

FIRST REGULAR SESSION

# HOUSE BILL NO. 998

## 94TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE YATES.

Read 1st time February 27, 2007 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

2479L.011

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### AN ACT

To repeal sections 381.003, 381.009, 381.011, 381.015, 381.018, 381.021, 381.022, 381.025, 381.028, 381.031, 381.032, 381.035, 381.038, 381.041, 381.042, 381.045, 381.048, 381.051, 381.052, 381.055, 381.058, 381.061, 381.062, 381.065, 381.068, 381.071, 381.072, 381.075, 381.078, 381.081, 381.085, 381.088, 381.091, 381.092, 381.095, 381.098, 381.101, 381.102, 381.105, 381.108, 381.111, 381.112, 381.115, 381.118, 381.121, 381.122, 381.125, 381.131, 381.141, 381.151, 381.161, 381.171, 381.181, 381.191, 381.201, 381.211, 381.221, 381.231, and 381.241, RSMo, and section 381.410 as enacted by conference committee substitute for senate bill no. 664, eighty-eighth general assembly, second regular session, and section 381.412 as enacted by house committee substitute for senate bill no. 148, eighty-ninth general assembly, first regular session, and sections 381.410 and 381.412 as enacted by conference committee substitute for house substitute for house committee substitute for senate committee substitute for senate bill no. 894, ninetieth general assembly, second regular session, and to enact in lieu thereof thirty-five new sections relating to the regulation of title insurance, with penalty provisions.

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

Section A. Sections 381.003, 381.009, 381.011, 381.015, 381.018, 381.021, 381.022,  
2 381.025, 381.028, 381.031, 381.032, 381.035, 381.038, 381.041, 381.042, 381.045, 381.048,  
3 381.051, 381.052, 381.055, 381.058, 381.061, 381.062, 381.065, 381.068, 381.071, 381.072,  
4 381.075, 381.078, 381.081, 381.085, 381.088, 381.091, 381.092, 381.095, 381.098, 381.101,

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.

5 381.102, 381.105, 381.108, 381.111, 381.112, 381.115, 381.118, 381.121, 381.122, 381.125,  
6 381.131, 381.141, 381.151, 381.161, 381.171, 381.181, 381.191, 381.201, 381.211, 381.221,  
7 381.231, and 381.241, RSMo, and section 381.410 as enacted by conference committee  
8 substitute for senate bill no. 664, eighty-eighth general assembly, second regular session, and  
9 section 381.412 as enacted by house committee substitute for senate bill no. 148, eighty-ninth  
10 general assembly, first regular session, and sections 381.410 and 381.412 as enacted by  
11 conference committee substitute for house substitute for house committee substitute for senate  
12 committee substitute for senate bill no. 894, ninetieth general assembly, second regular session,  
13 are repealed and thirty-five new sections enacted in lieu thereof, to be known as sections  
14 381.003, 381.009, 381.015, 381.018, 381.019, 381.022, 381.023, 381.024, 381.025, 381.026,  
15 381.028, 381.029, 381.030, 381.032, 381.033, 381.034, 381.038, 381.042, 381.045, 381.048,  
16 381.052, 381.055, 381.058, 381.062, 381.065, 381.068, 381.072, 381.075, 381.085, 381.112,  
17 381.115, 381.118, 381.122, 381.410, 381.412, to read as follows:

**381.003. 1. Sections 381.003 to 381.412 shall be known and may be cited as the**  
2 **"Missouri Title Insurance Act".**

3 **2. Except as otherwise expressly provided in this chapter and except where the**  
4 **context otherwise requires, all provisions of the laws of this state relating to insurance and**  
5 **insurance companies generally shall apply to title insurance, title insurers, and title agents.**

**381.009. Unless the context clearly indicates otherwise, as used in this chapter, the**  
2 **following terms mean:**

3 **(1) "Abstract of title" or "abstract", a written history, synopsis, or summary of the**  
4 **recorded instruments affecting the title to real property;**

5 **(2) "Affiliate", a specific person that directly, or indirectly through one or more**  
6 **intermediaries, controls, or is controlled by, or is under common control with, the person**  
7 **specified;**

8 **(3) "Affiliated business", any portion of a title insurance agency's business written**  
9 **in this state that was referred to it by a producer of title insurance business or by an**  
10 **associate of the producer, where the producer or associate, or both, have a financial**  
11 **interest in the title agency;**

12 **(4) "Associate", any:**

13 **(a) Business organized for profit in which a producer of title business is a director,**  
14 **officer, partner, employee, or an owner of a financial interest;**

15 **(b) Employee of a producer of title business;**

16 **(c) Franchisor or franchisee of a producer of title business;**

17 **(d) Spouse, parent, or child of a producer of title insurance business who is a**  
18 **natural person;**

19 (e) Person, other than a natural person, that controls, is controlled by, or is under  
20 common control with, a producer of title business;

21 (f) Person with whom a producer of title insurance business or any associate of the  
22 producer has an agreement, arrangement, or understanding, or pursues a course of  
23 conduct, the purpose or effect of which is to provide financial benefits to that producer or  
24 associate for the referral of business;

25 (5) "Control", including the terms "controlling", "controlled by", and "under  
26 common control with", the possession, direct or indirect, of the power to direct or cause  
27 the direction of the management and policies of a person, whether through the ownership  
28 of voting securities, by contract other than a commercial contract for goods or  
29 nonmanagement services, or otherwise, unless the power is the result of an official position  
30 or corporate office held by the person. Control shall be presumed to exist if a person,  
31 directly or indirectly, owns, holds with the power to vote, or holds proxies representing ten  
32 percent or more of the voting securities of another person. This presumption may be  
33 rebutted by showing that control does not exist in fact. The director may determine, after  
34 furnishing all persons in interest notice and opportunity to be heard and making specific  
35 findings of fact to support the determination, that control exists in fact, notwithstanding  
36 the absence of a presumption to that effect;

37 (6) "County" or "counties", includes any city not within a county;

38 (7) "Department", the department of insurance, financial and professional  
39 regulation;

40 (8) "Direct operations", that portion of a title insurer's operations which are  
41 attributable to business written by a bona fide employee;

42 (9) "Director", the director of the department of insurance, financial and  
43 professional regulation;

44 (10) "Determining insurability", a process of drafting and reviewing for legal  
45 sufficiency, or causing others to draft or review for legal sufficiency, any document  
46 necessary to ensure valid title to the subject real property, as well as analyzing, evaluating,  
47 and explaining the legal effect of each of the foregoing forms, endorsements and documents  
48 to the parties to the transaction, including the coverage and exceptions to coverage to be  
49 provided by the title insurance policy;

50 (11) "Escrow", written instruments, money or other items deposited by one party  
51 with a depository, escrow agent, or escrowee for delivery to another party upon the  
52 performance of a specified condition or the happening of a certain event;

53           (12) "Escrow, settlement, or closing fee", the consideration for supervising or  
54 handling the actual execution, delivery, or recording of transfer and lien documents and  
55 for disbursing funds;

56           (13) "Financial interest", a direct or indirect legal or beneficial interest, where the  
57 holder is or will be entitled to five percent or more of the net profits or net worth of the  
58 entity in which the interest is held;

59           (14) "Foreign title insurer", any title insurer incorporated or organized under the  
60 laws of any other state of the United States, the District of Columbia, or any other  
61 jurisdiction of the United States;

62           (15) "Geographically indexed or retrievable", a system of keeping recorded  
63 documents which includes as a component a method for discovery of the documents by:

64           (a) Searching an index arranged according to the description of the affected land;  
65 or

66           (b) An electronic search by description of the affected land;

67           (16) "Marketable title", when an original title to land has emanated from the  
68 government, and all persons who appear in the chain of title to have had any interest in the  
69 record title during the last forty-five years have conveyed to the last record owner or  
70 persons through whom he or she derives title, and it is established by affidavits or other  
71 instruments recorded and included in the chain or title that he or she and persons through  
72 whom he or she derives title have been in continuous, open, exclusive, and peaceable  
73 possession of the land for the last twenty-seven years;

74           (17) "Net retained liability", the total liability retained by a title insurer for a single  
75 risk, after taking into account any ceded liability and collateral, acceptable to the director,  
76 and maintained by the insurer;

77           (18) "Non-United States title insurer", any title insurer incorporated or organized  
78 under the laws of any foreign nation or any province or territory;

79           (19) "Premium", the amount that is paid for a title insurance policy or a closing  
80 protection letter that the title insurer issues under this chapter;

81           (20) "Producer", any person, including any officer, director, or owner of five  
82 percent or more of the equity or capital of any person, engaged in this state in the trade,  
83 business, occupation, or profession of:

84           (a) Buying or selling interests in real property;

85           (b) Making loans secured by interests in real property; or

86           (c) Acting as broker, agent, representative, or attorney of a person who buys or  
87 sells any interest in real property or who lends or borrows money with the interest as  
88 security;

89           (21) "Production expenses", expenses incurred that are solely and directly related  
90 to writing policy contracts, closing protection letters, quoting, collecting and remitting  
91 premium, and record keeping related to premiums and policies written and do not include  
92 expenses arising from related title services;

93           (22) "Qualified depository institution", an institution that is:

94           (a) Organized or, in the case of a United States branch or agency office of a foreign  
95 banking organization, licensed under the laws of the United States or any state and has  
96 been granted authority to operate with fiduciary powers;

97           (b) Regulated, supervised, and examined by federal or state authorities having  
98 regulatory authority over banks and trust companies;

99           (c) Insured by the appropriate federal entity; and

100           (d) Qualified under any additional rules established by the director;

101           (23) "Referral", the directing or the exercising of any power or influence over the  
102 direction of title insurance business, whether or not the consent or approval of any other  
103 person is sought or obtained with respect to the referral;

104           (24) "Related title services", services performed by a title insurer, title agency, or  
105 title agent, including but not limited to determining insurability, preparing or obtaining  
106 an abstract, title search, or title examination, examining title, examining searches of the  
107 records of a Uniform Commercial Code filing office and such other information as may be  
108 necessary or appropriate, clearing a title defect, provision of or any endorsement or special  
109 coverage, and, in conjunction with the issuance of a title insurance commitment or policy,  
110 the following additional services:

111           (a) Preparing deeds, sellers' affidavits, and lien releases based on the closer's review  
112 of the documents yielded by the preliminary title search;

113           (b) Preparing closing documents;

114           (c) Performing, or instructing others to perform, a final title search to determine  
115 whether any public evidence of defects in title have arisen between the date a commitment  
116 was issued and the date of closing;

117           (d) Reviewing sellers' affidavits to ensure there are no amounts due and owing for  
118 services, labor or material used in the construction, or repair of buildings or improvements  
119 of real property subject to the closing transaction;

120           (e) Collecting and scrutinizing deeds, liens, deeds of trust, promissory notes, trust  
121 agreements, marital waivers, and powers of attorney to determine the legal accuracy,  
122 sufficiency and effect of each document in an effort to satisfy all requirements set forth in  
123 a title insurance commitment;

- 124 (f) Drafting or executing settlement forms, tax agreements, and certain loan  
125 documents required by the lender;
- 126 (g) Explaining the fees charged for performing title searches and other services in  
127 this definition;
- 128 (h) Authority to modify the amount of charges and fees assessed for performing  
129 services in this definition;
- 130 (i) Conducting the closing;
- 131 (j) Instructing the title insurer to modify any exceptions in the title insurance  
132 policy, based on the closer's determination of which commitment requirements have been  
133 met and which have not;
- 134 (k) Ensuring all of the seller's and existing lienholder's interests, to the extent  
135 intended by the parties, in the subject real property are extinguished before the title  
136 insurance policy is issued;
- 137 (l) Receiving, depositing, balancing, and issuing funds in accordance with escrow  
138 closing instructions and the settlement form, including premium;
- 139 (m) Handling the escrow, settlement, and disbursing of funds related to the closing  
140 in a real estate closing transaction;
- 141 (n) Soliciting and procuring business, advertising, publicity, and maintaining the  
142 good will of producers and customers; and
- 143 (o) Providing noninsurance-related information;
- 144 (25) "Search", "search of the public records", or "search of title", a search of those  
145 records established by the laws of this state for the purpose of imparting constructive  
146 notice of matters relating to real property to purchasers for value and without knowledge;
- 147 (26) "Security" or "security deposit", funds or other property received by the title  
148 insurer as collateral to secure an indemnitor's obligation under an indemnity agreement  
149 under which the insurer is granted a perfected security interest in the collateral in  
150 exchange for agreeing to provide coverage in a title insurance policy for a specific title  
151 exception to coverage;
- 152 (27) "Subsidiary", an affiliate controlled by a person directly or indirectly through  
153 one or more intermediaries;
- 154 (28) "Title agency", an authorized person who issues title insurance on behalf of  
155 a title insurer. An attorney licensed to practice law in this state who issues title insurance  
156 as a part of his or her law practice, but does not maintain or operate a title insurance  
157 business separate from such law practice is not a title agency;
- 158 (29) "Title agent" or "agent", an attorney licensed to practice law in this state who  
159 issues title insurance as part of his or her law practice, but who is not affiliated with or

160 acting on behalf of a title agency, or any individual who sells, solicits, or negotiates title  
161 insurance, or on behalf of a title agency abstracts, searches or examines titles, clears title  
162 defects, handles escrows, settlements, or closings, or otherwise engages in the business of  
163 title insurance;

164 (30) "Title insurance business" or "business of title insurance":

165 (a) Issuing as insurer or offering to issue as insurer a title insurance policy;

166 (b) Transacting or proposing to transact by a title insurer any of the following  
167 activities when conducted or performed in contemplation of and in conjunction with the  
168 issuance of a title insurance policy:

169 a. Soliciting or negotiating the issuance of a title insurance policy;

170 b. Guaranteeing, warranting, or otherwise insuring the correctness of title searches  
171 for all instruments affecting titles to real property, any interest in real property,  
172 cooperative units, and proprietary leases and for all liens or charges affecting the same;

173 c. Drafting or issuing title insurance commitments, including preliminary  
174 requirements necessary for full coverage to be provided in the subsequent title insurance  
175 policy;

176 d. Handling of escrows, settlements, or closings;

177 e. Executing title insurance policies;

178 f. Effecting contracts of reinsurance;

179 g. Abstracting, searching, or examining titles; or

180 h. Clearing title defects;

181 (c) Guaranteeing, warranting, or insuring searches or examinations of title to real  
182 property or any interest in real property;

183 (d) Guaranteeing or warranting the status of title as to ownership of or liens on real  
184 property by any person other than the principals to the transaction;

185 (e) Promising to purchase or repurchase for consideration an indebtedness because  
186 of a title defect, whether or not involving a transfer of risk to a third person; or

187 (f) Promising to indemnify the holder of a mortgage or deed of trust against loss  
188 from the failure of the borrower to pay the mortgage or deed of trust when due if the  
189 property fails to yield sufficient proceeds upon foreclosure to satisfy the debt, when one or  
190 both of the following conditions exist:

191 a. The security has been impaired by the discovery of a previously unknown  
192 property interest in favor of one who is not liable for the payment of the mortgage or deed  
193 of trust; or

194           **b. Perfection of the position of the mortgage or deed of trust which was assured to**  
195 **exist cannot be obtained, notwithstanding timely recordation with the recorder of deeds**  
196 **of the county in which the property is located; or**

197           **(g) Doing or proposing to do any business substantially equivalent to any of the**  
198 **activities listed in this subdivision in a manner designed to evade the provisions of this**  
199 **chapter;**

200           **(31) "Title insurance commitment" or "commitment", a preliminary report,**  
201 **commitment, or binder issued prior to the issuance of a title insurance policy containing**  
202 **the terms, conditions, exceptions, and other matters incorporated by reference under which**  
203 **the title insurer is willing to issue its title insurance policy. A title insurance commitment**  
204 **is not an abstract of title;**

205           **(32) "Title insurance policy" or "policy", a contract insuring or indemnifying**  
206 **owners of, or other persons lawfully interested in, real property or any interest in real**  
207 **property, against loss or damage arising from any or all of the following conditions existing**  
208 **on or before the policy date and not excepted or excluded:**

209           **(a) Title to the estate or interest in land being otherwise than as stated in the policy;**

210           **(b) Defects in or liens or encumbrances on the insured title;**

211           **(c) Unmarketability of the insured title;**

212           **(d) Lack of legal right of access to the land;**

213           **(e) Invalidity or unenforceability of the lien of an insured mortgage;**

214           **(f) The priority of a lien or encumbrance over the lien of any insured mortgage;**

215           **(g) The lack of priority of the lien of an insured mortgage over a statutory lien for**  
216 **services, labor, or material;**

217           **(h) The invalidity or unenforceability of an assignment of the insured mortgage;**  
218 **or**

219           **(i) Rights or claims relating to the use of or title to the land;**

220           **(33) "Title insurer" or "insurer", a company organized under the laws of this state**  
221 **for the purpose of transacting the business of title insurance and any foreign or non-United**  
222 **States title insurer licensed in this state to transact the business of title insurance;**

223           **(34) "Title insurer operating expenses", expenses incurred by a title insurer solely**  
224 **and directly related to administering the production of, and the assumption of risk in,**  
225 **policies and closing protection letters, and does not include production expenses or any**  
226 **expenses arising from the performance of related title services;**

227           **(35) "Title plant", a set of records encompassing at least the most recent forty-five**  
228 **years, consisting of documents, maps, surveys, or entries affecting title to real property or**  
229 **any interest in or encumbrance on the property, which have been filed or recorded in the**

230 jurisdiction for which the title plant is established or maintained. The records in the title  
231 plant shall be geographically indexed or retrievable as to those records containing a legal  
232 description of affected land, and otherwise by name of affected person;

233 (36) "Underwrite", the act of setting insurability standards, guidelines, and  
234 procedures and determining compliance as regards to a particular risk.

381.015. 1. When a title insurance commitment issued by a title insurer, title  
2 agency, or title agent includes an offer to issue an owner's policy covering the resale of  
3 owner-occupied residential property, the commitment shall incorporate the following  
4 statement in bold type:

5 "Please read the exceptions and the terms shown or referred to herein carefully.  
6 The exceptions are meant to provide you with notice of matters which are not covered  
7 under the terms of the title insurance policy and should be carefully considered."

8 2. A title insurer, title agency, or title agent issuing a lender's title insurance policy  
9 in conjunction with a mortgage loan made simultaneously with the purchase of all or part  
10 of the real estate securing the loan, where no owner's title insurance policy has been  
11 requested, shall give written notice, on a form prescribed or approved by the director, to  
12 the purchaser-mortgagor at the time the commitment is prepared. The notice shall explain  
13 that a lender's title insurance policy is to be issued protecting the mortgage-lender, and  
14 that the policy does not provide title insurance protection to the purchaser-mortgagor as  
15 the owner of the property being purchased. The notice shall explain what a title policy  
16 insures against and what possible exposures exist for the purchaser-mortgagor that could  
17 be insured against through the purchase of an owner's policy. The notice shall also explain  
18 that the purchaser-mortgagor may obtain an owner's title insurance policy protecting the  
19 property owner at a specified cost or approximate cost, if the proposed coverages are or  
20 amount of insurance is not then known. A copy of the notice, signed by the purchaser-  
21 mortgagor, shall be retained in the relevant underwriting file at least fifteen years after the  
22 effective date of the policy.

23 3. A violation of any provision under this section is a level one violation under  
24 section 374.049, RSMo.

381.018. 1. The title insurer shall not allow the issuance of its commitments or  
2 policies by a title agency or title agent not affiliated with a title agency unless there is in  
3 force a written contract between the parties which sets forth the responsibilities of each  
4 party or, where both parties share responsibility for particular functions, specifies the  
5 division of responsibilities.

6 2. The title insurer shall maintain an inventory of all policy numbers allocated to  
7 each title agency or title agent not affiliated with a title agency.

