence of  
116 individual insurability is not satisfactory to the insurer;

117 (5) A policy issued to an association or to a trust or to the trustees of a fund established,  
118 created and maintained for the benefit of members of one or more associations. The association  
119 or associations shall have at the outset a minimum of fifty members; [shall have been organized  
120 and maintained in good faith for purposes other than that of obtaining insurance; shall have been

121 in active existence for at least two years;] shall have a constitution and bylaws which provide that  
122 the association or associations shall hold regular meetings not less than annually to further the  
123 purposes of the members; shall, except for credit unions, collect dues or solicit contributions  
124 from members; and shall provide the members with voting privileges and representation on the  
125 governing board and committees. The policy shall be subject to the following requirements:

126 (a) The policy may insure members of such association or associations, employees  
127 thereof, or employees of members, or one or more of the preceding, or all of any class or classes  
128 thereof for the benefit of persons other than the employee's employer;

129 (b) The premium for the policy shall be paid from funds contributed by the association  
130 or associations or by employer members, or by both, or from funds contributed by the covered  
131 persons or from both the covered persons and the association, associations, or employer  
132 members;

133 (c) Except as provided in paragraph (d) of this subdivision, a policy on which no part of  
134 the premium is to be derived from funds contributed by the covered persons specifically for their  
135 insurance must insure all eligible persons, except those who reject such coverage in writing;

136 (d) An insurer may exclude or limit the coverage on any person as to whom evidence of  
137 individual insurability is not satisfactory to the insurer;

138 (e) If the health benefit plan, as defined in section 376.1350, is delivered, issued for  
139 delivery, continued or renewed, is providing coverage to any resident of this state, and is  
140 providing coverage to both small employers as defined in subsection 2 of section 379.930,  
141 RSMo, and large employers, the insurer providing the coverage to the association or trust or  
142 trustees of a fund established, created, and maintained for the benefit of members of one or more  
143 associations may be exempt from subdivision (1) of subsection 1 of section 379.936, RSMo, as  
144 it relates to the association plans established under this section. The director shall find that an  
145 exemption would be in the public interest and approved and that additional classes of business  
146 may be approved under subsection 4 of section 379.934, RSMo, if the director determines that  
147 the health benefit plan:

148 a. Is underwritten and rated as a single employer;

149 b. Has a uniform health benefit plan design option or options for all participating  
150 association members or employers;

151 c. Has guarantee issue to all association members and all eligible employees, as defined  
152 in subsection 2 of section 379.930, RSMo, of any participating association member company;  
153 and

154 d. Complies with all other federal and state insurance requirements, including but not  
155 limited to the small employer health insurance and availability act under sections 379.930 to  
156 379.952, RSMo;

157 (6) A policy issued to a credit union or to a trustee or trustees or agent designated by two  
158 or more credit unions, which credit union, trustee, trustees or agent shall be deemed the  
159 policyholder, to insure members of such credit union or credit unions for the benefit of persons  
160 other than the credit union or credit unions, trustee or trustees, or agent or any of their officials,  
161 subject to the following requirements:

162 (a) The members eligible for insurance shall be all of the members of the credit union  
163 or credit unions, or all of any class or classes thereof;

164 (b) The premium for the policy shall be paid by the policyholder from the credit union's  
165 funds and, except as provided in paragraph (c) of this subdivision, must insure all eligible  
166 members;

167 (c) An insurer may exclude or limit the coverage on any member as to whom evidence  
168 of individual insurability is not satisfactory to the insurer;

169 (7) A policy issued to cover persons in a group where that group is specifically described  
170 by a law of this state as one which may be covered for group life insurance. The provisions of  
171 such law relating to eligibility and evidence of insurability shall apply.

172 2. Group health insurance offered to a resident of this state under a group health  
173 insurance policy issued to a group other than one described in subsection 1 of this section shall  
174 be subject to the following requirements:

175 (1) No such group health insurance policy shall be delivered in this state unless the  
176 director finds that:

177 (a) The issuance of such group policy is not contrary to the best interest of the public;

178 (b) The issuance of the group policy would result in economies of acquisition or  
179 administration; and

180 (c) The benefits are reasonable in relation to the premiums charged;

181 (2) No such group health insurance coverage may be offered in this state by an insurer  
182 under a policy issued in another state unless this state or another state having requirements  
183 substantially similar to those contained in subdivision (1) of this subsection has made a  
184 determination that such requirements have been met;

185 (3) The premium for the policy shall be paid either from the policyholder's funds, or  
186 from funds contributed by the covered persons, or from both;

187 (4) An insurer may exclude or limit the coverage on any person as to whom evidence of  
188 individual insurability is not satisfactory to the insurer.

189 3. As used in this section, insurer shall have the same meaning as the definition of health  
190 carrier under section 376.1350, and "class" means a predefined group of persons eligible for  
191 coverage under a group insurance policy where members of a class represent the same or  
192 essentially the same hazard; except that, an insurer may offer a policy to an employer that

193 charges a reduced premium rate or deductible for employees who do not smoke or use tobacco  
194 products as authorized under section 290.145, RSMo, and such insurer shall not be considered  
195 to be in violation of any unfair trade practice, as defined in section 379.936, RSMo, even if only  
196 some employers elect to purchase such a policy and other employers do not.

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