

FIRST REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 577

95TH GENERAL ASSEMBLY

1575L.03P

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 379.1300, 379.1302, 379.1310, 379.1326, 379.1332, 379.1373, 379.1388, and 379.1412, RSMo, and to enact in lieu thereof nine new sections relating to captive insurance companies.

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

Section A. Sections 379.1300, 379.1302, 379.1310, 379.1326, 379.1332, 379.1373, 2 379.1388, and 379.1412, RSMo, are repealed and nine new sections enacted in lieu thereof, to 3 be known as sections 379.1300, 379.1302, 379.1310, 379.1326, 379.1332, 379.1339, 379.1373, 4 379.1388, and 379.1412, to read as follows:

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

- 2 (1) "Affiliated company", any company in the same corporate system as a parent, an
3 industrial insured, or a member organization by virtue of common ownership, control, operation,
4 or management;
- 5 (2) "Alien captive insurance company", any insurance company formed to write
6 insurance business for its parents and affiliates and licensed under the laws of an alien
7 jurisdiction that imposes statutory or regulatory standards in a form acceptable to the director on
8 companies transacting the business of insurance in such jurisdiction;
- 9 (3) "Annuity", a contract issued for a valuable consideration under which the obligations
10 are assumed with respect to periodic payments for a specified term or terms or where the making
11 or continuance of all or of some of such payments, or the amount of any such payments, is
12 dependent upon the continuance of human life;
- 13 (4) "Association", any legal association of individuals, corporations, limited liability
14 companies, partnerships, associations, or other entities that has been in continuous existence for

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.

15 at least one year, the member organizations of which or which does itself, whether or not in
16 conjunction with some or all of the member organizations:

17 (a) Own, control, or hold with power to vote all of the outstanding voting securities of
18 an association captive insurance company incorporated as a stock insurer; or

19 (b) Have complete voting control over an association captive insurance company
20 incorporated as a mutual insurer; **or**

21 (c) **Constitute all of the subscribers of an association captive insurance company**
22 **formed as a reciprocal insurer;**

23 (5) "Association captive insurance company", any company that insures risks of the
24 member organizations of the association and their affiliated companies;

25 (6) "Branch business", any insurance business transacted by a branch captive insurance
26 company in this state;

27 (7) "Branch captive insurance company", any alien captive insurance company licensed
28 by the director to transact the business of insurance in this state through a business unit with a
29 principal place of business in this state;

30 (8) "Branch operations", any business operations of a branch captive insurance company
31 in this state;

32 (9) "Captive insurance company", any pure captive insurance company, association
33 captive insurance company, or industrial insured captive insurance company formed or licensed
34 under sections 379.1300 to 379.1350. For purposes of sections 379.1300 to 379.1350, a branch
35 captive insurance company shall be a pure captive insurance company with respect to operations
36 in this state, unless otherwise permitted by the director;

37 (10) "Controlled unaffiliated business", any company:

38 (a) That is not in the corporate system of a parent and affiliated companies;

39 (b) That has an existing contractual relationship with a parent or affiliated company; and

40 (c) Whose risks are managed by a pure captive insurance company in accordance with
41 section 379.1338;

42 (11) "Director", the director of the department of insurance, financial institutions and
43 professional registration;

44 (12) "Excess workers' compensation insurance", in the case of an employer that has
45 insured or self-insured its workers' compensation risks in accordance with applicable state or
46 federal law, insurance in excess of a specified per-incident or aggregate limit established by the
47 director;

48 (13) "Industrial insured", an insured:

49 (a) Who procures the insurance of any risk or risks by use of the services of a full-time
50 employee acting as an insurance manager or buyer;

- 51 (b) Whose aggregate annual premiums for insurance on all risks total at least twenty-five
52 thousand dollars; and
- 53 (c) Who has at least twenty-five full-time employees;
- 54 (14) "Industrial insured captive insurance company", any company that insures risks of
55 the industrial insureds that comprise the industrial insured group and their affiliated companies;
- 56 (15) "Industrial insured group", any group of industrial insureds that collectively:
- 57 (a) Own, control, or hold with power to vote all of the outstanding voting securities of
58 an industrial insured captive insurance company incorporated as a stock insurer; or
- 59 (b) Have complete voting control over an industrial insured captive insurance company
60 incorporated as a mutual insurer;
- 61 (16) "Member organization", any individual, corporation, limited liability company,
62 partnership, association, or other entity that belongs to an association;
- 63 (17) "Mutual corporation", a corporation organized without stockholders and includes
64 a nonprofit corporation with members;
- 65 (18) "Parent", a corporation, limited liability company, partnership, other entity, or
66 individual that directly or indirectly owns, controls, or holds with power to vote more than fifty
67 percent of the outstanding voting:
- 68 (a) Securities of a pure captive insurance company organized as a stock corporation; or
69 (b) Membership interests of a pure captive insurance company organized as a nonprofit
70 corporation;
- 71 (19) "Pure captive insurance company", any company that insures risks of its parent and
72 affiliated companies or controlled unaffiliated business.

