



Property and Casualty Insurance

Missouri

State Law Supplement

Financial
Education



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MISSOURI PROPERTY AND CASUALTY INSURANCE LAW
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INTRODUCTION

This supplement focuses on statutes regarding Missouri insurance law. Key aspects of each statute are discussed to help the student pass the state law portion of the licensing examination. In order to understand the content of this supplement, the student should first study the national insurance License Exam Manual. Thorough preparation for the exam requires the complete study of both the national License Exam Manual and the supplement.

I. MISSOURI LAWS, RULES, AND REGULATIONS PERTINENT TO PROPERTY AND CASUALTY INSURANCE

A. REGULATION OF THE INSURANCE INDUSTRY

1. The Director of Insurance [374.020]

- a. The governor, with the advice and consent of the Senate, appoints the Director of Insurance to serve as the chief officer of the Department of Insurance.
 - 1.) The Director holds office concurrently with the governor until a successor is appointed.
 - 2.) The governor has the authority to remove the Director and appoint a replacement.

b. Duties [374.040, .045]

- 1.) The Director's duties include:
 - keeping all files and books required by law;
 - issuing certificates of authority to transact insurance business in Missouri;
 - furnishing certified copies of papers, reports, or documents on file to anyone who requests them and pays the appropriate fees;
 - establishing a consumer affairs division within the Department of Insurance;
 - performing required duties in the best interests of the general public, policyholders, insurance companies, and officers;
 - refusing, revoking, or suspending licenses or certificates of authority in accordance with state laws;
 - making all rules and regulations needed to help interpret state insurance laws and regulate the internal affairs of the Department of Insurance;
 - determining forms and procedures to be used by the Department of Insurance; and
 - withdrawing or amending any rule or regulation.

- 2.) The Director may not make any rule or regulation that conflicts with the laws of Missouri.

c. Examination of companies [374.110, .205]

- 1.) The Director examines the activities of insurance companies doing business in Missouri to monitor:
 - possible insurance law violations;
 - financial condition; and
 - insurance business transacted in Missouri by any producer, agency, or insurance company.
- 2.) The Director or his appointed agent has the authority to:
 - summon and compel attendance of witnesses;
 - administer oaths; and
 - require the production of documents.
- 3.) The company being examined pays the examination fees and expenses.
- 4.) If the company is organized under the laws of another state, the Director may instead accept a certificate of examination and statement of facts provided by the insurance commissioner of the other state.
- 5.) The Director must, at least once every five years (or more, if deemed necessary), conduct a financial examination of every insurer licensed in Missouri. In lieu of a personal examination of foreign and alien insurers, the Director may accept a financial examination report on those companies as prepared by their home state department of insurance.

d. False testimony and prosecution [Sec. 374.210, .285]

- 1.) It is illegal for anyone to make or cause someone else to make false testimony in any proceeding conducted under the insurance code or to falsify any record filed under the insurance code. Violations are a class D felony and may be punished with license revocation.
- 2.) If anyone refuses to testify or produce records as required by the Director, the Director may suspend, revoke, or refuse to license that person and also ask a court to:
 - hold the person in contempt;
 - order the person to appear before the Director;
 - order the person to testify about the matter under investigation or in question;
 - order the production of records;
 - grant injunctive relief;
 - impose a civil penalty of up to \$50,000 for each violation; and
 - grant any other necessary or appropriate relief.

- 3.) Violations of law discovered by the Director may be referred to the state attorney general for criminal prosecution. Individuals who invoke their right to avoid self-incrimination in the course of an investigation may be compelled by a court order to comply with the Director's request for information. Self-incriminating evidence given under such compulsion may not then be used to prosecute the person in a criminal case, except for perjury.
- 4.) Records of disciplinary actions against an insurance producer that involve a monetary sum of \$200 or less and place no other legal duty upon the producer are expunged five years after the date the Director executes the disciplinary order.