8           **3. The title insurer shall have on file proof that the title agency or title agent is**  
9 **licensed by this state.**

10           **4. The title insurer shall establish the underwriting guidelines and, where**  
11 **applicable, limitations on title claims settlement authority to be incorporated into contracts**  
12 **with its title agencies and title agents not affiliated with a title agency.**

13           **5. If a title insurer terminates its agency with a title agency licensed under this**  
14 **chapter, the insurer shall, within seven days of the termination, notify the director of the**  
15 **reasons for termination, including any information that is required to be reported under**  
16 **subsection 5 of section 375.022, RSMo.**

17           **6. A violation of any provision under this section is a level two violation under**  
18 **section 374.049, RSMo.**

**381.019. 1. A title insurer, title agency or title agent participating in a settlement**  
2 **or closing of a residential real estate transaction shall provide clear, conspicuous, and**  
3 **distinct disclosure of premiums and charges for related title services. The director may**  
4 **adopt rules not in conflict with provisions of the federal Real Estate Settlement Procedures**  
5 **Act, as amended, under section 381.042 to implement disclosure of the following:**

6           **(1) Premium;**

7           **(2) Abstract or title search and examination fee;**

8           **(3) Settlement or closing fees; and**

9           **(4) Any other associated fees along with a concise description.**

10           **2. A violation of any provision under this section is a level two violation under**  
11 **section 374.049, RSMo.**

**381.022. 1. A title insurer, title agency, or title agent not affiliated with a title**  
2 **agency may operate as an escrow, security, settlement, or closing agent, provided that all**  
3 **funds deposited with the title insurer, title agency, or title agent not affiliated with a title**  
4 **agency in connection with any escrow, settlement, closing, or security deposit shall be**  
5 **submitted for collection to or deposited in a separate fiduciary trust account or accounts**  
6 **in a qualified depository institution no later than the close of the next business day after**  
7 **receipt, in accordance with the following requirements:**

8           **(1) The funds regulated under this section shall be the property of the person or**  
9 **persons entitled to them under the provisions of the escrow, settlement, security deposit,**  
10 **or closing agreement and shall be segregated for each depository by escrow, settlement,**  
11 **security deposit, or closing in the records of the title insurer, title agency, or title agent not**  
12 **affiliated with a title agency, in a manner that permits the funds to be identified on an**  
13 **individual basis and in accordance with the terms of the individual instructions or**  
14 **agreements under which the funds were accepted; and**

15           **(2) The funds shall be applied only in accordance with the terms of the individual**  
16 **instructions or agreements under which the funds were accepted.**

17           **2. It is unlawful for any person to:**

18           **(1) Commingle personal or any other moneys with escrow funds regulated under**  
19 **this section;**

20           **(2) Use such escrow funds to pay or indemnify against debts of the title insurance**  
21 **agent or of any other person;**

22           **(3) Use such escrow funds for any purpose other than to fulfill the terms of the**  
23 **individual escrow after the necessary conditions of the escrow have been met;**

24           **(4) Disburse any funds held in an escrow account unless the disbursement is made**  
25 **under a written instruction or agreement specifying under what conditions and to whom**  
26 **such funds may be disbursed or under an order of a court of competent jurisdiction; or**

27           **(5) Disburse any funds held in a security deposit account unless the disbursement**  
28 **is made under a written agreement specifying:**

29           **(a) What actions the indemnitor shall take to satisfy his or her obligation under the**  
30 **agreement;**

31           **(b) The duties of the title insurer, title agency, or title agent not affiliated with a**  
32 **title agency with respect to disposition of the funds held, including a requirement to**  
33 **maintain evidence of the disposition of the title exception before any balance may be paid**  
34 **over to the depositing party or his or her designee; and**

35           **(c) Any other provisions the director may require by rule or order.**

36           **3. Notwithstanding the provisions of subsection 2 of this section, any interest**  
37 **received on funds deposited in connection with any escrow, settlement, security deposit, or**  
38 **closing may be retained by the title insurer, title agency, or title agent not affiliated with**  
39 **a title agency as compensation for administration of the escrow or security deposit, unless**  
40 **the instructions for the funds or a governing statute provides otherwise.**

41           **4. Notwithstanding the provisions of subsection 1 of this section, a title insurer, title**  
42 **agency, or title agent is not authorized to provide such services as an escrow, security,**  
43 **settlement, or closing agent in a residential real estate transaction unless as part of the**  
44 **same transaction the title insurer, title agency, or title agent issues a commitment, binder,**  
45 **or title insurance policy and closing protection letters have been issued protecting the**  
46 **buyer's and the seller's interests, or the title agency or agent has given written notice to the**  
47 **affected person on a form approved by rule promulgated by the director that the person's**  
48 **interest in the closing or settlement is not protected by the title insurer, title agency, or title**  
49 **agent.**

50           **5. It is unlawful for any title agency or agent to engage in the handling of an**  
51 **escrow, settlement or closing, unless the escrow handling, settlement or closing is conducted**  
52 **or performed in contemplation of and in conjunction with the issuance of a title insurance**  
53 **policy or a closing protection letter, or prior to the receipt of any funds, the title agency or**  
54 **agent clearly discloses to the seller, buyer or lender involved in such escrow, settlement or**  
55 **closing, that no title insurer is providing any protection for closing or settlement funds**  
56 **received by the title agency or agent.**

57           **6. A violation of any provision under this section is a level three violation under**  
58 **section 374.049, RSMo.**

**381.023. 1. A title insurer shall, at least annually, conduct an onsite review of the**  
2 **underwriting, claims, and escrow practices of the title agency or agent with which it has**  
3 **a contract. If the title agency or agent does not maintain separate fiduciary trust accounts**  
4 **for each title insurer it represents, the title insurer shall verify that the funds held on its**  
5 **behalf are reasonably ascertainable from the books of account and records of the title**  
6 **agency or agent.**

7           **2. Each title insurer authorized to do business in Missouri shall adopt and utilize**  
8 **the following standards and procedures for the onsite review of title agencies and agents.**  
9 **Onsite review documentation, work papers, summaries, and reports shall be maintained**  
10 **by each title insurer for a period of at least four years and shall be made available to the**  
11 **director for examination upon request. A report shall be prepared by the title insurer at**  
12 **the completion of the onsite review setting forth the title insurer's findings. Onsite review**  
13 **findings shall include, but not be limited to, the following:**

14           **(1) A review of contracts between the title insurer and the title agency or agent;**

15           **(2) A statement of financial condition of the title agency or agent, certified by the**  
16 **title insurance agent or designated agent of the title agency under oath or by affirmation**  
17 **as being a true and accurate representation of financial condition;**

18           **(3) A review of policies and practices related to conflicts of interest affiliated**  
19 **business arrangements, and regulatory compliance;**

20           **(4) Reconciliation of orders with commitments, title searches, title policies, and**  
21 **collection of premiums;**

22           **(5) A review of the procedures for tracking issued commitments;**

23           **(6) A review of the practices to cancel commitments on transactions that do not**  
24 **close;**

25           **(7) A review of the procedures for follow-up after closing to track status of**  
26 **outstanding conditions required for timely issuance of policies;**

27           **(8) A review of the procedures for voiding policies;**

- 28           **(9) A review of the tracking of open escrow, security, settlement or closing files;**  
29           **(10) A review of issued policy reports to the title insurer by the title agency or**  
30 **agent;**  
31           **(11) A review of any files awaiting policy issuance that includes a determination of**  
32 **the average length of time between closing and the issuance of the title policy; and**  
33           **(12) A review of a three-way reconciliation of bank balance, book balance and**  
34 **escrow trial balance for each individual escrow bank account.**

35           **3. If the title agency or agent is an agency or agent for two or more title insurers,**  
36 **the title insurers may cooperate in complying with the requirements of this section.**

37           **4. The title insurer shall provide a copy of the report of each such review it**  
38 **performs to the director. The director may promulgate rules setting forth the minimum**  
39 **threshold level at which a review would be required, the standards thereof and the form**  
40 **of report required.**

41           **5. A violation of any provision under this section is a level two violation under**  
42 **section 374.049, RSMo.**

**381.024. 1. It is unlawful for any title agency or title agent not affiliated with an**  
2 **agency to deny reasonable access or in any manner fail to cooperate with its underwriters**  
3 **in the title insurers' reviews of the agency's or agent's escrow, settlement, closing and**  
4 **security deposit accounts.**

5           **2. It is unlawful for any title agency or title agent not affiliated with an agency,**  
6 **appointed by two or more title insurers, to deny any of the title insurers reasonable access**  
7 **to the fiduciary trust accounts in connection with providing escrow or closing settlement**  
8 **services, and any or all of the supporting account information in order to ascertain the**  
9 **safety and security of the funds held by the title agency or title agent.**

10           **3. A violation of any provision under this section is a level two violation under**  
11 **section 374.049, RSMo.**

**381.025. 1. A title insurer, title agency, title agent, or other person shall not give**  
2 **or receive, directly or indirectly, any consideration for the referral of title insurance**  
3 **business, escrow, closing, or other service provided by a title insurer, title agency, or title**  
4 **agent, except as provided under subsection 2 of this section.**

5           **2. Notwithstanding the provisions of subsection 1 of this section, a title agency, title**  
6 **agent, direct operation of a title insurer or other person may give discounts directly to the**  
7 **person who pays for the related title in a real estate closing transaction if the discounts are**  
8 **solely related to charges or fees for related title services.**

9           **3. A violation of any provision under this section is a level three violation under**  
10 **section 374.049, RSMo.**

11           **4. If the director fails to initiate a proceeding to enforce this section within forty-**  
12 **five days following receipt of written notice of such violation, any title insurer, title agency,**  
13 **or title agent doing business in the same county may maintain an action for injunctive relief**  
14 **against a title insurer, title agency, or title agent violating any provision of this section. In**  
15 **any action under this subsection, the court may award to the successful party the court**  
16 **costs of the action together with reasonable attorney fees.**

**381.026. 1. The settlement agent shall record all deeds and security instruments for**  
2 **real estate closings handled by it within five business days after completion of all conditions**  
3 **precedent thereto.**

4           **2. Nothing in this chapter shall be deemed to prohibit the recording of documents**  
5 **prior to the time funds are available for disbursement with respect to a transaction in**  
6 **which a title insurer, title agency, or title agent not affiliated with a title agency is the**  
7 **settlement agent, provided all parties to whom payment will become due upon such**  
8 **recording consent thereto in writing.**

**381.028. 1. No title insurer, title agency, or title agent shall participate in any**  
2 **transaction in which it knows that an agent or other person requires, directly or indirectly,**  
3 **or through any trustee, director, officer, agent, employee, or affiliate, as a condition,**  
4 **agreement, or understanding to selling or furnishing any other person a loan, or loan**  
5 **extension, credit, sale, property, contract, lease, or service, that the other person shall place**  
6 **a title insurance policy of any kind with the title insurer or through a particular title**  
7 **agency or agent.**

8           **2. It is unlawful for any title insurer, title agency, title agent, or any employee or**  
9 **representative thereof, to:**

10           **(1) Pay, allow, or give or offer to pay, allow, or give, directly or indirectly, as an**  
11 **inducement for insurance, or after insurance has been effected, any rebate, discount,**  
12 **abatement, credit, or reduction of the premium named in the policy of insurance, or any**  
13 **special favor or advantage in the dividends or other benefits to accrue thereon, or any**  
14 **valuable consideration or inducement relating to premiums whatever, not specified or**  
15 **provided for in the policy, except to the extent provided for in the applicable filing with the**  
16 **director;**

17           **(2) Pay, allow, or give or offer to pay, allow, or give, directly or indirectly, to any**  
18 **person acting as an agent, representative, attorney, or employee of the owner, lessee,**  
19 **mortgagee, existing or prospective, of the real property or interest therein which is the**  
20 **subject matter of title insurance or as to which a service is to be performed, any**  
21 **commission or part of its fee or charges, or any other consideration as inducement or**  
22 **compensation for placing any order for a title insurance policy or for performance of any**

23 escrow, related title services or other service by the insurer, title agency, title agent, or  
24 employee, or representative thereof; or

25 (3) Issue any policy or perform any service in connection with which it or any agent  
26 has paid or contemplates paying, allowing or giving any commission, rebate, inducement,  
27 or other consideration that would violate subdivision (2) of this section; provided, however,  
28 that nothing in this section shall prevent or prohibit or be deemed or construed to prevent  
29 or prohibit:

30 (a) A title insurer from negotiating with a title agency or title agent discounts under  
31 a filed rating plan or manual or other fees and charges not comprising the premium; or

32 (b) Notwithstanding the provisions of subsection 1 of section 381.025, without being  
33 subject to subdivision (9) of section 375.936, RSMo, and in addition to the provisions of  
34 subsection 2 of section 381.025, a title insurer, title agency, title agent, or employee or  
35 representative thereof from negotiating the charges and fees payable by an insured for  
36 related title services.

37 3. A violation of any provision under this section is a level three violation under  
38 section 374.049, RSMo.

381.029. 1. Whenever the business to be written constitutes affiliated business,  
2 prior to commencing the transaction, the title insurer, title agency, or title agent shall  
3 ensure that its customer has been provided with disclosure of the existence of the affiliated  
4 business arrangement and a written estimate of the charge or range of charges generally  
5 made for the title services provided by the title insurer, title agency, or agent.

6 2. The director may establish rules for use by all title agencies in the recording and  
7 reporting of the agency's owners and of the agency's ownership interests in other persons  
8 or businesses and of material transactions between the parties.

9 3. The director may require each title insurer, agency, and agent to file on forms  
10 prescribed by the director reports setting forth the names and addresses of those persons,  
11 if any, that have a financial interest in the insurer, agency, or agent and who the insurer,  
12 agency, or agent knows or has reason to believe are producers of title insurance business  
13 or associates of producers.

14 4. Nothing in this chapter shall be construed as prohibiting affiliated business  
15 arrangements in the provision of title insurance business so long as:

16 (1) The title insurer, title agency, title agent, or party making a referral constituting  
17 affiliated business, at or prior to the time of the referral, discloses the arrangement and,  
18 in connection with the referral, provides the person being referred with a written estimate  
19 of the charge or range of charges likely to be assessed and otherwise complies with the  
20 disclosure obligations of this section;

21           (2) The person being referred is not required to use a specified title insurer, agency,  
22 or agent; and

23           (3) The only thing of value that is received by the title insurer, agency, agent, or  
24 party making the referral, other than payments otherwise permitted, is a return on an  
25 ownership interest. For purposes of this subsection, the terms "required use" and "return  
26 on an ownership interest" shall have the meaning accorded to them under the Real Estate  
27 Settlement Procedures Act (RESPA), as amended.

28           5. A violation of any provision under this section is a level two violation under  
29 section 374.049, RSMo.

          381.030. 1. Premium shall be a risk rate and shall be limited only to amounts  
2 necessary to cover expected losses and loss adjustment expense from the issuance of title  
3 insurance policies and closing protection letters, necessary production expenses, necessary  
4 title insurer operating expenses solely from issuing policies and closing protection letters,  
5 and a reasonable profit by the title insurer from issuing policies and closing protection  
6 letters and investment income attributable to premium and reserves.

7           2. Premium rates shall exclude any expenses or any profit arising from the activity  
8 associated with the performance of any related title services or any other services not  
9 specifically included in subsection 1 of this section.

10           381.032. 1. Premium rates shall not be excessive, inadequate or unfairly  
11 discriminatory. Premium rates are excessive if they are likely to produce a long-run profit  
12 that is unreasonably high for the insurance provided or if expenses are unreasonably high  
13 in relation to services rendered. Premium rates are inadequate when they are clearly  
14 insufficient to sustain projected losses and expenses and the use of such rates, if continued,  
15 will tend to create a monopoly in the market.

16           2. Unfair discrimination exists if, after allowing for practical limitations, price  
17 differentials fail to reflect equitably the differences in expected losses and expenses. A rate  
18 is not unfairly discriminatory because different premiums result for policyholders with like  
19 loss exposures but different expenses, or like expenses but different loss exposures, so long  
20 as the rate reflects the differences with reasonable accuracy.

21           3. Due consideration shall be given to past and prospective loss and expense  
22 experience within and outside of this state, to catastrophe hazards and contingencies, to  
23 events or trends within and outside of this state, and to all other relevant factors, including  
24 judgment.

          381.033. 1. Every title insurer shall file with the director all premium rates and  
2 supplementary rate information which is to be used in this state. Such rates and  
3 supplementary rate information and supporting information required by the director shall

4 be filed before the effective date. Upon application by the filer, the director may authorize  
5 an earlier effective date.

6         **2. Rates filed under this section shall be filed in such form and manner as**  
7 **prescribed by the director. Whenever a filing is not accompanied by such information as**  
8 **the director has required under this section, the director shall so inform the insurer within**  
9 **thirty days.**

10         **3. In addition to the information required under this section, supporting actuarial**  
11 **data or other information shall be filed in support of a rate, rating plan, or rating system,**  
12 **when requested by the director to determine whether rates should be disapproved as**  
13 **excessive, inadequate, or unfairly discriminatory, whether or not the insurer has begun**  
14 **using the rate.**

15         **4. The director shall maintain a list of rate filings and display the list on the**  
16 **department's Internet website. All rates, supplementary rate information and any**  
17 **supporting information, not otherwise confidential under section 374.070, RSMo, shall, as**  
18 **soon as filed, be open to public inspection at any reasonable time. Copies may be obtained**  
19 **by any person on request and upon payment of a reasonable charge.**

20         **5. Any interested person may within sixty days of a rate filing submit a written**  
21 **request to the director, who may hold a public hearing to consider additional information**  
22 **in reviewing the rates filed under this section.**

23         **6. It is unlawful for a title insurer, title agency, or title agent to use or collect a**  
24 **premium for any coverage or protection in a title insurance policy if such premium has not**  
25 **been filed with the director in a manual of classifications, rules, underwriting rules and**  
26 **rates, rating plan, or modification of the foregoing and the forms and policies to which**  
27 **such rates are applied. A violation of this subsection is a level two violation under section**  
28 **374.049, RSMo.**

**381.034. 1. A rate may be disapproved at any time prior to or subsequent to the**  
2 **effective date. The director may disapprove a rate if the director finds, based on competent**  
3 **and substantial evidence that the rate is excessive, inadequate, or unfairly discriminatory**  
4 **under the requirements of section 381.032.**

5         **2. The title insurer whose rates have been disapproved shall be given a hearing**  
6 **upon a written request made within thirty days after the disapproval order.**

7         **3. Whenever a title insurer has no legally effective rates as a result of the director's**  
8 **disapproval of rates or other act, the director shall on request of the insurer specify interim**  
9 **rates for the insurer that are high enough to protect the interests of all parties and may**  
10 **order that a specified portion of the premiums be placed in an escrow account approved**  
11 **by the director. When new rates become legally effective, the director shall order the**

12 escrowed funds or any overcharge in the interim rates to be distributed appropriately,  
13 except that refunds of less than ten dollars per policyholder shall not be required.

2 **381.038. 1. No title insurance policy shall be written unless and until the title  
insurer, title agent, or agency has:**

3 (1) Caused a search of title to be made from the evidence prepared from a title  
4 plant of the county where the property is located as herein defined, or if no such title plant  
5 of the county exists, or the owner of such plant after a written request has refused to  
6 furnish the title insurer, title agent, or agency desiring to conduct the search and  
7 examination, such title evidence at a reasonable charge and within a reasonable period of  
8 time, then such policy of title insurance shall be based upon the best title evidence  
9 available. An attorney licensed to practice law in this state may upon personal inspection  
10 use the best evidence available in any county and is not subject to the provisions of the title  
11 plant requirement of this chapter. The records on which the title plant is based on shall  
12 show all prior matters affecting the title to the property or interest therein for a continuous  
13 period of time of at least the most recent forty-five years;

14 (2) Caused to be made a determination of insurability of title in accordance with  
15 sound underwriting practices; and

16 (3) Caused a title search and title examination to be performed that show all prior  
17 matters affecting the title to the property or interest therein for a continuous period of time  
18 of at least the most recent forty-five years.

19 2. Except when allowed by regulations promulgated by the director, no title  
20 insurer, title agent, or agency shall knowingly issue any owner's title insurance policy or  
21 commitment to insure without showing all outstanding, enforceable recorded liens or other  
22 interests against the title which is to be insured.

23 3. Evidence of the examination of title and determination of insurability generated  
24 by a title insurer, title agency, or title agent shall be preserved and maintained by such  
25 insurer, agency, or agent for as long as appropriate to the circumstances but in no event  
26 less than fifteen years after the title insurance policy has been issued. Instead of retaining  
27 the original evidence, the title insurer or title agent or agency may in the regular course of  
28 business establish a system whereby all or part of the evidence is recorded, copied, or  
29 reproduced by any process that accurately and legibly reproduces or forms a durable  
30 medium for reproducing the contents of the original.

31 4. Records relating to escrow and security deposits shall be preserved and retained  
32 by a title insurer engaged in direct operations, title agency, and title agent for as long as  
33 appropriate to the circumstances but, in no event less than seven years after the escrow or  
34 security deposit account has been closed.