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

- 6 (1) No pure captive insurance company shall insure any risks other than those of its
7 parent and affiliated companies or controlled unaffiliated business;
- 8 (2) No association captive insurance company shall insure any risks other than those of
9 the member organizations of its association and their affiliated companies;
- 10 (3) No industrial insured captive insurance company shall insure any risks other than
11 those of the industrial insureds that comprise the industrial insured group and their affiliated
12 companies;
- 13 (4) No captive insurance company shall provide personal motor vehicle or homeowner's
14 insurance coverage or any component thereof;

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

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

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

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

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

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

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

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

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

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

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

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

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

51 description is approved by the director. The captive insurance company shall inform the director
52 of any material change in rates within thirty days of the adoption of such change.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

83 (4) Each captive insurance company shall pay to the director a nonrefundable license fee
84 of seven thousand five hundred dollars for examining, investigating, and processing its
85 application for license, and the director is authorized to retain legal, financial, and examination
86 services from outside the department, the reasonable cost of which may be charged against the

87 applicant. The provisions of sections 374.160 to 374.162 and sections 374.202 to 374.207,
88 RSMo, shall apply to examinations, investigations, and processing conducted under the authority
89 of this section. In addition, each captive insurance company shall pay a renewal fee for each year
90 thereafter of seven thousand five hundred dollars. Each captive insurance company may deduct
91 the license and renewal fee paid from the premium taxes payable under section 379.1326.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

62 9. The provisions of section 375.355, RSMo, **section 375.908, RSMo**, sections 379.980
63 to 379.988, and chapter 382, RSMo, pertaining to mergers, consolidations, conversions,

64 mutualizations, redomestications, and mutual holding companies shall apply in determining the
65 procedures to be followed by captive insurance companies in carrying out any of the transactions
66 described therein; except that:

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

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

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

77 **11. Captive insurance companies formed as reciprocal insurers under the**
78 **provisions of sections 379.1300 to 379.1350 shall have the privileges and be subject to the**
79 **provisions of sections 379.650 to 379.790 in addition to the applicable provisions of sections**
80 **379.1300 to 379.1350. In the event of a conflict between the provisions of sections 379.650**
81 **to 379.790 and the provisions of sections 379.1300 to 379.1350, the latter shall control, to**
82 **the extent a reciprocal insurer is made subject to other provisions of chapters 374, 375, and**
83 **379 under sections 379.650 to 379.790, such provisions shall not be applicable to a**
84 **reciprocal insurer formed under sections 379.1300 to 379.1350 unless such provisions are**
85 **expressly made applicable to captive insurance companies under sections 379.1300 to**
86 **379.1350.**

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

379.1326. 1. Each captive insurance company shall pay to the director of revenue, on
2 or before May first of each year, a premium tax at the rate of thirty-eight-hundredths of one
3 percent on the first twenty million dollars and two hundred eighty-five-thousandths of one
4 percent on the next twenty million dollars and nineteen-hundredths of one percent on the next
5 twenty million dollars and seventy-two-thousandths of one percent on each dollar thereafter on
6 the direct premiums collected or contracted for on policies or contracts of insurance written by
7 the captive insurance company during the year ending December thirty-first next preceding, after
8 deducting from the direct premiums subject to the tax the amounts paid to policyholders as return
9 premiums which shall include dividends on unabsorbed premiums or premium deposits returned

10 or credited to policyholders; provided, however, that no tax shall be due or payable as to
11 considerations received for annuity contracts.

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

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

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

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

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

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

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

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

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

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

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

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

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

13 commissioner of administration, for promotional expenses.] All fees received by the department
14 from reinsurers who assume risk solely from captive insurance companies and are subject to the
15 provisions of section 375.246, RSMo, shall be deposited into the insurance dedicated fund.

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

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

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

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

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

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

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

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

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

26 **(d) Is approved:**

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

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

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

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

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

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

44 **4. A merger authorized under subsection 1 of this section shall be accomplished**
45 **substantially in accordance with such procedures and plan of merger adopted by the board**
46 **of directors of the captive insurance company and as authorized by the director; except**
47 **that, solely for purposes of such merger:**

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

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

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

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

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

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

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

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

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

77 **(2) Such single insurer shall thereupon and thereafter possess all the rights,**
78 **privileges, immunities, powers, and franchises of a public as well as of a private nature of**
79 **each of the insurers so merged or consolidated; and all property, real, personal, and mixed,**
80 **and all debts due on whatever account, including subscriptions to shares of capital stock,**
81 **and all other choses in action and all and every other interest of or belonging to or due to**
82 **each of the insurers so merged or consolidated shall be taken and deemed to be transferred**
83 **to and vested in such single insurer without further act or deed; and the title to any real**
84 **estate, or any interest therein, under the laws of this state vested in any of such insurers**
85 **shall not revert or be in any way impaired by reason of such merger or consolidation; and**

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

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

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

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

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

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

3 (1) Permitted investments;

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

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

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

11 2. **(1)** The assets of a SPLRC shall be valued in the same manner as the assets of a
12 Missouri domestic life insurer[. Notwithstanding the preceding, the director may by order
13 authorize a SPLRC to value one or more of its assets through an alternative method] ; **however,**
14 **letters of credit, financial guarantee policies, and surety bonds issued without recourse to**
15 **the SPLRC, or with recourse to the SPLRC with a priority no higher than afforded to class**
16 **7 claims under section 375.1218, RSMo, shall be valued as follows.** Letters of credit shall be
17 valued at the amount available for drawings by the SPLRC or its ceding company as of the time
18 of valuation. A financial guarantee policy shall be valued at the amount available to pay
19 aggregate claims as of the time of valuation. A surety bond shall be valued at the amount
20 available to pay aggregate claims as of the time of valuation.

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

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

9 operations of such other insurer, and if the intent of the parties to such transaction is to renew
10 or maintain such business with the captive insurance company.

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

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

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

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

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

36 **7. Upon receiving the taxes collected under this section from the director of**
37 **revenue, the state treasurer shall receipt ninety percent thereof into the general revenue**
38 **fund of the state and the state treasurer shall place the remainder of such taxes collected**
39 **to the credit of the insurance dedicated fund established under section 374.150, RSMo.**

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