B. LICENSING

1. Insurance Company Licensing [375.161, 786]

a. Insurance company or insurer [375.012] An insurance company or insurer is any person, reciprocal exchange, interinsurer, Lloyd's insurer, fraternal benefit society, and any other legal entity engaged in the business of insurance, including health services corporations, health maintenance organizations, prepaid limited health care service plans, dental, optometric, and other similar health service plans.

b. Domestic, foreign, and alien insurers [375.791, .908, .950]

- 1.) A **domestic insurer** is incorporated or formed in Missouri.
- 2.) A **foreign insurer** is organized under the authority of a state other than Missouri.
- 3.) An **alien insurer** is organized under the laws of any country other than the United States.

c. Insurance producer [375.012; Reg. 700-1.020-030]

- 1.) An **insurance producer** is a person required to be licensed pursuant to the laws of this state to sell, solicit, or negotiate insurance.
- 2.) All references to an insurance agent or insurance broker are references to an insurance producer.
 - a.) A producer who represents the insurer and is authorized to sell its insurance or annuity contracts is considered to be an **agent of the insurer**.
 - b.) A **broker** is a person who, for a commission or fee, represents the insured (other than himself) to aid in negotiating or soliciting insurance contracts and placing risks.

- 3.) An insurance producer license is required to solicit, negotiate, and sell insurance contracts, and each place of business of an insurance producer must contain the principal office of at least one licensed insurance producer.
 - 4.) **Internet sales** All laws and rules applying to the sale of insurance, also applies to the sale of insurance over the internet. Each website or homepage must contain an address and telephone number of contact with the producer or insurance company, and list all states it is authorized to do business in.
- d. Business entity [375.012]** A **business entity** is a corporation, association, partnership, limited liability company, limited liability partnership, or other legal entity.
- e. Surplus lines producer [384.043]** Insurers wishing to conduct insurance business in Missouri must be admitted by having a certificate of authority issued to them by the Director of Insurance.
- 1.) The Director may issue a surplus lines license to any qualified holder of a current resident or nonresident property and casualty insurance producer license after the licensee has:
 - remitted the \$100 initial fee to the Director;
 - submitted a completed license application on a form supplied by the Director; and
 - passed a qualifying examination approved by the Director.
 - 2.) Each surplus lines license must be renewed every two years on the biennial anniversary date of issuance and continue in effect until refused, revoked, or suspended by the Director. The annual renewal fee is \$100.
 - 3.) A surplus lines licensee may originate surplus lines insurance or accept surplus lines business from any licensed agent or broker.
- f. Certificate of authority [375.161, 375.786]** The **certificate of authority** is an insurance company's license to transact business in Missouri.
- 1.) It certifies that the company has complied with the requirements of Missouri insurance laws.
 - 2.) Certificates must be renewed annually by July 1 and remain in full force until renewed or refused by the Director.
- g. License requirements**
- 1.) Participants must be licensed to transact business in Missouri in order to:
 - make or propose to make insurance contracts or any guaranty or suretyship contract as a vocation, not merely incidental to other business;

- take or receive insurance applications;
 - receive or collect premiums, commissions, assessments, or other fees for insurance;
 - issue or deliver insurance contracts to Missouri residents or persons authorized to do business in Missouri;
 - act directly or indirectly as an agent in the solicitation, negotiation, or procurement of insurance or renewals, forwarding applications, delivering policies, or otherwise assisting an insurance company with the transaction of insurance; and
 - transact any kind of insurance business specifically recognized in the statutes relating to insurance or any activities designed to evade the provisions of the statutes.
- 2.) The failure of an insurance company doing insurance business in Missouri to obtain a certificate of authority (i.e., an unauthorized company) will not:
- impair the validity of any of the company's acts or contracts; or
 - prevent the company from defending any action in any court of Missouri.
- 3.) However, no insurance company transacting insurance business in Missouri without a certificate of authority is permitted to sue in any court of Missouri to enforce any right, claim, or demand arising out of the transaction of such business until the company has obtained a certificate of authority.
- 4.) If an unauthorized insurance company fails to pay any claim or loss within the provisions of an insurance contract, any person who helped procure the insurance contract will be liable to the insured for the full amount of the claim in the manner provided by the insurance contract provisions.
- h. Certificate of authority exceptions [375.786]** In Missouri, a certificate of authority is not required for:
- lawful transaction of reinsurance by insurance companies;
 - transactions involving policies delivered outside of Missouri and only covering insurance subjects that are not in Missouri;
 - activities of attorneys acting in the ordinary attorney/client relation in the adjustment of claims or losses;
 - transactions involving group or blanket life, sickness and accident insurance, or group annuities where the master policy was issued according to the laws of the state where the policyholder lives and where the insurance company is authorized to do business;
 - transactions involving any insurance policy or annuity contract issued before August 13, 1972;
 - transactions relative to a policy issued outside of Missouri involving insurance on vessels, craft or hulls, cargoes, marine builders' risk, marine protection, or other risks commonly insured under ocean or wet marine forms of policy;