35           **5. A title agent shall promptly remit premiums to the title insurer no later than**  
36 **thirty days of issuing the policy or if the title insurer issues an invoice, no later than sixty**  
37 **days of receiving an invoice from the title insurer. The title insurer may shorten this**  
38 **period under the terms of its agency contract. A title insurer or title agent shall promptly**  
39 **issue each title insurance policy within forty-five days after closing, unless special**  
40 **circumstances as defined by rule delay the issuance.**

41           **6. This section shall not apply to a title insurer acting as coinsurer if one of the**  
42 **other coinsurers has complied with this section.**

43           **7. A violation of any provision under this section is a level two violation under**  
44 **section 374.049, RSMo.**

**381.042. 1. The director under the authority in section 374.045, RSMo, may issue**  
2 **rules, regulations, and orders necessary to carry out the provisions of this chapter.**

3           **2. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,**  
4 **that is created under the authority delegated in this section shall become effective only if**  
5 **it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if**  
6 **applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable**  
7 **and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,**  
8 **to review, to delay the effective date, or to disapprove and annul a rule are subsequently**  
9 **held unconstitutional, then the grant of rulemaking authority and any rule proposed or**  
10 **adopted after August 28, 2007, shall be invalid and void.**

**381.045. 1. If the director determines that a person has engaged, is engaging, or has**  
2 **taken a substantial step toward engaging in an act, practice, omission or course of business**  
3 **constituting a violation in this chapter or a rule adopted or order issued pursuant thereto,**  
4 **or a person has materially aided or is materially aiding an act, practice, omission, or course**  
5 **of business constituting a violation in this chapter or a rule adopted or order issued**  
6 **pursuant thereto, the director may issue such administrative orders as authorized under**  
7 **section 374.046, RSMo. The director may also suspend or revoke the license of a producer**  
8 **under section 375.141, RSMo, or the certificate of authority of any title insurer as**  
9 **authorized under section 374.047, RSMo, for any such willful violation.**

10           **2. If the director believes that a person has engaged, is engaging, or has taken a**  
11 **substantial step toward engaging in an act, practice, omission or course of business**  
12 **constituting a violation in this chapter or a rule adopted or order issued pursuant thereto,**  
13 **or that a person has materially aided or is materially aiding an act, practice, omission, or**  
14 **course of business constituting a violation in this chapter or a rule adopted or order issued**  
15 **pursuant thereto, the director may maintain a civil action for relief authorized under**  
16 **section 374.048, RSMo.**

17           **3. Nothing contained in this section shall affect the right of the director to impose**  
18 **any other penalties provided for in the laws relating to the business of insurance.**

19           **4. Nothing contained in this chapter is intended to or shall in any other manner**  
20 **limit or restrict the rights of policyholders, claimants, and creditors.**

**381.048. 1. The director may bring an action against any title insurer, title agency,**  
2 **title agent, or any director, officer, agent, employee, trustee, or affiliate of a title insurer,**  
3 **title agency, or title agent in a court of competent jurisdiction to enjoin violations of the**  
4 **Real Estate Settlement Procedures Act, 12 U.S.C. Section 2607, as amended.**

5           **2. A violation of any provision under the federal Real Estate Settlement Procedures**  
6 **Act, as amended, is a level two violation under section 374.049, RSMo.**

**381.052. No person other than a domestic, foreign, or non-United States title**  
2 **insurer organized on the stock plan and duly licensed by the director shall transact title**  
3 **insurance business as an insurer in this state.**

**381.055. Subject to the exceptions and restrictions contained in this chapter, a title**  
2 **insurer shall have the power to:**

3           **(1) Do only title insurance business;**

4           **(2) Reinsure title insurance policies; and**

5           **(3) Perform related title services, unless otherwise prohibited by this chapter or the**  
6 **director, including examining titles to property and any interest in property and procuring**  
7 **and furnishing related information and information about relevant real and personal**  
8 **property, when not in contemplation of, or in conjunction with, the issuance of a title**  
9 **insurance policy.**

**381.058. 1. No insurer that transacts any class, type, or kind of business other than**  
2 **title insurance shall be eligible for the issuance or renewal of a license to transact the**  
3 **business of title insurance in this state nor shall title insurance be transacted, underwritten,**  
4 **or issued by any insurer transacting or licensed to transact any other class, type, or kind**  
5 **of business.**

6           **2. A title insurer shall not engage in the business of guaranteeing payment of the**  
7 **principal or the interest of bonds or mortgages.**

8           **3. (1) Notwithstanding subsection 1 of this section, a title insurer may issue closing**  
9 **or settlement protection letters. Such closing or settlement protection letter shall conform**  
10 **to the terms of coverage and form of instrument as required by the director and may**  
11 **indemnify a buyer, lender or seller solely against loss of settlement funds only because of**  
12 **the following acts of a title insurer's named title agency or title agent:**

13           **(a) Theft or other improper acts or omissions with regard to escrow or settlement**  
14 **funds; and**

15 (b) Failure to comply with written closing instructions by the proposed insured  
16 when agreed to by the title agency or title agent relating to title insurance coverage.

17 (2) The charge for issuance of the closing or settlement protection letter shall be  
18 filed as a rate with the director under section 381.032.

19 (3) A title insurer shall not provide any other coverage which purports to indemnify  
20 against improper acts or omissions of a person with regard to escrow, settlement, or closing  
21 services.

22 4. As used in subsection 3 of this section, the term "closing or settlement protection  
23 letter" means a statement issued by a title insurer to a party to a real estate transaction  
24 acknowledging that the title agency or agent closing a transaction in connection with which  
25 the title insurer's policy is being issued is a duly licensed and authorized agency or agent  
26 of the title insurer, that the performance of settlement services by such agency or agent is  
27 within the scope of its authority as agency or agent for the title insurer, and promising to  
28 be responsible for the misapplication of funds or documents by the agency or agent or its  
29 failure to follow written instructions in connection with the closing.

381.062. In order to be licensed to do an insurance business in this state, a title  
2 insurer shall establish and maintain a minimum paid-in capital of not less than eight  
3 hundred thousand dollars and, in addition, surplus of at least eight hundred thousand  
4 dollars.

381.065. 1. The net retained liability of a title insurer for a single risk in regard to  
2 property located in this state, whether assumed directly or as reinsurance, shall not exceed  
3 the aggregate of fifty percent of surplus as regards policyholders plus the statutory  
4 premium reserve less the company's investment in title plants, all as shown in the most  
5 recent annual statement of the insurer on file with the director.

6 2. For purposes of this chapter:

7 (1) A single risk shall be the insured amount of any title insurance policy, except  
8 that, where two or more title insurance policies are issued simultaneously covering  
9 different estates in the same real property, a single risk shall be the sum of the insured  
10 amounts of all the title insurance policies; and

11 (2) A policy under which a claim payment reduces the amount of insurance under  
12 one or more other title insurance policies shall be included in computing the single risk sum  
13 only to the extent that its amount exceeds the aggregate amount of the policy or policies  
14 whose amount of insurance is reduced.

15 3. A title insurer may obtain reinsurance for all or any part of its liability under its  
16 title insurance policies or reinsurance agreements and may also reinsure title insurance  
17 policies issued by other title insurers on single risks located in this state or elsewhere.

18 Reinsurance on policies issued on properties located in this state may be obtained from any  
19 title insurers licensed to transact title insurance business in this state, any other state, or  
20 the District of Columbia and which have a combined capital and surplus of at least one  
21 million six hundred thousand dollars.

22 4. The director may waive the limitation of this section for a particular risk upon  
23 application of the title insurer and for good cause shown.

381.068. In determining the financial condition of a title insurer doing business  
2 under this chapter, the general investment provisions of sections 379.080 to 379.082, RSMo,  
3 shall apply; except that, an investment in a title plant or plants in an amount equal to the  
4 actual cost shall be allowed as an admitted asset for title insurers. The aggregate amount  
5 of the investment shall not exceed twenty percent of surplus to policyholders, as shown on  
6 the most recent annual statement of the title insurer on file with the director.

381.072. 1. In determining the financial condition of a title insurer doing business  
2 under this chapter, the general provisions of the laws regulating the business of insurance  
3 requiring the establishment of reserves sufficient to cover all known and unknown  
4 liabilities including allocated and unallocated loss adjustment expense, shall apply; except  
5 that, a title insurer shall establish and maintain:

6 (1) (a) A known claim reserve in an amount estimated to be sufficient to cover all  
7 unpaid losses, claims, and allocated loss adjustment expenses arising under title insurance  
8 policies for which the title insurer may be liable, and for which the insurer has discovered  
9 or received notice by or on behalf of the insured or escrow or security depositor;

10 (b) Upon receiving notice from or on behalf of the insured of a title defect in or lien  
11 or adverse claim against the title of the insured that may result in a loss or cause expense  
12 to be incurred in the proper disposition of the claim, the title insurer shall determine the  
13 amount to be added to the reserve, which amount shall reflect a careful estimate of the loss  
14 or loss expense likely to result by reason of the claim;

15 (c) Reserves required under this section may be revised from time to time and shall  
16 be redetermined at least once each year;

17 (2) A statutory or unearned premium reserve established and maintained as  
18 follows:

19 (a) A domestic title insurer shall establish and maintain an unearned premium  
20 reserve computed in accordance with this section, and all sums attributed to such reserve  
21 shall at all times and for all purposes be considered and constitute unearned portions of  
22 the original premiums. This reserve shall be reported as a liability of the title insurer in  
23 its financial statements;

24           **(b) The unearned premium reserve shall be maintained by the title insurer for the**  
25 **protection of holders of title insurance policies. Except as provided in this section, assets**  
26 **equal in value to the reserve are not subject to distribution among creditors or stockholders**  
27 **of the title insurer until all claims of policyholders or claims under reinsurance contracts**  
28 **have been paid in full, and all liability on the policies or reinsurance contracts has been**  
29 **paid in full and discharged or lawfully reinsured;**

30           **(c) The unearned premium reserve shall consist of:**

31           **a. The amount of the unearned premium reserve on January 1, 2008; and**

32           **b. A sum equal to fifteen cents for each one thousand dollars of net retained**  
33 **liability under each title insurance policy, excluding mortgagee's policies simultaneously**  
34 **issued with owner's policies or owner's leasehold policies of the same or greater amount,**  
35 **on a single risk written on properties located in this state and issued after January 1, 2008;**

36           **(d) Amounts placed in the unearned premium reserve in any year in accordance**  
37 **with paragraph (c) of this subdivision shall be deducted in determining the net profit of the**  
38 **title insurer for that year;**

39           **(e) A title insurer shall release from the unearned premium reserve a sum equal to**  
40 **ten percent of the amount added to the reserve during a calendar year on July first of each**  
41 **of the five years following the year in which the sum was added, and shall release from the**  
42 **unearned premium reserve a sum equal to three and one-third percent of the amount**  
43 **added to the reserve during that year on each succeeding July first until the entire amount**  
44 **for that year has been released. The amount of the unearned premium reserve or similar**  
45 **unearned premium reserve maintained before January 1, 2008, shall be released in**  
46 **accordance with the law in effect immediately before January 1, 2008;**

47           **(f) a. Each domestic and foreign title insurer shall file annually with the audited**  
48 **financial report required under section 375.1032, RSMo, an actuarial certificate made by**  
49 **a member in good standing of the American Academy of Actuaries, or by an actuary**  
50 **permitted to make such certificate by the commissioner, superintendent or director of the**  
51 **department of insurance of the state of incorporation of a foreign title insurer;**

52           **b. The actuarial certification shall conform to the annual statement instructions for**  
53 **title insurers adopted by the National Association of Insurance Commissioners and shall**  
54 **include the actuary's professional opinion of the insurer's reserves as of the date of the**  
55 **annual statement. The reserves analyzed under this section shall include reserves for**  
56 **known claims, including adverse developments on known claims, and reserves for incurred**  
57 **but not reported claims;**

58           **(g) Each domestic and foreign title insurer shall establish a supplemental reserve**  
59 **in the amount by which the actuarially certified reserves exceed the total of the known**

60 claim reserve and statutory premium reserve as set forth in the title insurer's annual  
61 financial report, subject to this subdivision.

62       **2. A foreign or alien title insurer licensed to transact title insurance business in this**  
63 **state shall maintain at least the same reserves on title insurance policies issued on**  
64 **properties located in this state as are required of domestic title insurers, unless the laws of**  
65 **the jurisdiction of domicile of the foreign or alien title insurer require a higher amount.**

**381.075. 1. Sections 375.570 to 375.750, RSMo, and sections 375.1150 to 375.1246,**  
2 **RSMo, shall apply to all title insurers subject to this chapter, except as otherwise provided**  
3 **in this section. In applying such sections, the court shall consider the unique aspects of title**  
4 **insurance and shall have broad authority to fashion relief that provides for the maximum**  
5 **protection of the title insurance policyholders.**

6       **2. Security and escrow funds held by or on behalf of the title insurer shall not**  
7 **become general assets and shall be administered as secured claims as defined in section**  
8 **375.1152, RSMo.**

9       **3. Title insurance policies that are in force at the time an order of liquidation is**  
10 **entered shall not be canceled except upon a showing to the court of good cause by the**  
11 **liquidator. The determination of good cause shall be within the discretion of the court. In**  
12 **making this determination, the court shall consider the unique aspects of title insurance**  
13 **and all other relevant circumstances.**

14       **4. The court may set appropriate dates that potential claimants must file their**  
15 **claims with the liquidator. The court may set different dates for claims based upon the title**  
16 **insurance policy than for all other claims. In setting dates, the court shall consider the**  
17 **unique aspects of title insurance and all other relevant circumstances.**

18       **5. As of the date of the order of insolvency or liquidation, all premiums paid, due**  
19 **or to become due under policies of the title insurers, shall be fully earned. It shall be the**  
20 **obligation of title agencies, title agents, insureds, or representatives of the title insurer to**  
21 **pay fully earned premium to the liquidator or rehabilitator.**

**381.085. 1. A title insurer shall not deliver or issue for delivery or permit any of**  
2 **its authorized title agencies or title agents to deliver in this state, any form providing**  
3 **coverage, in connection with title insurance written, unless it has been filed with the**  
4 **director thirty days prior to use.**

5       **2. Forms covered by this section shall include:**

6       **(1) Title insurance policies, including standard form endorsements;**

7       **(2) Title insurance commitments issued prior to the issuance of a title insurance**  
8 **policy; and**

9       **(3) Closing or settlement protection letters.**

10           **3. Any term or condition related to an insurance coverage provided by a title**  
11 **insurance policy or any exception to the coverage, except those ascertained from a search**  
12 **and examination of records relating to a title or inspection or survey of a property to be**  
13 **insured, may only be included in the policy after the term, condition or exception has been**  
14 **filed with the director as herein provided.**

15           **4. The director shall review such form, term, condition, or exception within thirty**  
16 **days. If within this time the director believes the form, term, condition, or exception is not**  
17 **in compliance with the insurance laws of this state or does not contain such words,**  
18 **phraseology, conditions, and provisions which are specific, certain, and unambiguous and**  
19 **reasonably adequate to meet the needed requirements of those insured under such policies,**  
20 **the director may schedule a hearing to be held within sixty days and at such hearing**  
21 **receive evidence and suggestions of law on the matter.**

22           **5. If the director determines after a hearing that a form, term, condition, or**  
23 **exception shall be disapproved, the director shall issue an order disapproving the form,**  
24 **term, condition, or exception in a record and with findings of fact and conclusions of law**  
25 **in accordance with the provisions of chapter 536, RSMo. A final order may not be issued**  
26 **unless the director specifies the provisions of law that have not been complied with or the**  
27 **words, phraseology, conditions, or provisions which are not specific, certain and**  
28 **unambiguous and reasonably adequate to meet the needed requirement of those insured**  
29 **under such policies. A final order of disapproval is subject to judicial review under the**  
30 **provisions of chapter 536, RSMo. During the pending of any proceeding under this**  
31 **section, all such forms may be used.**

32           **6. The failure of the director to seek disapproval does not constitute an approval**  
33 **or endorsement of the form, term, condition, or exception by the director. It is unlawful**  
34 **to make any representation that the director has approved a form, term, condition, or**  
35 **exception filed under this section.**

**381.112. For purposes of the premium tax imposed by sections 148.320 and 148.340,**  
2 **RSMo, the premium income received by a title insurer shall mean the amount within the**  
3 **definition of "premium" in section 381.009, RSMo and subject to sections 381.030 to**  
4 **381.034, RSMo.**

**381.115. 1. It is unlawful for any person to transact the business of title insurance**  
2 **unless authorized as a title insurer, title agency or title agent;**

3           **2. It is unlawful for any person to transact business as:**

4           **(1) A title agency, unless the person is a licensed business entity insurance producer**  
5 **under subsection 2 of section 375.015, RSMo; or**

6           **(2) A title agent, unless the person is a licensed individual insurance producer**  
7 **under subsection 1 of section 375.015, RSMo, or is exempt from licensure under subsection**  
8 **3 of this section.**

9           **3. A salaried employee of a title insurer, title agency, or title agent is exempt from**  
10 **licensure as a title agent if the employee does not do any of the following:**

11           **(1) Establish premiums for a title insurance policy or closing protection letter;**

12           **(2) Determine insurability; or**

13           **(3) Materially perform or supervise others who perform any related title service.**

14           **4. It is unlawful for any title insurer to contract with any person to act in the**  
15 **capacity of a title agency or title agent with respect to risks located in this state unless the**  
16 **person is licensed as required in this section.**

17           **5. The director may adopt rules, regulations, and requirements relating to licensing**  
18 **and practices of persons acting in the capacity of title agencies or agents. These persons**  
19 **may include title agencies, title agents, employees of title insurers, title agencies, or title**  
20 **agents, and persons acting on behalf of title insurers, title agencies, or title agents. This**  
21 **subsection is not intended to require licensure of persons performing a clerical function**  
22 **under the direct supervision and direction of a licensed agent.**

23           **6. Every title agency licensed in this state shall:**

24           **(1) Exclude or eliminate the word insurer, insurance company, or underwriter from**  
25 **its business name, unless the word agency is also included as part of the name; and**

26           **(2) Provide, in a timely fashion, each title insurer with which it places business any**  
27 **information the title insurer requests in order to comply with reporting requirements of**  
28 **the director.**

29           **7. A title agency or title agent licensed in this state prior to the effective date of this**  
30 **chapter shall have ninety days after the effective date of this chapter to comply with the**  
31 **requirements of this section.**

32           **8. If the title insurer, title agency, or title agent delegates the title search to a third**  
33 **party, such as an abstract company, the insurer, agency, or agent must first obtain proof**  
34 **that the third party is operating in compliance with rules and regulations established by**  
35 **the director and the third party shall provide the insurer, agency, or agent with access to**  
36 **and the right to copy all accounts and records maintained by the third party with respect**  
37 **to business placed with the title insurer. Proof from the third party may consist of a signed**  
38 **statement indicating compliance, and shall be effective for a three-year period.**

39           **9. A violation of any provision under this section is a level three violation under**  
40 **section 374.049, RSMo.**

381.118. 1. Each title agency shall designate an individual as a qualified principal, who as a condition of licensure, shall successfully pass an examination developed by the producer advisory board established by section 375.019, RSMo, and approved by the director. Each title agent shall successfully pass an examination developed by the producer advisory board and approved by the director. Upon request by a title agency or agent and for good cause, the director, by order, may waive the requirements of this subsection. The examination requirement in this subsection shall be waived for all title agents and qualified principals who have continually been licensed in this state as a title agent or insurance producer from at least January 1, 2005, through January 1, 2008.

2. Each title agent licensed to sell title insurance in this state, unless exempt under subsection 8 of this section, shall successfully complete courses of study as required by this section. Any person licensed to act as a title agent shall, during each two years, attend courses or programs of instruction or attend seminars equivalent to a minimum of eight hours of instruction. The initial such two-year period shall begin January first of the year next following the effective date of this chapter.

3. Subject to approval by the director, the courses or programs of instruction which shall be deemed to meet the director's standards for continuing educational requirements shall include, but not be limited to, the following:

(1) An insurance-related course taught by an accredited college or university or qualified instructor who has taught a course of insurance law at such institution;

(2) A course or program of instruction or seminar developed or sponsored by any authorized insurer, recognized agents' association or insurance trade association. A local agents' group may also be approved if the instructor receives no compensation for services;

(3) Courses approved for continuing legal education credit by the Missouri Bar.