- transactions involving insurance contracts issued to an industrial insured that deals with insurance other than life, health, and annuity contracts and that uses the services of a full-time insurance manager or regular consultant. The insured must have at least 25 employees and its annual premiums for insurance, excluding those for workers' compensation premiums, must total at least \$25,000;
- transactions involving life or health insurance or annuities for nonprofit educational, religious, or charitable institutions that appoint the Director to be the lawful attorney regarding any policies or contracts issued to Missouri citizens. These organizations must also provide the Director with copies of all policies issued to Missouri residents and any other financial material requested by the Director; and
- transactions in the state involving accident, health, personal effects, liability, or any other travel or auto-related products or coverages provided or sold by a rental company to a renter in connection with the rental of motor vehicles.

2. Producer Licensing

- a. **License required [375.014]** No person may sell, solicit, or negotiate insurance in Missouri for any class or classes of insurance unless he is licensed for that line of authority.
- b. **Exemptions to licensing requirement [375.014]** A license as an insurance producer is not required of:
 - an officer, Director, or employee of an insurer or of an insurance producer, provided that the person does not receive any commission on insurance policies and is not involved in the sale of insurance;
 - a person who enrolls individuals or helps administer group or mass-marketed insurance, when no commission is paid to the person for the service;
 - an employee benefit plan or its personnel as long as they are not compensated by the company issuing the insurance contracts;
 - employees of insurance-related organizations who are not engaged in the sale of insurance;
 - a person whose activities are limited to advertising;
 - a salaried full-time employee who advises his employer about the insurance interests of the employer and does not receive a commission; or
 - a licensed attorney providing probate or other court-required bonds on behalf of a client.
- c. **License application [375.015]**
 - 1.) An individual applying for a resident insurance producer license must apply to the Director on the uniform application form and declare under penalty of refusal, suspension, or revocation of the license that the statements made in the application are true, correct, and complete to the best of his knowledge.

- 2.) Before approving the application, the Director must find that the individual:
 - is at least 18 years of age;
 - has not committed any act that is a ground for denial, suspension, or revocation of the license;
 - has paid a license fee of \$100; and
 - has successfully passed the examinations for the lines of authority for which the person has applied.

d. Business entity acting as producer [375.015]

- 1.) A business entity acting as an insurance producer is required to obtain an insurance producer license. Application must be on the uniform business entity application.
- 2.) Before approving the application, the Director must find that:
 - the business entity has paid a license fee of \$100;
 - the business entity has designated a licensed individual insurance producer to be responsible for compliance with the insurance laws, rules, and regulations; and
 - neither the business entity nor any of its officers, Directors, or owners has committed any act that is a ground for denial, suspension, or revocation of the license.
- 3.) In addition to designating a licensed individual insurance producer to be responsible for complying with Missouri insurance law, the application must list all insurance producers the business employs and to whom it pays any salary or commission.
- 4.) The business entity must inform the Director of any change on the application or upon the termination of any of its producers within 20 working days after the change. No fee may be charged for any such change or termination.

e. License examination [375.016]

- 1.) A resident individual applying for an insurance producer license must pass a written examination unless exempt. The examination tests:
 - the knowledge of the individual concerning the lines of authority for which application is made;
 - the duties and responsibilities of an insurance producer; and
 - the insurance laws and regulations of this state.
- 2.) Each individual applying for an examination shall remit a nonrefundable fee as prescribed by the Director.