4. A person teaching any approved course of instruction or lecturing at any approved seminar shall qualify for one and one-half times the number of classroom hours as would be granted to a person taking and successfully completing such course, seminar or program, but the credit may be credited no more than once a year.

5. Excess classroom hours accumulated during any two-year period may be carried forward to the two-year period immediately following the two-year period in which the course, program, or seminar was held.

6. For good cause shown, the director may grant an extension of time during which the educational requirements imposed by this section may be completed, but such extension of time shall not exceed the period of one calendar year. The director may grant an individual waiver of the mandatory continuing education requirement upon a showing by

36 the licensee that it is not feasible for the licensee to satisfy the requirements prior to the  
37 renewal date. Waivers may be granted for reasons including, but not limited to:

38 (1) Serious physical injury or illness;

39 (2) Active duty in the armed services for an extended period of time;

40 (3) Residence outside the United States; or

41 (4) Licensee is at least seventy years of age and is currently licensed as a title agent.

42 7. Every person subject to the provisions of this section shall furnish in a form  
43 satisfactory to the director, written certification as to the courses, programs, or seminars  
44 of instruction taken and successfully completed by such person.

45 8. The provisions of this section shall not apply to those natural persons holding or  
46 applying for a license to act as a title agent in Missouri who reside in a state that has  
47 enacted and implemented a mandatory continuing education law or regulation pertaining  
48 to title agents. However, those natural persons holding or applying for a Missouri agent  
49 license who reside in states which have no mandatory continuing education law or  
50 regulations shall be subject to all the provisions of this section to the same extent as  
51 resident Missouri title agents.

52 9. Rules necessary to implement and administer this section shall be promulgated  
53 by the director, including, but not limited to, rules regarding the following:

54 (1) The producer advisory board established by section 375.019, RSMo, shall be  
55 utilized by the director to assist the director in determining acceptable content of courses,  
56 programs and seminars to include classroom equivalency;

57 (2) Every applicant seeking approval by the director of a continuing education  
58 course under this section shall pay to the director a filing fee of fifty dollars per course,  
59 except that such total fee shall not exceed two hundred fifty dollars per year for any single  
60 applicant. Fees shall be waived for local agents' groups if the instructor receives no  
61 compensation for services. Such fee shall accompany any application form required by the  
62 director. Courses shall be approved for a period of no more than one year. Applicants  
63 holding courses intended to be offered for a longer period must reapply for approval.

64 10. All funds received under the provisions of this section shall be transmitted by  
65 the director to the department of revenue for deposit in the state treasury to the credit of  
66 the insurance dedicated fund. All expenditures required by this section shall be paid from  
67 funds appropriated from the insurance dedicated fund by the general assembly.

68 11. When a title agent pays his or her biennial renewal fee, such agent shall also  
69 furnish the written certification required by this section.

70 12. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,  
71 that is created pursuant to the authority delegated in this section shall become effective

72 only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and,  
73 if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are  
74 nonseverable and if any of the powers vested with the general assembly pursuant to  
75 chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule  
76 are subsequently held unconstitutional, then the grant of rulemaking authority and any  
77 rule proposed or adopted after August 28, 2007, shall be invalid and void.

381.122. The director may during normal business hours examine, audit and  
2 inspect any and all books and records maintained by a title insurer, title agency, or title  
3 agent under this chapter.

381.410. As used in this section and section 381.412, the following terms mean:

2 (1) "Cashier's check", a check, however labeled, drawn on the financial institution,  
3 which is signed only by an officer or employee of such institution, is a direct obligation of  
4 such institution, and is provided to a customer of such institution or acquired from such  
5 institution for remittance purposes;

6 (2) "Certified funds", United States currency, funds conveyed by a cashier's check,  
7 certified check, teller's check, as defined in Federal Reserve Regulations CC, or wire  
8 transfers, including written advice from a financial institution that collected funds have  
9 been credited to the settlement agent's account;

10 (3) "Director", the director of the department of insurance, financial and  
11 professional regulation, unless the settlement agent's primary regulator is the division of  
12 finance. When the settlement agent is regulated by such division, that division shall have  
13 jurisdiction over this section and section 381.412;

14 (4) "Financial institution":

15 (a) A person or entity doing business under the laws of this state or the United  
16 States relating to banks, trust companies, savings and loan associations, credit unions,  
17 commercial and consumer finance companies, industrial loan companies, insurance  
18 companies, small business investment corporations licensed under the Small Business  
19 Investment Act of 1958, 15 U.S.C. Section 661, et seq., as amended, or real estate  
20 investment trusts as defined in 26 U.S.C. Section 856, as amended, or institutions  
21 constituting the Farm Credit System under the Farm Credit Act of 1971, 12 U.S.C. Section  
22 2000, et seq., as amended; or

23 (b) A mortgage loan company or mortgage banker doing business under the laws  
24 of this state or the United States which is subject to licensing, supervision, or auditing by  
25 the Federal National Mortgage Association, or the Federal Home Loan Mortgage  
26 Corporation, or the United States Veterans' Administration, or the Government National  
27 Mortgage Association, or the United States Department of Housing and Urban

28 **Development, or a successor of any of the foregoing agencies or entities, as an approved**  
29 **seller or servicer, if their principal place of business is in Missouri or a state which is**  
30 **contiguous to Missouri;**

31 **(5) "Settlement agent", a person, corporation, partnership, or other business**  
32 **organization which accepts funds and documents as fiduciary for the buyer, seller or**  
33 **lender for the purposes of closing a sale of an interest in real estate located within the state**  
34 **of Missouri, and is not a financial institution, or a member in good standing of the Missouri**  
35 **Bar, or a person licensed under chapter 339, RSMo.**

**381.412. 1. A settlement agent who accepts funds for closing a sale of an interest**  
2 **in real estate shall require a buyer, seller, or lender who is not a financial institution to**  
3 **convey such funds to the settlement agent as certified funds. A check shall be exempt from**  
4 **the provisions of this section if drawn on:**

5 **(1) An escrow account of a licensed real estate broker, as regulated and described**  
6 **in section 339.105, RSMo; or**

7 **(2) An escrow account of a title insurer or title insurance agency licensed to do**  
8 **business in Missouri; or**

9 **(3) An agency of the United States of America, the state of Missouri, or any county**  
10 **or municipality of the state of Missouri; or**

11 **(4) An account by a financial institution.**

12 **2. It is unlawful for any title insurer, title agency, or title agent, as defined in section**  
13 **381.009, to make any payment, disbursement or withdrawal from an escrow account which**  
14 **it maintains as a depository of funds received from the public for the settlement of real**  
15 **estate transactions unless a corresponding deposit of funds was made to the escrow account**  
16 **for the benefit of the payee or payees:**

17 **(1) At least ten days prior to such payment, disbursement, or withdrawal; or**

18 **(2) Which consisted of certified funds; or**

19 **(3) Consisted of a check made exempt from this section by the provisions of**  
20 **subsection 1 of this section.**

21 **3. A violation of any provision of this section is a level two violation under section**  
22 **374.049, RSMo.**

2 [381.003. 1. Sections 381.003 to 381.125 shall be known and may be  
3 cited as the "Missouri Title Insurance Act".

4 2. Sections 381.009 to 381.048 shall apply to all persons engaged in the  
5 business of title insurance in this state. Sections 381.052 to 381.112 shall apply  
to all title insurers engaged in the business of title insurance in this state.

6 Sections 381.115 to 381.125 shall apply to all title agencies engaged in the  
7 business of title insurance in this state.

8 3. Except as otherwise expressly provided in this chapter and except  
9 where the context otherwise requires, all provisions of the insurance code  
10 applying to insurance and insurance companies generally shall apply to title  
11 insurance, title insurers and title agents.]  
12

[381.009. As used in this chapter, the following terms mean:

2 (1) "Abstract of title" or "abstract", a written history, synopsis or  
3 summary of the recorded instruments affecting the title to real property;

4 (2) "Affiliate", a specific person that directly, or indirectly through one  
5 or more intermediaries, controls, or is controlled by, or is under common control  
6 with, the person specified;

7 (3) "Affiliated business", any portion of a title insurance agency's  
8 business written in this state that was referred to it by a producer of title insurance  
9 business or by an associate of the producer, where the producer or associate, or  
10 both, have a financial interest in the title agency;

11 (4) "Associate", any:

12 (a) Business organized for profit in which a producer of title business is  
13 a director, officer, partner, employee or an owner of a financial interest;

14 (b) Employee of a producer of title business;

15 (c) Franchisor or franchisee of a producer of title business;

16 (d) Spouse, parent or child of a producer of title insurance business who  
17 is a natural person;

18 (e) Person, other than a natural person, that controls, is controlled by, or  
19 is under common control with, a producer of title business;

20 (f) Person with whom a producer of title insurance business or any  
21 associate of the producer has an agreement, arrangement or understanding, or  
22 pursues a course of conduct, the purpose or effect of which is to provide financial  
23 benefits to that producer or associate for the referral of business;

24 (5) "Bona fide employee of the title insurer", an individual who devotes  
25 substantially all of his or her time to performing services on behalf of a title  
26 insurer and whose compensation for those services is in the form of salary or its  
27 equivalent paid by the title insurer;

28 (6) "Control", including the terms "controlling", "controlled by" and  
29 "under common control with", the possession, direct or indirect, of the power to  
30 direct or cause the direction of the management and policies of a person, whether  
31 through the ownership of voting securities, by contract other than a commercial  
32 contract for goods or nonmanagement services, or otherwise, unless the power  
33 is the result of an official position or corporate office held by the person. Control  
34 shall be presumed to exist if a person, directly or indirectly, owns, controls, holds  
35 with the power to vote or holds proxies representing ten percent or more of the  
36 voting securities of another person. This presumption may be rebutted by

37 showing that control does not exist in fact. The director may determine, after  
38 furnishing all persons in interest notice and opportunity to be heard and making  
39 specific findings of fact to support the determination, that control exists in fact,  
40 notwithstanding the absence of a presumption to that effect;

41 (7) "County" or "counties" includes any city not within a county;

42 (8) "Direct operations", that portion of a title insurer's operations which  
43 are attributable to business written by a bona fide employee;

44 (9) "Director", the director of the department of insurance, or the  
45 director's representatives;

46 (10) "Escrow", written instruments, money or other items deposited by  
47 one party with a depository, escrow agent or escrowee for delivery to another  
48 party upon the performance of a specified condition or the happening of a certain  
49 event;

50 (11) "Escrow, settlement or closing fee", the consideration for  
51 supervising or handling the actual execution, delivery or recording of transfer and  
52 lien documents and for disbursing funds;

53 (12) "Financial interest", a direct or indirect legal or beneficial interest,  
54 where the holder is or will be entitled to five percent or more of the net profits or  
55 net worth of the entity in which the interest is held;

56 (13) "Foreign title insurer", any title insurer incorporated or organized  
57 pursuant to the laws of any other state of the United States, the District of  
58 Columbia, or any other jurisdiction of the United States;

59 (14) "Geographically indexed or retrievable", a system of keeping  
60 recorded documents which includes as a component a method for discovery of  
61 the documents by:

62 (a) Searching an index arranged according to the description of the  
63 affected land; or

64 (b) An electronic search by description of the affected land;

65 (15) "Net retained liability", the total liability retained by a title insurer  
66 for a single risk, after taking into account any ceded liability and collateral,  
67 acceptable to the director, and maintained by the insurer;

68 (16) "Non-United States title insurer", any title insurer incorporated or  
69 organized pursuant to the laws of any foreign nation or any province or territory;

70 (17) "Premium", the consideration paid by or on behalf of the insured for  
71 the issuance of a title insurance policy or any endorsement or special coverage.  
72 It does not include consideration paid for settlement or escrow services or  
73 noninsurance-related information services;

74 (18) "Producer", any person, including any officer, director or owner of  
75 five percent or more of the equity or capital of any person, engaged in this state  
76 in the trade, business, occupation or profession of:

77 (a) Buying or selling interests in real property;

78 (b) Making loans secured by interests in real property; or

79 (c) Acting as broker, agent, representative or attorney of a person who  
80 buys or sells any interest in real property or who lends or borrows money with the  
81 interest as security;

82 (19) "Qualified depository institution", an institution that is:

83 (a) Organized or, in the case of a United States branch or agency office  
84 of a foreign banking organization, licensed pursuant to the laws of the United  
85 States or any state and has been granted authority to operate with fiduciary  
86 powers;

87 (b) Regulated, supervised and examined by federal or state authorities  
88 having regulatory authority over banks and trust companies;

89 (c) Insured by the appropriate federal entity; and

90 (d) Qualified under any additional rules established by the director;

91 (20) "Referral", the directing or the exercising of any power or influence  
92 over the direction of title insurance business, whether or not the consent or  
93 approval of any other person is sought or obtained with respect to the referral;

94 (21) "Search", "search of the public records" or "search of title", a search  
95 of those records established by the laws of this state for the purpose of imparting  
96 constructive notice of matters relating to real property to purchasers for value and  
97 without knowledge;

98 (22) "Security" or "security deposit", funds or other property received by  
99 the title insurer as collateral to secure an indemnitor's obligation under an  
100 indemnity agreement pursuant to which the insurer is granted a perfected security  
101 interest in the collateral in exchange for agreeing to provide coverage in a title  
102 insurance policy for a specific title exception to coverage;

103 (23) "Subsidiary", an affiliate controlled by a person directly or indirectly  
104 through one or more intermediaries;

105 (24) "Title agency" means an authorized person who issues title  
106 insurance on behalf of a title insurer. An attorney licensed to practice law in this  
107 state who issues title insurance as a part of his or her law practice, but does not  
108 maintain or operate a title insurance business separate from such law practice is  
109 not a title agency;

110 (25) "Title agent" or "agent", an attorney licensed to practice law in this  
111 state who issues title insurance as part of his or her law practice, but who is not  
112 affiliated with or acting on behalf of a title agency, or an authorized person who,  
113 on behalf of a title agency or on behalf of a title agent not affiliated with a title  
114 agency, performs one or more of the following acts in conjunction with the  
115 issuance of a title insurance commitment or policy:

116 (a) Determines insurability, based upon a review of a search of title;

117 (b) Performs searches;

118 (c) Handles escrows, settlements or closings; or

119 (d) Solicits or negotiates title insurance business;

120 (26) "Title insurance business" or "business of title insurance":

- 121 (a) Issuing as insurer or offering to issue as insurer a title insurance  
122 policy;
- 123 (b) Transacting or proposing to transact by a title insurer any of the  
124 following activities when conducted or performed in contemplation of and in  
125 conjunction with the issuance of a title insurance policy:
- 126 a. Soliciting or negotiating the issuance of a title insurance policy;
- 127 b. Guaranteeing, warranting or otherwise insuring the correctness of title  
128 searches for all instruments affecting titles to real property, any interest in real  
129 property, cooperative units and proprietary leases and for all liens or charges  
130 affecting the same;
- 131 c. Handling of escrows, settlements or closings;
- 132 d. Executing title insurance policies;
- 133 e. Effecting contracts of reinsurance; or
- 134 f. Abstracting, searching or examining titles;
- 135 (c) Guaranteeing, warranting or insuring searches or examinations of title  
136 to real property or any interest in real property;
- 137 (d) Guaranteeing or warranting the status of title as to ownership of or  
138 liens on real property by any person other than the principals to the transaction;
- 139 (e) Promising to purchase or repurchase for consideration an  
140 indebtedness because of a title defect, whether or not involving a transfer of risk  
141 to a third person; or
- 142 (f) Promising to indemnify the holder of a mortgage or deed of trust  
143 against loss from the failure of the borrower to pay the mortgage or deed of trust  
144 when due if the property fails to yield sufficient proceeds upon foreclosure to  
145 satisfy the debt, when one or both of the following conditions exist:
- 146 a. The security has been impaired by the discovery of a previously  
147 unknown property interest in favor of one who is not liable for the payment of the  
148 mortgage or deed of trust; or
- 149 b. Perfection of the position of the mortgage or deed of trust which was  
150 assured to exist cannot be obtained, notwithstanding timely recordation with the  
151 recorder of deeds of the county in which the property is located; or
- 152 (g) Doing or proposing to do any business substantially equivalent to any  
153 of the activities listed in this subdivision in a manner designed to evade the  
154 provisions of this chapter;
- 155 (27) "Title insurance commitment" or "commitment", a preliminary  
156 report, commitment or binder issued prior to the issuance of a title insurance  
157 policy containing the terms, conditions, exceptions and other matters  
158 incorporated by reference under which the title insurer is willing to issue its title  
159 insurance policy. A title insurance commitment is not an abstract of title;
- 160 (28) "Title insurance policy" or "policy", a contract insuring or  
161 indemnifying owners of, or other persons lawfully interested in, real property or  
162 any interest in real property, against loss or damage arising from any or all of the

- 163 following conditions existing on or before the policy date and not excepted or
- 164 excluded:
- 165 (a) Title to the estate or interest in land being otherwise than as stated in
- 166 the policy;
- 167 (b) Defects in or liens or encumbrances on the insured title;
- 168 (c) Unmarketability of the insured title;
- 169 (d) Lack of legal right of access to the land;
- 170 (e) Invalidity or unenforceability of the lien of an insured mortgage;
- 171 (f) The priority of a lien or encumbrance over the lien of any insured
- 172 mortgage;
- 173 (g) The lack of priority of the lien of an insured mortgage over a statutory
- 174 lien for services, labor or material;
- 175 (h) The invalidity or unenforceability of an assignment of the insured
- 176 mortgage; or
- 177 (I) Rights or claims relating to the use of or title to the land;
- 178 (29) "Title insurer" or "insurer", a company organized pursuant to laws
- 179 of this state for the purpose of transacting the business of title insurance and any
- 180 foreign or non-United States title insurer licensed in this state to transact the
- 181 business of title insurance;
- 182 (30) "Title plant", a set of records encompassing at least the most recent
- 183 forty-five years, consisting of documents, maps, surveys or entries affecting title
- 184 to real property or any interest in or encumbrance on the property, which have
- 185 been filed or recorded in the jurisdiction for which the title plant is established
- 186 or maintained. The records in the title plant shall be geographically indexed or
- 187 retrievable as to those records containing a legal description of affected land, and
- 188 otherwise by name of affected person;
- 189 (31) "Underwrite", the authority to accept or reject risk on behalf of the
- 190 title insurer.]

191

2 [381.011. 1. Sections 381.011 to 381.241 shall be known and may be

3 cited as the "Missouri Title Insurance Act".

4 2. The purpose of sections 381.011 to 381.241 is to provide the state of

5 Missouri with a comprehensive body of law for the effective regulation and

6 supervision of title insurance business transacted within this state in response to

7 the McCarran-Ferguson Act, Sections 1011-1015, Title 15, United States Code.]

[381.015. 1. When a title insurance commitment issued by a title insurer,

2 title agency or title agent includes an offer to issue an owner's policy covering the

3 resale of owner-occupied residential property, the commitment shall incorporate

4 the following statement in bold type:

5 "Please read the exceptions and the terms shown or referred to herein

6 carefully. The exceptions are meant to provide you with notice of matters which

7 are not covered under the terms of the title insurance policy and should be  
8 carefully considered."

9 2. A title insurer, title agency or title agent issuing a lender's title  
10 insurance policy in conjunction with a mortgage loan made simultaneously with  
11 the purchase of all or part of the real estate securing the loan, where no owner's  
12 title insurance policy has been requested, shall give written notice, on a form  
13 prescribed or approved by the director, to the purchaser-mortgagor at the time the  
14 commitment is prepared. The notice shall explain that a lender's title insurance  
15 policy is to be issued protecting the mortgage-lender, and that the policy does not  
16 provide title insurance protection to the purchaser-mortgagor as the owner of the  
17 property being purchased. The notice shall explain what a title policy insures  
18 against and what possible exposures exist for the purchaser- mortgagor that could  
19 be insured against through the purchase of an owner's policy. The notice shall  
20 also explain that the purchaser-mortgagor may obtain an owner's title insurance  
21 policy protecting the property owner at a specified cost or approximate cost, if the  
22 proposed coverages are or amount of insurance is not then known. A copy of the  
23 notice, signed by the purchaser-mortgagor, shall be retained in the relevant  
24 underwriting file at least fifteen years after the effective date of the policy.

25 3. Each violation of any provision of this section is a class C violation as  
26 that term is defined in section 381.045.]

27  
[381.018. 1. The title insurer shall not allow the issuance of its  
2 commitments or policies by a title agency or title agent not affiliated with a title  
3 agency unless there is in force a written contract between the parties which sets  
4 forth the responsibilities of each party or, where both parties share responsibility  
5 for particular functions, specifies the division of responsibilities.

6 2. For each title agency or title agent not affiliated with a title agency  
7 under contract with the insurer, the title insurer shall have on file a statement of  
8 financial condition, of each title agency or title agent as of the end of the previous  
9 calendar or fiscal year setting forth an income statement of business done during  
10 the preceding year and a balance sheet showing the condition of its affairs as of  
11 the close of the prior year, certified by the agency or agent as being a true and  
12 accurate representation of the agency's or agent's financial condition. The  
13 statement shall be filed with the insurer no later than the date the agency's or  
14 agent's federal income tax return for the same year is filed. Attorneys actively  
15 engaged in the practice of law, in addition to that related to title insurance  
16 business, are exempt from the requirements of this subsection.

17 3. The title insurer shall conduct reviews of the underwriting, claims and  
18 escrow practices of its agencies and agents which shall include a review of the  
19 agency's or agent's policy blank inventory and processing operations. If any such  
20 title agency or title agent does not maintain separate bank or trust accounts for  
21 each title insurer it represents, the title insurer shall verify that the funds held on  
22 its behalf are reasonably ascertainable from the books of account and records of

23 the title agency or title agent not affiliated with a title agency. The title insurer  
24 shall conduct a review of each of its agencies and agents at least triennially  
25 commencing January first of the year first following January 1, 2001.

26 4. Within thirty days of executing or terminating a contract with a title  
27 agency or title agent not affiliated with a title agency, the insurer shall provide  
28 notification of the appointment or termination and the reason for termination to  
29 the director. Notices of appointment of a title agency or title agent shall be made  
30 on a form promulgated by the director.

31 5. The title insurer shall maintain an inventory of all policy numbers  
32 allocated to each title agency or title agent not affiliated with a title agency.

33 6. The title insurer shall have on file proof that the title agency or title  
34 agent is licensed by this state.

35 7. The title insurer shall establish the underwriting guidelines and, where  
36 applicable, limitations on title claims settlement authority to be incorporated into  
37 contracts with its title agencies and title agents not affiliated with a title agency.

38 8. Each violation of any provision of this section is a class B violation as  
39 that term is defined in section 381.045.]  
40

[381.021. 1. Sections 381.011 to 381.241 shall apply to all persons  
2 engaged in the business of title insurance in this state.

3 2. Except as otherwise expressly provided in sections 381.011 to  
4 381.241, and except where the context otherwise requires, all provisions of the  
5 insurance laws of this state applying to insurance and insurance companies  
6 generally shall apply to title insurance and title insurance companies. No law of  
7 this state enacted after September 28, 1987, that is inconsistent with the  
8 provisions of such sections shall be applicable to the business of title insurance  
9 unless such law specifically states that it is to be applicable to the business of title  
10 insurance.

11 3. Nothing in sections 381.011 to 381.241 shall be construed to authorize  
12 the practice of law by any person who is not duly admitted to practice law in this  
13 state nor shall it be construed to authorize the director to regulate the practice of  
14 law or the sale of real estate.]  
15

[381.022. 1. A title insurer, title agency or title agent not affiliated with  
2 a title agency may operate as an escrow, security, settlement or closing agent,  
3 provided that:

4 (1) All funds deposited with the title insurer, title agency or title agent not  
5 affiliated with a title agency in connection with any escrow, settlement, closing  
6 or security deposit shall be submitted for collection to or deposited in a separate  
7 fiduciary trust account or accounts in a qualified depository institution no later  
8 than the close of the next business day after receipt, in accordance with the  
9 following requirements:

10 (a) The funds shall be the property of the person or persons entitled to  
11 them under the provisions of the escrow, settlement, security deposit or closing  
12 agreement and shall be segregated for each depository by escrow, settlement,  
13 security deposit or closing in the records of the title insurer, title agency or title  
14 agent not affiliated with a title agency, in a manner that permits the funds to be  
15 identified on an individual basis and in accordance with the terms of the  
16 individual instructions or agreements under which the funds were accepted; and

17 (b) The funds shall be applied only in accordance with the terms of the  
18 individual instructions or agreements under which the funds were accepted;

19 (2) Funds held in an escrow account shall be disbursed only pursuant to  
20 a written instruction or agreement specifying under what conditions and to whom  
21 such funds may be disbursed or pursuant to an order of a court of competent  
22 jurisdiction;

23 (3) Funds held in a security deposit account shall be disbursed only  
24 pursuant to a written agreement specifying:

25 (a) What actions the indemnitor shall take to satisfy his or her obligation  
26 under the agreement;

27 (b) The duties of the title insurer, title agency or title agent not affiliated  
28 with a title agency with respect to disposition of the funds held, including a  
29 requirement to maintain evidence of the disposition of the title exception before  
30 any balance may be paid over to the depositing party or his or her designee; and

31 (c) Any other provisions the director may require;

32 (4) Any interest received on funds deposited in connection with any  
33 escrow, settlement, security deposit or closing may be retained by the title  
34 insurer, title agency or title agent not affiliated with a title agency as  
35 compensation for administration of the escrow or security deposit, unless the  
36 instructions for the funds or a governing statute provides otherwise;

37 (5) Each violation of this subsection is a class A violation as that term is  
38 defined in section 381.045.

39 2. The title agency or title agent not affiliated with an agency shall  
40 cooperate with its underwriters in the conduct by the underwriters of reviews of  
41 the agency's or agent's escrow, settlement, closing and security deposit accounts.  
42 The title insurer shall provide a copy of the report of each such review it performs  
43 to the director. The director may promulgate rules setting forth the minimum  
44 threshold level at which a review would be required, the standards thereof and the  
45 form of report required.

46 3. If the title agency or title agent not affiliated with an agency is  
47 appointed by two or more title insurers and maintains fiduciary trust accounts in  
48 connection with providing escrow or closing settlement services, the title agency  
49 or title agent shall allow each title insurer reasonable access to the accounts and  
50 any or all of the supporting account information in order to ascertain the safety  
51 and security of the funds held by the title agency or title agent.

52                   4. (1) Nothing in this chapter shall be deemed to prohibit the recording  
 53 of documents prior to the time funds are available for disbursement with respect  
 54 to a transaction in which a title insurer, title agency or title agent not affiliated  
 55 with a title agency is the settlement agent, provided all parties to whom payment  
 56 will become due upon such recording consent thereto in writing.

57                   (2) The settlement agent shall record all deeds and security instruments  
 58 for real estate closings handled by it within three business days after completion  
 59 of all conditions precedent thereto.

60                   (3) Each violation of this subsection is a class C violation as that term is  
 61 defined in section 381.045.]  
 62

2                   [381.025. 1. A title insurer, title agency, title agent or other person shall  
 3 not give or receive, directly or indirectly, any consideration for the referral of title  
 4 insurance business or escrow or other service provided by a title insurer, title  
 5 agency or title agent. Each violation of this subsection is a class A violation as  
 6 that term is defined in section 381.045.

7                   2. Any title insurer, title agency or title agent doing business in the same  
 8 county as a title insurer, title agency or title agent who may be in violation of the  
 9 prohibitions or limitations of this section shall have standing to seek injunctive  
 10 relief against the violating title insurer, title agency or title agent in the event the  
 11 department declines or fails to enforce this section within forty-five days  
 12 following receipt of written notice of such violation. In any action pursuant to  
 13 this subsection, the court may award to the successful party the court costs of the  
 14 action together with reasonable attorney fees.]

2                   [381.028. No title insurer, title agency or title agent shall participate in  
 3 any transaction in which it knows that a producer or other person requires,  
 4 directly or indirectly, or through any trustee, director, officer, agent, employee or  
 5 affiliate, as a condition, agreement or understanding to selling or furnishing any  
 6 other person a loan, or loan extension, credit, sale, property, contract, lease or  
 7 service, that the other person shall place a title insurance policy of any kind with  
 8 the title insurer or through a particular title agency or agent. Each violation of  
 9 this section is a class A violation as that term is defined in section 381.045.]

2                   [381.031. As used in sections 381.011 to 381.241, the following terms  
 3 mean:

4                   (1) "Alien title insurer", any title insurer incorporated or organized under  
 5 the laws of any foreign nation or any province or territory thereof;

6                   (2) "Applicant", a person, whether or not a prospective insured, who  
 7 applies to a title insurer or title agent, or agency for a title insurance policy and  
 who, at the time of the application, is not a title agent or agency;

- 8 (3) "Approved attorney", an attorney at law who is not an agent or  
9 employee of a title insurer, and whose certification as to status of title a title  
10 insurer is willing to accept as the basis for issuance of its title insurance policy;
- 11 (4) "Charge", any fee billed by a title agent, agency, or title insurer for the  
12 performance of services other than fees that fall within the definition of premium  
13 in this section. "Charge" includes, but is not limited to, fees for document  
14 preparation, fees for the handling of escrows, settlements, or closing, and fees for  
15 services commenced but not completed. "Charge" does not include fees collected  
16 by a title insurer, title agency, or title agent in an escrow, settlement or closing  
17 when the fees are limited to the amount billed for services rendered by an entity  
18 independent of the title insurer, title agent, or agency;
- 19 (5) "Controlled business", any portion of a title insurer's, title agency's or  
20 title agent's business of title insurance in this state, referred to it by any producer  
21 of title business or by any associate of such producer, where the producer of title  
22 business, the associate, or both, have a financial interest in the title insurer, title  
23 agency, or title agent to which business is referred;
- 24 (6) "Director", the director of the department of insurance;
- 25 (7) "Domestic title insurer", a title insurer organized under the laws of  
26 this state;
- 27 (8) "Escrow, settlement or closing fee", the consideration for supervising  
28 the actual execution, delivery or recording of transfer and lien documents and for  
29 disbursing funds;
- 30 (9) "Financial interest", any interest, legal or beneficial, that entitles the  
31 holder directly or indirectly to one percent or more of the net profits or net worth  
32 of the entity in which the interest is held, but does not include payments of  
33 principal or interest made to a mortgage holder of the title agency;
- 34 (10) "Foreign title insurer", any title insurer organized under the laws of  
35 any other state of the United States, the District of Columbia, or any other  
36 jurisdiction of the United States;
- 37 (11) "Gross operating revenue", all amounts received by a title insurer,  
38 title agency, or title agent from premiums and charges;
- 39 (12) "Net retained liability", the total liability retained by a title insurer  
40 for a single risk, after taking into account the deduction for ceded reinsured  
41 liability, if any;
- 42 (13) "Person", any natural person, partnership, association, cooperative,  
43 corporation, trust, or other legal entity;
- 44 (14) "Premium", risk rates charged to the insured;
- 45 (15) "Producer of title business" or "producer", any person, including any  
46 officer, director, or owner of five percent or more of the equity or capital of any  
47 person, engaged in this state in the trade, business, occupation or profession of:
- 48 (a) Buying or selling interests in real property;
- 49 (b) Making loans secured by interests in real property; or

50 (c) Acting as broker, agent, representative or attorney of a person who  
51 buys or sells any interest in real property or who lends or borrows money with  
52 such interest as security;

53 (16) "Single risk", the insured amount of any title insurance policy,  
54 except that where two or more title insurance policies are issued simultaneously  
55 covering different estates in the same real property, "single risk" means the sum  
56 of the insured amounts of all such title insurance policies. Any title insurance  
57 policy insuring a mortgage interest, a payment under which reduces the insured  
58 amount of a fee or leasehold title insurance policy, shall be excluded in  
59 computing the amount of a single risk to the extent that the insured amount of the  
60 mortgagee title insurance policy does not exceed the insured amount of the fee  
61 or leasehold title insurance policy;

62 (17) "Title agent" or "title insurance agent", any authorized agent of a  
63 title insurer or representative of the title agent or agency, who acts as a title agent  
64 in the solicitation of, negotiation for, or procurement or making of any title  
65 insurance contract. The following persons are not title agents or title insurance  
66 agents:

- 67 (a) Approved attorneys;  
68 (b) Salaried officers or employees of title insurers, title agents or title  
69 insurance agencies who do not do any of the following:  
70 a. Establish premiums for policies of title insurance;  
71 b. Determine insurability; or  
72 c. Issue commitments, policies or other contracts of title insurance;

73 (18) "Title insurance agency" or "agency", any individual transacting or  
74 doing business under any name other than his true name, any partnership,  
75 unincorporated association or corporation, transacting or doing business with the  
76 public or title insurance companies as a title insurance agent;

77 (19) "Title insurance business" or "business of title insurance" means:

78 (a) Issuing as insurer or offering to issue as insurer a title insurance  
79 policy;

80 (b) Transacting or proposing to transact by a title insurer, title agency, or  
81 title agent any of the following activities when conducted or performed by a title  
82 agent, title agency, or title insurer in conjunction with the issuance of its title  
83 insurance:

- 84 a. Soliciting or negotiating the issuance of a title insurance policy;  
85 b. Guaranteeing, warranting, or otherwise insuring the correctness of title  
86 searches;  
87 c. Handling of escrows, settlements, or closings;  
88 d. Execution of title insurance policies, reports, commitments, binders,  
89 and endorsements;  
90 e. Effecting contracts of reinsurance; or  
91 f. Abstracting, searching, or examining titles;

92 (c) Transacting by a title insurer, title agent, or agency of matters  
93 subsequent to the issuance of a title insurance policy and arising out of it; or

94 (d) Doing or proposing to do any business in substance equivalent to any  
95 of the foregoing in order to evade any provision of this act;

96 (20) "Title insurance policy" or "policy", a contract insuring or  
97 indemnifying against loss or damage arising from any or all of the following:

98 (a) Defects in or liens or encumbrances on the insured title;

99 (b) Unmarketability of the insured title; or

100 (c) Invalidity or unenforceability of liens or encumbrances on the stated  
101 property.

102 "Title insurance policy" does not include a preliminary report, binder,  
103 commitment, or abstract;

104 (21) "Title insurer", a company organized under laws of this state for the  
105 purpose of transacting as insurer the business of title insurance and any foreign  
106 or alien title insurer engaged in this state in the business of title insurance as  
107 insurer;

108 (22) "Title plant", an index of the records of a county which imparts  
109 constructive notice to purchasers of real property, which encompasses at least the  
110 most recent forty-five years. The index shall be kept geographically as to those  
111 records containing a legal description of affected land, and otherwise by name of  
112 affected person.]

113

2 [381.032. 1. No title insurer, may charge any rates regulated by the state  
3 after January 1, 2001, except in accordance with the premium rate schedule and  
4 manual filed with and approved by the director in accordance with applicable  
5 statutes and regulations governing rate filings. Premium rate schedules in effect  
6 prior to January 1, 2001, may be used until new rate schedules have been  
7 approved by the director. Title insurers shall file their premium rate schedules  
8 within thirty days after January 1, 2001. Each violation of this subsection is a  
9 class C violation as that term is defined in section 381.045. Nothing in this  
10 section shall prevent an agent not affiliated with an agency from charging for  
11 services that constitute the practice of law at the customary fee charged by such  
12 person for legal services. To the extent the premium fails to compensate the  
13 agent at such rate, the agent may render an additional bill for such services on  
14 behalf of the agent's law practice or law firm. The acceptance of any part of the  
15 premium by the law firm of said agent shall not be a violation of any provision  
16 of the Missouri title insurance act or the general insurance statutes, regulations  
17 or bulletins regarding payment of commissions to nonlicensed entities.

18 2. The director may establish rules, including rules providing statistical  
19 plans, for use by all title insurers, title agencies and title agents in the recording  
20 and reporting of revenue, loss and expense experience in such form and detail as  
is necessary to aid the director in the establishment of rates and fees.

21           3. The director may require that the information provided pursuant to this  
22 section be verified by oath of the insurer's or agency's president or vice president  
23 or secretary or actuary, as applicable. The director may further require that the  
24 information required pursuant to this section be subject to an audit conducted at  
25 the expense of the title insurer or title agency by an independent certified public  
26 accountant. The director shall have the authority to establish a minimum  
27 threshold level at which an audit would be required.

28           4. Information filed with the director relating to the experience of a  
29 particular agency shall be kept confidential unless the director finds it in the  
30 public interest to disclose the information required of title insurers or title  
31 agencies pursuant to this section. Prior to any such disclosure of confidential  
32 information, the director shall provide notice and opportunity to be heard to the  
33 title insurers and title agencies who would be affected thereby.]  
34

          [381.035. No title insurance company, title agency or title agent shall  
2 willfully withhold information from, or knowingly give false or misleading  
3 information to the director, or to any title insurance rating organization, of which  
4 the title insurance company is a member or subscriber, which will affect the rates  
5 or fees chargeable pursuant to this chapter. Each violation of this section is a  
6 class A violation as that term is defined in section 381.045.]  
7

          [381.038. 1. Evidence of the examination of title and determination of  
2 insurability generated by a title insurer engaged in direct operations, title agency  
3 or title agent shall be preserved and maintained by such insurer, agency or agent  
4 for as long as appropriate to the circumstances but in no event less than fifteen  
5 years after the title insurance policy has been issued.

          2. Records relating to escrow and security deposits shall be preserved and  
7 retained by a title insurer engaged in direct operations, title agency and title agent  
8 for as long as appropriate to the circumstances but in no event less than five years  
9 after the escrow or security deposit account has been closed.

10           3. This section shall not apply to a title insurer acting as coinsurer if one  
11 of the other coinsurers has complied with this section.

12           4. Each violation of any provision of this section is a class C violation as  
13 that term is defined in section 381.045.]  
14

          [381.041. 1. No person other than a domestic, foreign, or alien title  
2 insurer organized on the stock plan and duly licensed by the director shall  
3 transact title insurance business as an insurer in this state.

          2. Each title insurer may engage in the title insurance business in this  
5 state if licensed to do so by the director and provide any other service related or  
6 incidental to the sale and transfer or financing of property.

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3. A title insurer shall maintain a minimum paid-in capital of not less than four hundred thousand dollars and, in addition, paid-in initial surplus of at least four hundred thousand dollars.]

[381.042. 1. The director may issue rules, regulations and orders necessary to carry out the provisions of this chapter.

2. No rule or portion of a rule promulgated pursuant to the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.]

[381.045. 1. If the director determines that the title insurer or any other person has violated this chapter, or any regulation or order promulgated thereunder, after notice and opportunity to be heard, the director may order:

(1) For each violation a monetary penalty which shall take into account the harm the violation caused or could have caused or potential harm to the public and which shall not exceed:

- (a) One thousand dollars per violation for a class A violation;
  - (b) Five hundred dollars per violation for a class B violation; and
  - (c) One hundred dollars per violation for a class C violation;
- (2) Revocation or suspension of the title insurer's license; or
- (3) Both monetary penalty and revocation or suspension.

2. Nothing contained in this section shall affect the right of the director to impose any other penalties provided for in the insurance code.

3. Nothing contained in this chapter is intended to or shall in any other manner limit or restrict the rights of policyholders, claimants and creditors.]

[381.048. The director may bring an action in a court of competent jurisdiction to enjoin violations of the Real Estate Settlement Procedures Act, 12 U.S.C. Section 2607, as amended.]

[381.051. 1. A title insurer, before issuing any title insurance policy covering property located in this state, shall deposit with the director of the department of insurance, hereinafter referred to as the director, a sum of four hundred thousand dollars, which shall be held for the security and protection of the holders or beneficiaries under its title insurance policies.

2. Assets deposited pursuant to this section may, with the approval of the director, be exchanged from time to time for other assets that qualify under subsection 3 of this section.

3. The depositing title insurer shall receive the income, interests, and dividends on any assets deposited. The deposit required under this section may be made in legal tender or in investments now or hereafter permitted to domestic life insurers with regard to their capital, reserve and surplus. For capital and

13 reserve deposits, sums deposited pursuant to this section shall be valued at their  
14 market value.

15 4. A title insurer that has deposited assets pursuant to this section may,  
16 with the approval of the director, withdraw any part of the assets so deposited.  
17 If any such title insurer continues to engage in the business of title insurance, it  
18 shall not be permitted to withdraw assets that would reduce the amount of its  
19 deposits below the amount required by subsection 1 of this section.

20 5. In lieu of such a deposit maintained in this state, the director shall  
21 accept a certificate or certificates in proper form of the public officer or officers  
22 having general supervision of title insurers in its state of domicile to the effect  
23 that a deposit or total deposits, in an equal or greater amount, in classes of  
24 investment authorized in such state, are being maintained for like purposes in  
25 public custody or control pursuant to the laws of such state on behalf of the title  
26 insurer.

27 6. If sections 381.011 to 381.241 require a greater amount of capital and  
28 surplus or deposits than that required of a title insurer prior to September 28,  
29 1987, such title insurer shall have three years after September 28, 1987, to  
30 comply with any such increased requirement.

31 7. The provisions of sections 375.950 to 375.990, RSMo, shall apply to  
32 the impairment of capital, liquidation, and rehabilitation of title insurers.]  
33

2 [381.052. No person other than a domestic, foreign or non-United States  
3 title insurer organized on the stock plan and duly licensed by the director shall  
4 transact title insurance business as an insurer in this state.]

2 [381.055. Subject to the exceptions and restrictions contained in this  
3 chapter, a title insurer shall have the power to:

- 3 (1) Do only title insurance business;
- 4 (2) Reinsure title insurance policies; and
- 5 (3) Perform ancillary activities, unless prohibited by the director,  
6 including examining titles to real property and any interest in real property and  
7 procuring and furnishing related information and information about relevant  
8 personal property, when not in contemplation of, or in conjunction with, the  
9 issuance of a title insurance policy.]

10 [381.058. 1. No insurer that transacts any class, type or kind of business  
2 other than title insurance shall be eligible for the issuance or renewal of a license  
3 to transact the business of title insurance in this state nor shall title insurance be  
4 transacted, underwritten or issued by any insurer transacting or licensed to  
5 transact any other class, type or kind of business.

6 2. A title insurer shall not engage in the business of guaranteeing  
7 payment of the principal or the interest of bonds or mortgages.

8           3. (1) Notwithstanding subsection 1 of this section, and to the extent  
9 such coverage is lawful within this state, a title insurer is expressly authorized to  
10 issue closing or settlement protection to a proposed insured upon request if the  
11 title insurer issues a commitment, binder or title insurance policy. Such closing  
12 or settlement protection shall conform to the terms of coverage and form of  
13 instrument as required by the director and may indemnify a proposed insured  
14 solely against loss of settlement funds only because of the following acts of a title  
15 insurer's named title agency or title agent:

16           (a) Theft of settlement funds; and  
17           (b) Failure to comply with written closing instructions by the proposed  
18 insured when agreed to by the title agency or title agent relating to title insurance  
19 coverage.

20           (2) The director may promulgate or approve a required charge for  
21 providing the coverage.

22           (3) A title insurer shall not provide any other coverage which purports to  
23 indemnify against improper acts or omissions of a person with regard to escrow,  
24 settlement, or closing services.]  
25

2           [381.061. 1. The net retained liability of a title insurer for a single risk  
3 on property located in this state, whether assumed directly or as reinsurance, may  
4 not exceed fifty percent of the sum of its total surplus to policyholders and  
5 unearned premium reserve, less the admitted asset value assigned to title plants,  
6 as shown in the most recent annual statement of the title insurer on file in the  
7 office of the director.

8           2. The director may waive the limitation of this section for a particular  
9 risk upon application of the title insurer and for good cause shown.]

2           [381.062. Before being licensed to do an insurance business in this state,  
3 a title insurer shall establish and maintain a minimum paid-in capital of not less  
4 than four hundred thousand dollars and, in addition, paid-in initial surplus of at  
5 least four hundred thousand dollars.]

2           [381.065. 1. The net retained liability of a title insurer for a single risk  
3 in regard to property located in this state, whether assumed directly or as  
4 reinsurance, shall not exceed the aggregate of fifty percent of surplus as regards  
5 policyholders plus the statutory premium reserve less the company's investment  
6 in title plants, all as shown in the most recent annual statement of the insurer on  
7 file with the director.

8           2. For purposes of this chapter:

9           (1) A single risk shall be the insured amount of any title insurance policy,  
10 except that, where two or more title insurance policies are issued simultaneously  
11 covering different estates in the same real property, a single risk shall be the sum  
of the insured amounts of all the title insurance policies; and

12 (2) A policy under which a claim payment reduces the amount of  
 13 insurance under one or more other title insurance policies shall be included in  
 14 computing the single risk sum only to the extent that its amount exceeds the  
 15 aggregate amount of the policy or policies whose amount of insurance is reduced.

16 3. A title insurer may obtain reinsurance for all or any part of its liability  
 17 under its title insurance policies or reinsurance agreements and may also reinsure  
 18 title insurance policies issued by other title insurers on single risks located in this  
 19 state or elsewhere. Reinsurance on policies issued on properties located in this  
 20 state may be obtained from any title insurers licensed to transact title insurance  
 21 business in this state, any other state, or the District of Columbia and which have  
 22 a combined capital and surplus of at least eight hundred thousand dollars.

23 4. The director may waive the limitation of this section for a particular  
 24 risk upon application of the title insurer and for good cause shown.]  
 25

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

2 [381.071. 1. No title insurance policy shall be written unless and until  
 the title insurer, title agent, or agency has:

3 (1) Caused a search of title to be made from the evidence prepared from  
 4 a title plant of the county where the property is located as herein defined, or if no  
 5 such title plant of the county exists, or the owner of such plant refuses to furnish  
 6 the title insurer, title agent, or agency desiring to insure, such title evidence at a  
 7 reasonable charge and within a reasonable period of time, then such policy of title  
 8 insurance shall be based upon the best title evidence available. An attorney  
 9 licensed to practice law in this state may upon personal inspection use the best  
 10 evidence available in any county and is not subject to the provisions of the title  
 11 plant requirement of sections 381.011 to 381.241. The records on which the title  
 12 plant is based on shall show all prior matters affecting the title to the property or  
 13 interest therein for a continuous period of time of at least:

- 14 (a) The past ten years, by two years after September 28, 1987;  
 15 (b) The past fifteen years, by three years after September 28, 1987;  
 16 (c) The past twenty years, by four years after September 28, 1987; and  
 17 (d) The past twenty-seven years, by five years after September 28, 1987;

18 and

19 (2) Caused to be made a determination of insurability of title in  
 20 accordance with sound underwriting practices.

21           2. Except when allowed by regulations promulgated by the director, no  
22 title insurer, title agent, or agency shall knowingly issue any owner's title  
23 insurance policy or commitment to insure without showing all outstanding,  
24 enforceable recorded liens or other interests against the title which is to be  
25 insured.

26           3. Evidence of the examination of title and determination of insurability  
27 shall be preserved and retained in the files of the title insurer or its title agent or  
28 agency for a period of not less than fifteen years after the title insurance policy  
29 has been issued. Instead of retaining the original evidence, the title insurer or  
30 title agent or agency may in the regular course of business establish a system  
31 whereby all or part of the evidence is recorded, copied, or reproduced by any  
32 process that accurately and legibly reproduces or forms a durable medium for  
33 reproducing the contents of the original.

34           4. This section shall not apply to:

35           (1) A title insurer assuming liability through a contract of reinsurance;

36           (2) A title insurer acting as coinsurer if one of the other reinsuring title  
37 insurers has complied with this section; or

38           (3) Policies of title insurance issued prior to the expiration of one year  
39 after September 28, 1987.]  
40

          [381.072. In determining the financial condition of a title insurer doing  
2 business pursuant to this chapter, the general provisions of the insurance code  
3 requiring the establishment of reserves sufficient to cover all known and  
4 unknown liabilities including allocated and unallocated loss adjustment expense,  
5 shall apply; except that, a title insurer shall establish and maintain:

6           (1) (a) A known claim reserve in an amount estimated to be sufficient  
7 to cover all unpaid losses, claims and allocated loss adjustment expenses arising  
8 under title insurance policies for which the title insurer may be liable, and for  
9 which the insurer has discovered or received notice by or on behalf of the insured  
10 or escrow or security depositor;

11           (b) Upon receiving notice from or on behalf of the insured of a title  
12 defect in or lien or adverse claim against the title of the insured that may result  
13 in a loss or cause expense to be incurred in the proper disposition of the claim,  
14 the title insurer shall determine the amount to be added to the reserve, which  
15 amount shall reflect a careful estimate of the loss or loss expense likely to result  
16 by reason of the claim;

17           (c) Reserves required pursuant to this section may be revised from time  
18 to time and shall be redetermined at least once each year;

19           (2) A statutory or unearned premium reserve established and maintained  
20 as follows:

21           (a) A domestic title insurer shall establish and maintain an unearned  
22 premium reserve computed in accordance with this section, and all sums  
23 attributed to such reserve shall at all times and for all purposes be considered and

24 constitute unearned portions of the original premiums. This reserve shall be  
25 reported as a liability of the title insurer in its financial statements;

26 (b) The unearned premium reserve shall be maintained by the title insurer  
27 for the protection of holders of title insurance policies. Except as provided in this  
28 section, assets equal in value to the reserve are not subject to distribution among  
29 creditors or stockholders of the title insurer until all claims of policyholders or  
30 claims under reinsurance contracts have been paid in full, and all liability on the  
31 policies or reinsurance contracts has been paid in full and discharged or lawfully  
32 reinsured;

33 (c) The unearned premium reserve shall consist of:

34 a. The amount of the unearned premium reserve on January 1, 2001; and

35 b. A sum equal to fifteen cents for each one thousand dollars of net  
36 retained liability under each title insurance policy, excluding mortgagee's policies  
37 simultaneously issued with owner's policies or owner's leasehold policies of the  
38 same or greater amount, on a single risk written on properties located in this state  
39 and issued after January 1, 2001;

40 (d) Amounts placed in the unearned premium reserve in any year in  
41 accordance with paragraph (c) of this subdivision shall be deducted in  
42 determining the net profit of the title insurer for that year;

43 (e) A title insurer shall release from the unearned premium reserve a sum  
44 equal to ten percent of the amount added to the reserve during a calendar year on  
45 July first of each of the five years following the year in which the sum was added,  
46 and shall release from the unearned premium reserve a sum equal to three and  
47 one-third percent of the amount added to the reserve during that year on each  
48 succeeding July first until the entire amount for that year has been released. The  
49 amount of the unearned premium reserve or similar unearned premium reserve  
50 maintained before January 1, 2001, shall be released in accordance with the law  
51 in effect immediately before January 1, 2001;

52 (f) a. Each domestic and foreign title insurer shall file annually with the  
53 audited financial report required pursuant to section 375.1032, RSMo, an  
54 actuarial certificate made by a member in good standing of the American  
55 Academy of Actuaries, or by an actuary permitted to make such certificate by the  
56 commissioner, superintendent or director of the department of insurance of the  
57 state of incorporation of a foreign title insurer;

58 b. The actuarial certification shall conform to the annual statement  
59 instructions for title insurers adopted by the National Association of Insurance  
60 Commissioners and shall include the actuary's professional opinion of the  
61 insurer's reserves as of the date of the annual statement. The reserves analyzed  
62 pursuant to this section shall include reserves for known claims, including  
63 adverse developments on known claims, and reserves for incurred but not  
64 reported claims;

65 (g) a. Each domestic and foreign title insurer shall establish a  
66 supplemental reserve in the amount by which the actuarially certified reserves

67 exceed the total of the known claim reserve and statutory premium reserve as set  
68 forth in the title insurer's annual financial report, subject to this subdivision;

69 b. The supplemental reserve required pursuant to this section shall be  
70 phased in as follows:

71 I. Twenty-five percent of the otherwise applicable supplemental reserve  
72 is required until December thirty-first of the year next following January 1, 2001;

73 ii. Fifty percent of the otherwise applicable supplemental reserve is  
74 required until December thirty-first of the second year following January 1, 2001;

75 iii. Seventy-five percent of the otherwise applicable supplemental reserve  
76 is required until December thirty-first of the third year following January 1, 2001;

77 iv. One hundred percent of the supplemental reserve is required after  
78 December thirty-first of the fourth year following January 1, 2001.]

79

2 [381.075. 1. Sections 375.570 to 375.750, RSMo, and sections 375.1150  
3 to 375.1246, RSMo, shall apply to all title insurers subject to the title insurance  
4 act, except as otherwise provided in this section. In applying such sections, the  
5 court shall consider the unique aspects of title insurance and shall have broad  
6 authority to fashion relief that provides for the maximum protection of the title  
7 insurance policyholders.

8 2. Security and escrow funds held by or on behalf of the title insurer shall  
9 not become general assets and shall be administered as secured claims as defined  
10 in section 375.1152, RSMo.

11 3. Title insurance policies that are in force at the time an order of  
12 liquidation is entered shall not be canceled except upon a showing to the court  
13 of good cause by the liquidator. The determination of good cause shall be within  
14 the discretion of the court. In making this determination, the court shall consider  
15 the unique aspects of title insurance and all other relevant circumstances.

16 4. The court may set appropriate dates that potential claimants must file  
17 their claims with the liquidator. The court may set different dates for claims  
18 based upon the title insurance policy than for all other claims. In setting dates,  
19 the court shall consider the unique aspects of title insurance and all other relevant  
20 circumstances.

21 5. As of the date of the order of insolvency or liquidation, all premiums  
22 paid, due or to become due under policies of the title insurers, shall be fully  
23 earned. It shall be the obligation of title agencies, title agents, insureds or  
24 representatives of the title insurer to pay fully earned premium to the liquidator  
25 or rehabilitator.]

25

2 [381.078. A title insurer shall only declare or distribute a dividend to  
3 shareholders with the prior written approval of the director, as would be  
4 permitted pursuant to subdivision (1) of subsection 1 of section 382.210, RSMo.]

4

2 [381.081. 1. A domestic title insurer shall establish and maintain an  
3 unearned premium reserve computed in accordance with this section, and all  
4 sums attributed to such reserve shall at all times and for all purposes be  
5 considered and constitute unearned portions of the original premiums. This  
6 reserve shall be reported as a liability of the title insurer in its financial  
7 statements.

8 2. The unearned premium reserve shall be maintained by the title insurer  
9 for the protection of holders of title insurance policies. Except as provided in this  
10 section, assets equal in value to the reserve are not subject to distribution among  
11 creditors or stockholders of the title insurer until all claims of policyholders or  
12 claims under reinsurance contracts have been paid in full, and all liability on the  
13 policies or reinsurance contracts has been paid in full and discharged or lawfully  
14 reinsured.

15 3. A foreign or alien title insurer licensed to transact title insurance  
16 business in this state shall maintain at least the same reserves on title insurance  
17 policies issued on properties located in this state as are required of domestic title  
18 insurers, unless the laws of the jurisdiction of domicile of the foreign or alien title  
19 insurer require a higher amount.

20 4. The unearned premium reserve shall consist of:

21 (1) The amount of the unearned premium reserve on September 28, 1987;  
22 and

23 (2) A sum equal to fifteen cents for each one thousand dollars of net  
24 retained liability under each title insurance policy, excluding mortgagee's policies  
25 simultaneously issued with owner's policies or owner's leasehold policies of the  
26 same or greater amount, on a single risk written on properties located in this state  
27 and issued after September 28, 1987.

28 5. Amounts placed in the unearned premium reserve in any year in  
29 accordance with subdivision (2) of subsection 4 of this section shall be deducted  
30 in determining the net profit of the title insurer for that year.

31 6. A title insurer shall release from the unearned premium reserve a sum  
32 equal to ten percent of the amount added to the reserve during a calendar year on  
33 July first of each of the five years following the year in which the sum was added,  
34 and shall release from the unearned premium reserve a sum equal to three and  
35 one-third percent of the amount added to the reserve during that year on each  
36 succeeding July first until the entire amount for that year has been released. The  
37 amount of the unearned premium reserve or similar unearned premium reserve  
38 maintained before September 28, 1987, shall be released in accordance with the  
39 law in effect immediately before September 28, 1987.]

2 [381.085. 1. A title insurer or authorized rate service organization shall  
3 not deliver or issue for delivery or permit any of its authorized title agencies or  
4 title agents to deliver in this state, any form, in connection with title insurance  
written, unless it has been filed with the director and approved by the director or

5 thirty days have elapsed and it has not been disapproved as misleading or  
6 violative of public policy. Each violation of this subsection is a class C violation  
7 as that term is defined in section 381.045.

8 2. Forms covered by this section shall include:

9 (1) Title insurance policies, including standard form endorsements; and

10 (2) Title insurance commitments issued prior to the issuance of a title  
11 insurance policy.

12 3. After notice and opportunity to be heard are given to the insurer or rate  
13 service organization which submitted a form for approval, the director may  
14 withdraw approval of the form on finding that the use of the form is contrary to  
15 the legal requirements applicable at the time of withdrawal. The effective date  
16 of withdrawal of approval shall not be less than ninety days after notice of  
17 withdrawal is given.

18 4. Any term or condition related to an insurance coverage provided by an  
19 approved title insurance policy or any exception to the coverage, except those  
20 ascertained from a search and examination of records relating to a title or  
21 inspection or survey of a property to be insured, may only be included in the  
22 policy after the term, condition or exception has been filed with the director and  
23 approved as herein provided.]  
24

[381.088. 1. A title insurer may satisfy its obligation to file premium  
2 rates, rating manuals and forms as required by this chapter by becoming a  
3 member of, or a subscriber to, a rate service organization, organized and licensed  
4 pursuant to the provisions of this chapter, where the organization makes the  
5 filings, and by authorizing the director in writing to accept the filings on the  
6 insurer's behalf.

7 2. Nothing in this chapter shall be construed as requiring any title insurer,  
8 title agency or title agent to become a member of, or a subscriber to, any rate  
9 service organization. Nothing in this chapter shall be construed as prohibiting the  
10 filing of deviations from rate service organization filings by any member or  
11 subscriber.]  
12

[381.091. 1. If a domestic title insurer becomes insolvent, is in the  
2 process of liquidation or dissolution, or is in the possession of the director:

3 (1) Such amount of the assets of such title insurer equal to the unearned  
4 premium reserve then remaining may be used by or with the written approval of  
5 the director to pay for reinsurance of the liability of such title insurer upon all  
6 outstanding title insurance policies or reinsurance agreements to the extent to  
7 which claims for losses by the holders thereof are not then pending. The balance  
8 of assets, if any, equal to the unearned premium reserve, may then be transferred  
9 to the general assets of the title insurer;

10 (2) The net assets of the unearned premium reserve shall be available to  
11 pay claims for losses sustained by holders of title insurance policies then pending

12 or arising up to the time reinsurance is effected. If claims for losses exceed such  
13 other assets of the title insurer, such claims, when established, shall be paid pro  
14 rata out of the surplus assets attributable to the unearned premium reserve to the  
15 extent of such surplus, if any.

16 2. If reinsurance is not obtained, assets equal to the unearned premium  
17 reserve and assets constituting minimum capital, or so much as remains thereof  
18 after outstanding claims have been paid, shall constitute a trust fund to be held  
19 and invested by the director for twenty years, out of which claims of  
20 policyholders shall be paid as they arise. The balance, if any, of the trust fund  
21 shall, at the expiration of twenty years, revert to the general assets of the title  
22 insurer.]  
23

[381.092. 1. Every title insurer that shall propose its own premium rates  
2 and every title insurance rating organization shall propose premium rates that are  
3 not excessive nor inadequate for the safety and soundness of any title insurer,  
4 which do not unfairly discriminate between risks in this state which involve  
5 essentially the same exposure to loss and expense elements, and which shall give  
6 due consideration to the following matters:

- 7 (1) The desirability for stability and responsiveness of rate structures;  
8 (2) The necessity of assuring the financial solvency of title insurance  
9 companies in periods of economic depression;  
10 (3) The necessity for paying dividends on the capital stock of title  
11 insurance companies sufficient to induce capital to be invested therein; and  
12 (4) A reasonable level of profit for the insurer.

13 2. Every title insurer that shall propose its own rates and every title  
14 insurance rating organization may adopt basic classifications of policies or  
15 contracts of title insurance which shall be used as the basis for rates.]  
16

[381.095. 1. If the director shall find in his review of rate filings that the  
2 filings provide for, result in, or produce rates that are not unreasonably high, and  
3 are not inadequate for the safeness and soundness of the insurer, and are not  
4 unfairly discriminatory between risks in this state involving essentially the same  
5 hazards and expense elements, the director shall approve such rates. Prior to  
6 such approval the director may conduct a public hearing with respect to a rate  
7 filing. An approval shall continue in effect until the director shall issue an order  
8 of disapproval pursuant to the requirements and procedure provided for in  
9 subsections 2 and 3 of this section.

10 2. Upon the review at any time by the director of a rate filing, the director  
11 shall, before issuing an order of disapproval, hold a hearing upon not less than ten  
12 days' written notice, specifying in reasonable detail the matters to be considered  
13 at such hearing, to every title insurer and title insurance rating organization which  
14 made such filing, and if, after such hearing, the director finds that such filing or  
15 a part thereof does not meet the requirements of this chapter, the director shall

16 issue an order specifying in what respects the director finds that it so fails, and  
17 stating when, within a reasonable period thereafter, such filing or a part thereof  
18 shall be deemed no longer effective. A title insurer or title insurance rating  
19 organization shall have the right at any time to withdraw a filing or a part thereof,  
20 subject to the provisions of section 381.102, in the case of deviation filing.  
21 Copies of the order shall be sent to every title insurer and title insurance rating  
22 organization affected. The order shall not affect any contract or policy made or  
23 issued prior to the expiration of the period set forth in the order.

24 3. Any person or organization aggrieved with respect to any filing which  
25 is in effect may make written application to the director for a hearing thereon.  
26 The title insurance company or title insurance rating organization that made the  
27 filing shall not be authorized to proceed pursuant to this subsection. Such  
28 application shall specify in reasonable detail the grounds to be relied upon by the  
29 applicant. If the director shall find that the application is made in good faith, that  
30 the applicant would be so aggrieved if his or her grounds are established, and that  
31 such grounds otherwise justify holding such a hearing, the director shall, within  
32 thirty days after receipt of such application, hold a hearing upon not less than ten  
33 days' written notice to the applicant and to every title insurance company and title  
34 insurance rating organization which made such a filing. If, after such hearing, the  
35 director finds that the filing or a part thereof does not meet the requirements of  
36 this chapter, the director shall issue an order specifying in what respects the  
37 director finds that such filing or a part thereof fails to meet the requirements of  
38 this chapter, stating when within a reasonable period thereafter, such filing or a  
39 part thereof shall be deemed no longer effective. Copies of such order shall be  
40 sent to the applicant and to every such title insurer and title insurance rating  
41 organization. The order shall not affect any contract or policy made or issued  
42 prior to the expiration of the period set forth in the order.]

43

2 [381.098. 1. A corporation, an unincorporated association, a partnership  
3 or an individual, whether located within or outside this state, may make  
4 application to the director for license as a rating organization for title insurers,  
5 and shall file therewith:

6 (1) A copy of its constitution, its articles of agreement or association or  
7 its certificate of incorporation, and of its bylaws, rules and regulations governing  
8 the conduct of its business;

9 (2) A list of its members and subscribers;

10 (3) The name and address of a resident of this state upon whom notices  
11 or orders of the director or process affecting such rating organization may be  
12 served; and

13 (4) A statement of its qualifications as a title insurance rating  
14 organization.

15 2. If the director finds that the applicant is competent, trustworthy and  
otherwise qualified to act as a rating organization, and that its constitution,

16 articles of agreement or association or certificate of incorporation, and its bylaws,  
17 rules and regulations governing the conduct of its business, conform to  
18 requirements of law, the director shall issue a license authorizing the applicant  
19 to act as a rating organization for title insurance. Licenses issued pursuant to this  
20 section shall remain in effect for three years unless sooner suspended or revoked  
21 by the director or withdrawn by the licensee. The fee for such license shall be  
22 one thousand five hundred dollars. Licenses issued pursuant to this section may  
23 be suspended or revoked by the director, after hearing upon notice, in the event  
24 the rating organization ceases to meet the requirements of this subsection. Every  
25 rating organization shall notify the director promptly of every change in:

26 (1) Its constitution, its articles of agreement or association or its  
27 certificate of incorporation, and its bylaws, rules and regulations governing the  
28 conduct of its business;

29 (2) Its list of members and subscribers; and

30 (3) The name and address of the resident of this state designated by it  
31 upon whom notices or orders of the director or process affecting such rating  
32 organization may be served.

33 3. Subject to rules and regulations which have been approved by the  
34 director as reasonable, each title insurance rating organization shall permit any  
35 title insurance company not a member to be a subscriber to its rating services.  
36 Notices of proposed changes in such rules and regulations shall be given to  
37 subscribers. Each such rating organization shall furnish its rating services  
38 without discrimination to its members and subscribers. The reasonableness of  
39 any rule or regulation in its application to subscribers, or the refusal of any such  
40 rating organization to admit a title insurance company as a subscriber, shall at the  
41 request of any subscriber or any such title insurance company, be reviewed by the  
42 director at a hearing held upon at least ten days' written notice to such rating  
43 organization and to such subscriber. If the director finds that such rule or  
44 regulation is unreasonable in its application to subscribers, the director shall order  
45 that such rule or regulation shall not be applicable to subscribers. If the rating  
46 organization fails to grant or reject an application of a title insurance company for  
47 subscribership within thirty days after it was made, the title insurance company  
48 may request a review by the director as if the application had been rejected. If the  
49 director finds that the title insurance company has been refused admittance to the  
50 title insurance rating organization as a subscriber without justification, the  
51 director shall order such rating organization to admit the title insurance company  
52 as a subscriber. If the director finds that the action of the title insurance rating  
53 organization was justified, the director shall make an order affirming its action.]

54

2 [381.101. 1. All title insurers licensed in this state shall establish and  
maintain reserves against unpaid losses and loss expenses.

3 2. Upon receiving notice from or on behalf of the insured of a title defect  
4 in or lien or adverse claim against the title of the insured that may result in a loss

5 or cause expense to be incurred in the proper disposition of the claim, the title  
6 insurer shall determine the amount to be added to the reserve, which amount shall  
7 reflect a careful estimate of the loss or loss expense likely to result by reason of  
8 the claim.

9 3. Reserves required under this section may be revised from time to time  
10 and shall be redetermined at least once each year.]  
11

12 [381.102. Every member of or subscriber to a title insurance rating  
13 organization shall adhere to the filings made on its behalf by such organization,  
14 except that any title insurance company which is a member of or subscriber to  
15 such a rating organization may file with the director a uniform percentage of  
decrease or increase to be applied to any or all elements of the fees produced by  
the rating system so filed for a class of title insurance which is found by the  
director to be a proper rating unit for the application of such uniform decrease or  
increase, or to be applied to the rates for a particular area, or otherwise deviate  
from the rating plans, policy forms or other matters which are the subject of  
filings pursuant to this chapter. Such deviation filing shall specify the basis for  
the modification and shall be accompanied by the data or historical pattern upon  
which the applicant relies. A copy of the deviation filing and data shall be sent  
simultaneously to such rating organization. Deviation filings shall be subject to  
the provisions of section 381.095.]

2 [381.105. 1. Any member of or subscriber to a title insurance rating  
3 organization may appeal to the director from any action or decision of such rating  
4 organization in approving or rejecting any proposed change in or addition to the  
5 filings of such rating organization, and the director shall, after a hearing held  
6 upon not less than ten days' written notice to the appellant and to such rating  
7 organization, issue an order approving the action or decision of such rating  
8 organization or directing it to give further consideration to such proposal and to  
9 take action or make a decision upon it within thirty days. If such appeal is from  
10 the action or decision of the title insurance rating organization in rejecting a  
11 proposed addition to its filings, the director may, in the event the director finds  
12 that such action or decision was unreasonable, issue an order directing the rating  
13 organization to make an addition to its filings, on behalf of its members and  
14 subscribers, in a manner consistent with the director's findings, within a  
15 reasonable time after the issuance of such order. If the appeal is from the action  
16 of the title insurance rating organization with regard to a rate or a proposed  
17 change in or addition to its filings relating to the character and extent of coverage,  
18 the director shall approve the action of the rating organization or such  
19 modification thereof as shall have been suggested by the appellant if either be  
20 made in accordance with this chapter.

21 2. The failure of a title insurance rating organization to take action or  
make a decision within thirty days after submission to it of a proposal pursuant

22 to this section shall constitute a rejection of such proposal within the meaning of  
23 this section. If such appeal is based upon the failure of the rating organization to  
24 make a filing on behalf of such member or subscriber which is based on a system  
25 of expense allocation which differs from the system of expense allocation  
26 included in a filing made by such rating organization, the director shall, if the  
27 director grants the appeal, order the rating organization to make the requested  
28 filing for use by the appellant. In deciding such appeal, the director shall apply  
29 the standards set forth in section 381.032.]  
30

2 [381.108. 1. The director shall promulgate reasonable rules and  
3 statistical plans, reasonably adapted to each of the rating systems on file with the  
4 department, which may be modified from time to time, and which shall be used  
5 thereafter by each title insurer in the recording and reporting of the composition  
6 of its business, its loss and countrywide expense experience and those of its title  
7 insurance underwriters in order that the experience of all title insurers may be  
8 made available, at least annually, in such form and detail as may be necessary to  
9 aid him or her in determining whether rating systems comply with the standards  
10 set forth in this chapter. Such rules and plans may also provide for the recording  
11 of expense experience items which are specially applicable to this state and are  
12 not susceptible of determination by a prorating of countrywide expense  
13 experience. In promulgating such rules and plans, the director shall give due  
14 consideration to the rating systems on file with the department, and in order that  
15 such rules and plans may be as uniform as is practicable among the several states,  
16 to the rules and to the form of the plans used for such rating systems in other  
17 states. Such rules and plans shall not place an unreasonable burden of expense  
18 on any title insurer. No title insurer shall be required to record or report its  
19 expense and loss experience on a classification basis that is inconsistent with the  
20 rating system filed by it, nor shall any title insurer be required to report the  
21 experience to any agency of which it is not a member or subscriber. The director  
22 may designate one or more rating organizations or other agencies to assist the  
23 director in gathering such experience and making compilations thereof, and such  
24 compilations shall be made available, subject to reasonable rules promulgated by  
25 the director, to title insurers and rating organizations. The director shall give  
26 preference in such designation to entities organized by and functioning on behalf  
27 of title insurers operating in this state. If the director, in his or her judgment,  
28 determines that one or more of such organizations designated as statistical agents  
29 is unable or unwilling to perform its statistical functions according to reasonable  
30 requirements established from time to time by the director, he or she may, after  
31 consultation with such statistical agent and upon twenty days' notice to any  
32 affected companies, designate another person to act on the director's behalf in the  
33 gathering of statistical experience. The director shall in such case establish the  
34 fee to be paid to such designated person by the affected companies in order to pay  
the total cost of gathering and compiling such experience. Agencies designated

35 by the director shall assist the director in making compilations of the reported  
36 data and such compilations shall be made available, subject to reasonable rules  
37 and regulations promulgated by the director, to insurers, rating organizations and  
38 any other interested parties.

39 2. Reasonable rules and plans may be promulgated by the director for the  
40 interchange of data necessary for the application of rating plans.

41 3. In order to further uniform administration of rate regulatory laws, the  
42 director and every title insurer and rating organization may exchange information  
43 and experience data with insurance supervisory officials, title insurers and rating  
44 organizations in other states, and may consult with them with respect to rate  
45 making and the application of rating systems.

46 4. No rule or portion of a rule promulgated pursuant to the authority of  
47 this section shall become effective unless it has been promulgated pursuant to the  
48 provisions of chapter 536, RSMo.]  
49

2 [381.111. A title insurer may obtain reinsurance for all or any part of its  
3 liability under its title insurance policies or reinsurance agreements and may also  
4 reinsure title insurance policies issued by other title insurers on single risks  
5 located in this state or elsewhere. Reinsurance on policies issued on properties  
6 located in this state may be obtained from any title insurers licensed to transact  
7 title insurance business in this state, any other state, or the District of Columbia  
8 and which have a combined capital and surplus of at least eight hundred thousand  
9 dollars.]

2 [381.112. For purposes of the premium tax imposed by sections 148.320  
3 and 148.340, RSMo, the premium income received by a title insurer shall mean  
4 the amount of premium actually remitted to the title insurer and shall exclude any  
5 amount of premium retained by the title agent within the definition of "premium"  
6 contained in section 381.009.]

2 [381.115. 1. A person shall not act in the capacity of a title agency or  
3 title agent and a title insurer may not contract with any person to act in the  
4 capacity of a title agency or title agent with respect to risks located in this state  
5 unless the person is a licensed title agency or title agent in this state.

6 2. An individual employed by a licensed title agency or title agent to  
7 whom the agency or agent delegates authority to act on that agency's or agent's  
8 behalf shall be either individually licensed or be named on the employing agent's  
9 license if such employee performs any of the functions defined in paragraph (a)  
10 of subdivision (25) of section 381.009. Each person named on the license shall  
11 possess all qualifications determined by the director to be appropriate. The  
12 director may adopt rules, regulations, and requirements relating to licensing and  
13 practices of persons acting in the capacity of title agencies or agents. These  
persons may include title agencies, title agents, employees of either, and persons

14 acting on behalf of title agencies or title agents. This subsection is not intended  
15 to include persons performing clerical functions.

16 3. Every title agency licensed in this state shall:

17 (1) Exclude or eliminate the word insurer or underwriter from its  
18 business name, unless the word agency is also included as part of the name; and

19 (2) Provide, in a timely fashion, each title insurer with which it places  
20 business any information the title insurer requests in order to comply with  
21 reporting requirements of the director.

22 4. A title agency or title agent licensed in this state prior to the effective  
23 date of this chapter shall have ninety days after the effective date of this chapter  
24 to comply with the requirements of this section.

25 5. If the title agency or title agent delegates the title search to a third  
26 party, such as an abstract company, the agency or agent must first obtain proof  
27 that the third party is operating in compliance with rules and regulations  
28 established by the director and the third party shall provide the agency or agent  
29 and the insurer with access to and the right to copy all accounts and records  
30 maintained by the third party with respect to business placed with the title  
31 insurer. Proof from the third party may consist of a signed statement indicating  
32 compliance, and shall be effective for a three-year period. Each violation of this  
33 subsection is a class C violation as that term is defined in section 381.045.]  
34

2 [381.118. 1. Each title agent licensed to sell title insurance in this state,  
3 unless exempt pursuant to subsection 8 of this section, shall successfully  
4 complete courses of study as required by this section. Any person licensed to act  
5 as a title agent shall, during each two years, attend courses or programs of  
6 instruction or attend seminars equivalent to a minimum of eight hours of  
7 instruction. The initial such two-year period shall begin January first of the year  
8 next following the effective date of this chapter.

9 2. Subject to approval by the director, the courses or programs of  
10 instruction which shall be deemed to meet the director's standards for continuing  
11 educational requirements shall include, but not be limited to, the following:

12 (1) An insurance-related course taught by an accredited college or  
13 university or qualified instructor who has taught a course of insurance law at such  
14 institution;

15 (2) A course or program of instruction or seminar developed or  
16 sponsored by any authorized insurer, recognized agents' association or insurance  
17 trade association. A local agents' group may also be approved if the instructor  
18 receives no compensation for services;

19 (3) Courses approved for continuing legal education credit by the  
20 Missouri Bar.

21 3. A person teaching any approved course of instruction or lecturing at  
any approved seminar shall qualify for the same number of classroom hours as

22 would be granted to a person taking and successfully completing such course,  
23 seminar or program.

24 4. Excess classroom hours accumulated during any two-year period may  
25 be carried forward to the two-year period immediately following the two- year  
26 period in which the course, program or seminar was held.

27 5. For good cause shown, the director may grant an extension of time  
28 during which the educational requirements imposed by this section may be  
29 completed, but such extension of time shall not exceed the period of one calendar  
30 year. The director may grant an individual waiver of the mandatory continuing  
31 education requirement upon a showing by the licensee that it is not feasible for  
32 the licensee to satisfy the requirements prior to the renewal date. Waivers may  
33 be granted for reasons including, but not limited to:

34 (1) Serious physical injury or illness;  
35 (2) Active duty in the armed services for an extended period of time;  
36 (3) Residence outside the United States; or  
37 (4) Licensee is at least seventy years of age and is currently licensed as  
38 a title agent.

39 6. Every person subject to the provisions of this section shall furnish in  
40 a form satisfactory to the director, written certification as to the courses,  
41 programs, or seminars of instruction taken and successfully completed by such  
42 person. A filing fee shall be paid by the person furnishing the report as  
43 determined by the director to be necessary to cover the administrative cost related  
44 to the handling of such certification reports, subject to the limitations imposed in  
45 subsection 9 of this section.

46 7. The provisions of this section shall not apply to those natural persons  
47 holding or applying for a license to act as a title agent in Missouri who reside in  
48 a state that has enacted and implemented a mandatory continuing education law  
49 or regulation pertaining to title agents. However, those natural persons holding  
50 or applying for a Missouri agent license who reside in states which have no  
51 mandatory continuing education law or regulations shall be subject to all the  
52 provisions of this section to the same extent as resident Missouri title agents.

53 8. Rules necessary to implement and administer this section shall be  
54 promulgated by the director of the department of insurance, including, but not  
55 limited to, rules regarding the following:

56 (1) The insurance advisory board established by section 375.019, RSMo,  
57 shall be utilized by the director to assist the director in determining acceptable  
58 content of courses, programs and seminars to include classroom equivalency;

59 (2) Every applicant seeking approval by the director of a continuing  
60 education course pursuant to this section shall pay to the director a filing fee of  
61 fifty dollars per course, except that such total fee shall not exceed two hundred  
62 fifty dollars per year for any single applicant. Fees shall be waived for local  
63 agents' groups if the instructor receives no compensation for services. Such fee  
64 shall accompany any application form required by the director. Courses shall be

65 approved for a period of no more than one year. Applicants holding courses  
66 intended to be offered for a longer period must reapply for approval;

67 (3) The director has the authority to determine the amount of the filing  
68 fee to be paid by title agents at the time of license renewal, which shall be set at  
69 an amount to produce revenue which shall not substantially exceed the cost of  
70 administering this section, but in no event shall such fee exceed ten dollars per  
71 biennial report filed.

72 9. All funds received pursuant to the provisions of this section shall be  
73 transmitted by the director of the department of insurance to the department of  
74 revenue for deposit in the state treasury to the credit of the department of  
75 insurance dedicated fund. All expenditures necessitated by this section shall be  
76 paid from funds appropriated from the department of insurance dedicated fund  
77 by the legislature.

78 10. When a title agent pays his or her biennial renewal fee, such agent  
79 shall also furnish the written certification and filing fee required by this section.

80 11. No rule or portion of a rule promulgated pursuant to the authority of  
81 this section shall become effective unless it has been promulgated pursuant to the  
82 provisions of chapter 536, RSMo.]  
83

2 [381.121. 1. The deposit required by section 381.051 and the capital,  
3 surplus and unearned premium reserve of domestic title insurers shall be held in  
4 either cash or investments now or hereafter permitted to domestic life insurers  
5 with regard to their capital, reserve and surplus for reserve deposit.

6 2. A domestic title insurer may invest in title plants. For purposes of  
7 determining the financial condition of such title insurer, title plants will be treated  
8 as an asset valued at actual cost to the title insurer, not to exceed fifty percent of  
9 the surplus as to policyholders as shown on the most recent annual statement of  
10 the title insurer.

11 3. Any investment of a domestic title insurer acquired before September  
12 28, 1987, and which under such sections, would be considered ineligible as an  
13 investment on that date, shall be disposed of within five years of September 28,  
14 1987. The director, upon application and proof that forced sale of any such  
15 investment would be contrary to the best interests of the title insurer or its  
16 policyholders, may extend the period for disposal of the investment for a  
17 reasonable time.]

2 [381.122. The director may during normal business hours examine, audit  
3 and inspect any and all books and records maintained by a title agency pursuant  
4 to this chapter.]

2 [381.125. 1. Whenever the business to be written constitutes affiliated  
3 business, prior to commencing the transaction, the title agency or title agent shall  
ensure that its customer has been provided with disclosure of the existence of the

4 affiliated business arrangement and a written estimate of the charge or range of  
5 charges generally made for the title services provided by the title agency or agent.

6 2. The director may establish rules for use by all title agencies in the  
7 recording and reporting of the agency's owners and of the agency's ownership  
8 interests in other persons or businesses and of material transactions between the  
9 parties.

10 3. The director may require each title agency to file on forms prescribed  
11 by the director reports setting forth the names and addresses of those persons, if  
12 any, that have a financial interest in the agency and who the agency knows or has  
13 reason to believe are producers of title insurance business or associates of  
14 producers.

15 4. Nothing in this chapter shall be construed as prohibiting affiliated  
16 business arrangements in the provision of title insurance business so long as:

17 (1) The title agency, title agent or party making a referral constituting  
18 affiliated business, at or prior to the time of the referral, discloses the  
19 arrangement and, in connection with the referral, provides the person being  
20 referred with a written estimate of the charge or range of charges likely to be  
21 assessed and otherwise complies with the disclosure obligations of this section;

22 (2) The person being referred is not required to use a specified title  
23 insurance agency, agent or insurer; and

24 (3) The only thing of value that is received by the title agency, title agent  
25 or party making the referral, other than payments otherwise permitted, is a return  
26 on an ownership interest.

27 For purposes of this subsection, the terms "required use" and "return on an  
28 ownership interest" shall have the meaning accorded to them under the Real  
29 Estate Settlement Procedures Act (RESPA), 12 U.S.C. Section 2607, as amended  
30 and Regulation X, 24 CFR Section 3500, et seq.

31 5. Each violation of any provision of this section is a class C violation as  
32 that term is defined in section 381.045.]  
33

2 [381.131. Any person who shall be appointed or who shall act as title  
3 insurance agent or agency for any title insurance company within this state, or  
4 who shall, as title insurance agent or agency, solicit applications, deliver policies  
5 and collect premiums thereon, or who shall receive or collect moneys from any  
6 source or on any account whatsoever, as agent or agency, for a title insurance  
7 company doing business in this state, shall be held responsible in a trust or  
8 fiduciary capacity to the company for any money so collected or received by him  
9 for such company.]

[381.141. 1. No title insurer or title agent or agency shall:

2 (1) Pay, directly or indirectly, to the insured or to any other person any  
3 commission, any part of its premiums, fees, or other charges; or any other

4 consideration as inducement or compensation for the referral of title business or  
5 for performance of any escrow or other service by the title agent or agency; or

6 (2) Issue any title insurance policy or perform any service in connection  
7 with any transaction in which it has paid or intends to pay any commission,  
8 rebate or inducement which it knows to be in violation of this section.

9 2. Nothing in this section shall be construed as prohibiting reasonable  
10 payments, other than for the referral of title insurance business, for services  
11 actually rendered to either a title insurer or a title agent or agency in connection  
12 with title insurance business.

13 3. Nothing in sections 381.011 to 381.241 shall prohibit any producer or  
14 any associate of a producer from referring title business to any title insurer or title  
15 insurance agent or agency of his, her or its choice, and if such producer or  
16 associate producer has any financial, franchise, or ownership interest in the title  
17 insurer, the title insurance agent or agency, from financial, franchise or ownership  
18 interest so long as the purchaser is made aware in writing of the relationship  
19 between the producer or associate producer and the title agent or agency.]  
20

2 [381.151. Nothing in sections 381.011 to 381.241 shall be construed as  
3 prohibiting the division of premiums and charges between or among a title  
4 insurer and its title agent or agency, two or more title insurers, one or more title  
5 insurers and one or more title agents or agencies or two or more title agents or  
6 agencies, provided such division of premiums and charges does not constitute:

7 (1) An unlawful rebate or inducement under the provisions of sections  
8 381.011 to 381.241; or

9 (2) Payment of a forwarding fee or finder's fee.]

2 [381.161. 1. No producer or other person, except the person paying the  
3 premium for the title insurance, shall require, directly or indirectly, or through  
4 any trustee, director, officer, agent, employee, or affiliate, as a condition,  
5 agreement, or understanding to selling or furnishing any other person any loan,  
6 or extension thereof, credit, sale, property, contract, lease or service, that such  
7 other person shall place, any contract of title insurance of any kind through any  
8 particular title agent, agency, or title insurer. No title agent, agency, or title  
9 insurer shall knowingly participate in any such prohibited plan or transaction. No  
10 person shall fix a price charged for such thing or service, or discount from or  
11 rebate upon price, on the condition, agreement, or understanding that any title  
12 insurance is to be obtained through a particular agent, agency, or title insurer.

13 2. Any person who violates the provisions of this section, or any title  
14 insurer, title agent, or agency who accepts an order for title insurance knowing  
15 that it is in violation of the provision of this section shall, in addition to any other  
16 action which may be taken by the director, be subject to a fine in an amount equal  
17 to five times the premium for the title insurance.]

2 [381.171. 1. Premiums shall not be inadequate, excessive or unfairly  
discriminatory.

3 2. Premiums are excessive if, in the aggregate, they are likely to produce  
4 a long run profit that is unreasonably high in relation to the riskiness of the  
5 business or if expenses are unreasonably high in relation to the services rendered.

6 3. Premiums are inadequate if they are clearly insufficient, together with  
7 investment income attributable to them, to sustain projected losses and expenses  
8 or if continued use of such premiums will have the effect of substantially  
9 lessening competition or the effect of tending to create a monopoly.

10 4. Premiums are unfairly discriminatory if the premium charged for a  
11 policy of any particular face amount of liability is higher than the premium for  
12 an identical policy within the same classification where such policy has a like  
13 face amount or a higher face amount of liability. Premiums within each premium  
14 classification may, in the discretion of the title insurer, to a reasonable degree be  
15 less than the expenses incurred and the risks assumed in the case of policies of  
16 lower face amount of liability and the excess may be charged against policies of  
17 higher face amount of liability without rendering the premiums unfairly  
18 discriminatory.

19 5. Premiums may be grouped by classifications into the various types of  
20 title policies and endorsements offered. The classifications may be further  
21 divided to produce premiums for individual risks or services within a  
22 classification. Those classifications or further divisions may be established based  
23 upon any one or more of the following:

24 (1) The size of a transaction and its effect upon the continuing solvency  
25 of the title insurer using the rate in question if a loss should occur;

26 (2) Expense elements, including management time that would ordinarily  
27 be expended in a typical transaction of a particular size;

28 (3) The geographic location of a transaction, including variation in risk  
29 and expense elements attributable thereto;

30 (4) The individual experience of the insurer and title insurance agent or  
31 agency using the rate in question; and

32 (5) Any other reasonable considerations which may include but not be  
33 limited to builder/developer quantity discounts and multiple policy discounts on  
34 an individual parcel of property. Those classifications or further divisions thereof  
35 shall apply to all risks and services in the business of title insurance under the  
36 same or under substantially the same circumstances or conditions.

37 6. In making or reviewing premiums due consideration shall be given to  
38 past and prospective loss experience, to exposure to loss, to underwriting practice  
39 and judgment, to past and prospective expenses including amounts paid to or  
40 retained by title agents or agencies, to a reasonable margin for profit and  
41 contingencies taking into account the need for a reasonable return on capital  
42 committed to the enterprise, and to all other relevant factors both within and  
43 outside of this state.

44                   7. The director may promulgate rules or regulations setting forth  
45 guidelines for the evaluation of premiums. Such regulations may include  
46 consideration of:

- 47                   (1) Cost of underwriting risks assumed by the insurer;
- 48                   (2) Amounts paid to or retained by title agents;
- 49                   (3) Operating expenses of the insurer other than underwriting and claims  
50 expense;
- 51                   (4) Payment of claims and claim related expenses;
- 52                   (5) Investment income;
- 53                   (6) Reasonable profit;
- 54                   (7) Premium taxes; and
- 55                   (8) Any other factors the director deems relevant.]

56  
  
2                   [381.181. 1. Every title insurer shall file with the director its premium  
3 schedules it proposes to use in any county of this state. Every filing shall set  
4 forth its effective date, which shall not be earlier than the thirtieth day following  
5 its receipt by the director, and shall indicate the character and extent of the  
6 coverages and services contemplated. Filings that the director has not  
7 disapproved within thirty days of filing shall be deemed effective.

8                   2. No title insurer or title agent or agency may use or collect any premium  
9 after September 28, 1987, except in accordance with the premium schedules filed  
10 with the director as required by subsections 1 and 2 of this section. The director  
11 may provide by regulation for interim use of premium schedules in effect prior  
12 to September 28, 1987.

13                   3. Every title insurer shall establish basic classifications of coverages to  
14 be used as the basis for determining premiums.]

2                   [381.191. In order to further uniform administration of rate regulatory  
3 laws, the director and every title insurer, title agent, or agency in the state may  
4 exchange information and experience data with insurance supervisory officials  
5 of this and other states and rating organizations in other states and may consult  
6 with them with respect to such information and data.]

2                   [381.201. 1. No title insurer, title agent, or agency shall use any premium  
3 in the business of title insurance prior to its effective date nor prior to the filing  
4 with respect to such premium having been publicly displayed and made readily  
5 available to the public for a period of not less than thirty days in each office of  
6 the title insurer, title agent, or agency in the county to which such rates apply, and  
7 no premium increase shall apply to title policies which have been contracted for  
8 prior to such effective date.

9                   2. Premium charges in excess of those set forth in a premium filing  
10 which has become effective may be made when such filing includes a statement  
that such premiums may be made in the event unusual insurance risks are

11 assumed or unusual services performed in the transaction of the business of title  
12 insurance, provided that such premiums are reasonably commensurate with the  
13 risks assumed for the costs of the services performed.

14 3. Copies of the schedules of premiums which are required to be filed  
15 with the director under the provisions of sections 381.011 to 381.241, showing  
16 their effective date or dates, shall be kept at all times available to the public and  
17 prominently displayed in a public place in each office of a title insurer, title agent,  
18 or agency in the county to which such rates apply while such rates are effective.]  
19

2 [381.211. Every title insurer shall file with the director copies of the  
3 following forms it proposes to use in this state, including:

- 3 (1) Title insurance policies;  
4 (2) Standard form endorsements; and  
5 (3) Preliminary reports, commitments, binders, or any other reports  
6 issued prior to the issuance of a title insurance policy.]  
7

2 [381.221. For purposes of the premium tax imposed by sections 148.320  
3 and 148.340, RSMo, the premium income received by a title insurer shall be one  
4 hundred percent of the amounts paid by or on behalf of the insured as  
5 "premiums" within the definition of that term contained in sections 381.011 to  
6 381.241.]

2 [381.231. In addition to any other powers granted under sections 381.011  
3 to 381.241, the director may adopt rules or regulations to protect the interests of  
4 the public including, but not limited to, regulations governing sales practices,  
5 escrow, collection, settlement, closing procedures, policy coverage standards,  
6 rebates and inducements, controlled business, the approval of agency contracts,  
7 unfair trade practices and fraud, statistical plans for data collection, consumer  
8 education, any other consumer matters, the business of title insurance, or any  
9 regulations otherwise implementing or interpreting the provisions of sections  
10 381.011 to 381.241. No rule or portion of a rule promulgated under the authority  
11 of this chapter shall become effective unless it has been promulgated pursuant to  
12 the provisions of section 536.024, RSMo.]

2 [381.241. 1. The director of insurance or his duly authorized  
3 representative may at any time and from time to time, inspect and examine the  
4 records, books and accounts of any title insurer, and may require such periodic  
5 and special reports from any title insurer, as may be reasonably necessary to  
6 enable the director to satisfy himself that such title insurer is complying with the  
7 requirements of sections 381.011 to 381.241. No person shall be authorized to  
8 inspect and examine the records, books and accounts of any title insurer unless  
9 such person has five years experience in the title insurance business. It shall be  
the duty of the director at least once every four years to make or cause to be made

10 an examination of every title insurer. The reasonable expense of any examination  
11 shall be paid by the title insurer.

12 2. The purpose of such examination is to enable the director to ascertain  
13 whether there is compliance with the provisions of sections 381.011 to 381.241.  
14 If as a result of such examination the director has reason to believe that any rate,  
15 rating plan or rating system made or used by an insurer does not meet the  
16 standards and provisions of sections 381.011 to 381.241, applicable to it, the  
17 director may hold a public hearing. Within a reasonable period of time, which  
18 shall be not less than ten days before the date of such hearing, he shall mail  
19 written notice specifying the matters to be considered at such hearing to every  
20 person, insurer or organization believed by him not to be in compliance with the  
21 provisions of sections 381.011 to 381.241.

22 3. If the director, after such hearing, for good cause finds that such rate,  
23 rating plan or rating system does not meet the provisions of sections 381.011 to  
24 381.241, he shall issue an order specifying in what respects any such rate, rating  
25 plan or rating system fails to meet such provisions, and stating when, within a  
26 reasonable period of time, the further use of such rate, rating plan or rating  
27 system by the title insurer which is the subject of the examination shall be  
28 prohibited. A copy of such order shall be sent to such title insurer.]  
29

[381.410. As used in sections 381.410 and 381.412, the following terms  
2 mean:

3 (1) "Cashier's check", a check, however labeled, drawn on the financial  
4 institution, which is signed only by an officer or employee of such institution, is  
5 a direct obligation of such institution, and is provided to a customer of such  
6 institution or acquired from such institution for remittance purposes;

7 (2) "Certified funds", U.S. currency, funds conveyed by a cashier's check,  
8 certified check, teller's check, as defined in Federal Reserve Regulations CC, or  
9 wire transfers, including written advice from a financial institution that collected  
10 funds have been credited to the settlement agent's account;

11 (3) "Director", the director of the department of insurance, unless the  
12 settlement agent's primary regulator is another division in the department of  
13 economic development. When the settlement agent is regulated by such division,  
14 that division shall have jurisdiction over sections 381.410 and 381.412;

15 (4) "Financial institution":

16 (a) A person or entity doing business under the laws of this state or the  
17 United States relating to banks, trust companies, savings and loan associations,  
18 credit unions, commercial and consumer finance companies, industrial loan  
19 companies, insurance companies, small business investment corporations  
20 licensed pursuant to the Small Business Investment Act of 1958 (15 U.S.C.  
21 Section 661, et seq.), as amended, or real estate investment trusts as defined in  
22 26 U.S.C. Section 856, as amended, or institutions constituting the Farm Credit  
23 System pursuant to the Farm Credit Act of 1971 (12 U.S.C. Section 2000, et

24 seq.), as amended, or any person which services loans secured by liens or  
25 mortgages on real property, which person may or may not maintain a servicing  
26 portfolio for such loans; or

27 (b) The following persons or entities if their principal place of business  
28 is in Missouri or a state which is contiguous to Missouri:

29 a. A mortgage loan company which is subject to licensing, supervision  
30 or auditing by the Federal National Mortgage Association, or the Federal Home  
31 Loan Mortgage Corporation, or the United States Veterans Administration, or the  
32 Government National Mortgage Association, or the United States Department of  
33 Housing and Urban Development, or a successor of any of the foregoing agencies  
34 or entities, as an approved seller or servicer; or

35 b. A person or entity acting as a mortgage loan company pursuant to  
36 court order;

37 (5) "Settlement agent", a person, corporation, partnership, or other  
38 business organization which accepts funds and documents as fiduciary for the  
39 buyer, seller or lender for the purposes of closing a sale of an interest in real  
40 estate located within the state of Missouri, and is not a financial institution, or a  
41 member in good standing of the Missouri Bar Association, or a person licensed  
42 under chapter 339, RSMo.]

43

2 [381.410. As used in this section and section 381.412, the following  
terms mean:

3 (1) "Cashier's check", a check, however labeled, drawn on the financial  
4 institution, which is signed only by an officer or employee of such institution, is  
5 a direct obligation of such institution, and is provided to a customer of such  
6 institution or acquired from such institution for remittance purposes;

7 (2) "Certified funds", United States currency, funds conveyed by a  
8 cashier's check, certified check, teller's check, as defined in Federal Reserve  
9 Regulations CC, or wire transfers, including written advice from a financial  
10 institution that collected funds have been credited to the settlement agent's  
11 account;

12 (3) "Director", the director of the department of insurance, unless the  
13 settlement agent's primary regulator is another division in the department of  
14 economic development. When the settlement agent is regulated by such division,  
15 that division shall have jurisdiction over this section and section 381.412;

16 (4) "Financial institution":

17 (a) A person or entity doing business pursuant to the laws of this state or  
18 the United States relating to banks, trust companies, savings and loan  
19 associations or credit unions; or

20 (b) The following persons or entities if their principal place of business  
21 is in Missouri or outside Missouri, but within the St. Louis or Kansas City  
22 standard metropolitan statistical area:

23 a. A mortgage loan company which is subject to licensing, supervision  
 24 or auditing by the Federal National Mortgage Association, or the Federal Home  
 25 Loan Mortgage Corporation, or the United States Veterans Administration, or the  
 26 Government National Mortgage Association, or the United States Department of  
 27 Housing and Urban Development, or a successor of any of the foregoing agencies  
 28 or entities, as an approved seller or servicer;

29 (5) "Settlement agent", a person, corporation, partnership, or other  
 30 business organization which accepts funds and documents as fiduciary for the  
 31 buyer, seller or lender for the purposes of closing a sale of an interest in real  
 32 estate located within the state of Missouri, and is not a financial institution, or a  
 33 member in good standing of the Missouri Bar , or a person licensed under chapter  
 34 339, RSMo.]  
 35

2 [381.412. 1. A settlement agent who accepts funds of more than ten  
 3 thousand dollars, but less than two million dollars, for closing a sale of an interest  
 4 in real estate shall require a buyer, seller or lender who is not a financial  
 5 institution to convey such funds to the settlement agent as certified funds. The  
 6 settlement agent shall record all security instruments for such real estate closing  
 7 within three business days of such closing after receipt of such certified funds.  
 8 A check:

9 (1) Drawn on an escrow account of a licensed real estate broker, as  
 10 regulated and described in section 339.105, RSMo;

11 (2) Drawn on an escrow account of a title insurer or title insurance  
 12 agency licensed to do business in Missouri;

13 (3) Drawn on an agency of the United States of America, the state of  
 14 Missouri or any county or municipality of the state of Missouri; or

15 (4) Drawn on an account by a financial institution;  
 16 shall be exempt from the provisions of this section.

17 2. No title insurer, title insurance agency or title insurance agent, as  
 18 defined in section 381.031, shall make any payment, disbursement or withdrawal  
 19 in excess of ten thousand dollars from an escrow account which it maintains as  
 20 a depository of funds received from the public for the settlement of real estate  
 21 transactions unless a corresponding deposit of funds was made to the escrow  
 22 account for the benefit of the payee or payees:

23 (1) At least ten days prior to such payment, disbursement or withdrawal;

24 (2) Which consisted of certified funds; or

25 (3) Consisted of a check made exempt from this section by the provisions  
 26 of subsection 1 of this section.

27 3. If the director finds that a settlement agent, title insurer, title insurance  
 28 agency or title insurance agent has violated any provisions of this section, the  
 29 director may assess a fine of not more than two thousand dollars for each  
 30 violation, plus the costs of the investigation. Each separate transaction where  
 certified funds are required shall constitute a separate violation. In determining

31 a fine, the director shall consider the extent to which the violation was a knowing  
 32 and willful violation, the corrective action taken by the settlement agent to ensure  
 33 that the violation will not be repeated, and the record of the settlement agent in  
 34 complying with the provisions of this section.]  
 35

2 [381.412. 1. A settlement agent who accepts funds of more than ten  
 3 thousand dollars for closing a sale of an interest in real estate shall require a  
 4 buyer, seller or lender who is not a financial institution to convey such funds to  
 5 the settlement agent as certified funds. A check:

- 6 (1) Drawn on an escrow account of a licensed real estate broker, as  
 7 regulated and described in section 339.105, RSMo;
- 8 (2) Drawn on an escrow account of a title insurer or title insurance  
 9 agency licensed to do business in Missouri;
- 10 (3) Drawn on an agency of the United States of America, the state of  
 11 Missouri or any county or municipality of the state of Missouri; or
- 12 (4) Drawn on an account by a financial institution;

13 shall be exempt from the provisions of this section.

14 2. No title insurer, title insurance agency or title insurance agent, as  
 15 defined in section 381.009, shall make any payment, disbursement or withdrawal  
 16 in excess of ten thousand dollars from an escrow account which it maintains as  
 17 a depository of funds received from the public for the settlement of real estate  
 18 transactions unless a corresponding deposit of funds was made to the escrow  
 19 account for the benefit of the payee or payees:

- 20 (1) At least ten days prior to such payment, disbursement or withdrawal;
- 21 (2) Which consisted of certified funds; or
- 22 (3) Consisted of a check made exempt from this section by the provisions  
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 30 and willful violation, the corrective action taken by the settlement agent to ensure  
 31 that the violation will not be repeated, and the record of the settlement agent in  
 32 complying with the provisions of this section.]  
 33

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