- 3.) An individual who fails to appear for a scheduled examination or fails to pass the examination may reapply for an examination and pay all required fees and forms before being rescheduled for another.

f. Nonresident moving to Missouri [375.016]

- 1.) A licensed insurance producer from another state who moves to Missouri must apply within 90 days of establishing legal residence to become a resident insurance producer.
- 2.) No examination is required of that person to obtain any line of authority previously held in the prior state except if the Director determines otherwise.

g. Limited lines license [375.016] Individuals applying for limited lines producer licenses are exempt from the examination.

h. Licensure [375.018]

- 1.) Anyone who has met the licensing requirements will be issued an insurance producer license for a term of two years. An insurance producer may qualify for a license in:
 - life insurance;
 - accident and health or sickness and may include benefits for disability income;
 - property insurance;
 - casualty insurance, including insurance for death, injury or disability, or damage to real or personal property;
 - variable life and variable annuity products;
 - personal lines property and casualty insurance coverage sold to individuals and families for primarily noncommercial purposes;
 - credit-limited line credit insurance; and
 - any other line of insurance permitted under state laws or regulations.
- 2.) Any insurance producer who is certified by the Federal Crop Insurance Corporation on September 28, 1995 to write federal crop insurance is not required to have a property license for the purpose of writing federal crop insurance.
- 3.) **Renewal fee** The biennial renewal fee for a producer's license is \$100 for each license. A producer's license must be renewed biennially on the anniversary date of issuance and continue in effect until refused, revoked, or suspended by the Director.

i. License reinstatement [375.018] An individual insurance producer who allows his license to expire may, within 12 months from the due date of the renewal fee, reinstate the license without passing the examination.

- 1.) The insurance producer seeking relicensing must provide proof that the continuing education requirements have been met and pay a penalty of \$25 per month in which the license was expired in addition to the required renewal fees.
 - 2.) The Director is not required to reinstate a license if the producer had his license suspended or revoked because of violations of any insurance law or regulation.
 - 3.) **Business entity** A business entity insurance producer that allows its license to expire may, within 12 months of the due date of the renewal, reinstate the license by paying the overdue license fee plus a penalty of \$25 per month that the license was expired.
 - 4.) **Exemptions due to military service** A producer who is unable to comply with license renewal procedures due to military service or some other extenuating circumstance, such as a long-term medical disability, may request a waiver of those procedures. The producer may also request a waiver of any other fine or sanction imposed for failure to comply with renewal procedures.
- j. Contents of license [375.018]** The license contains the following information:
- Name
 - Address
 - Identification number of the insurance producer
 - Date of issuance
 - Lines of authority
 - Expiration date
 - Any other information the Director deems necessary
- k. Change of address [375.141(5)]**
- 1.) Insurance producers must inform the Director of a change of address within 30 days of the change.
 - 2.) If the failure to notify the Director of the change of address results in an inability to serve the insurance producer with a complaint, the Director may immediately revoke the producer's license until service may be obtained.
- l. Banks issuing insurance [375.018]** Any bank or trust company in the sale or issuance of insurance products or services are subject to the insurance laws and rules adopted by the Department of Insurance.

m. Nonresident license [375.017]

- 1.) A nonresident person will receive a nonresident producer license if the person:
 - is currently licensed as a resident and in good standing in his home state;
 - has submitted the proper request for licensure and has paid the fees;
 - has submitted to the Director the original application for a license from his home state or, in its place, a completed uniform application; and
 - is from a home state that awards nonresident producer licenses to residents of Missouri on the same basis.
- 2.) A nonresident producer who moves from one state to another or a resident producer who moves from Missouri to another state must file a change of address within 30 days of the move.
- 3.) A person licensed as a surplus lines licensee or producer in his home state will receive a nonresident surplus lines license in Missouri.
- 4.) A person licensed as a limited line credit insurance producer or other type of limited lines producer in his home state will receive a nonresident limited lines producer license granting the same scope of authority as granted under the license issued by the home state. Limited line insurance is any authority granted by the home state that restricts the authority of the license to less than the total authority of the major lines.
- 5.) Completing the continuing education requirements of the nonresident's home state constitutes satisfaction of the continuing education requirements of Missouri if the home state grants reciprocal recognition.
- 6.) The Director cannot assess a greater fee for a license or related service to a person solely on the fact that the person does not reside in Missouri. The Director must waive any license application requirements for a nonresident license applicant with a valid license from his home state if the applicant's home state awards nonresident licenses to residents of Missouri on the same basis.

3. Continuing education [375.020; Reg. 700-3.200]

- a. Each insurance producer, unless exempt, must successfully complete the following courses or programs of instruction every two years:
 - 16 hours of instruction for a property or a casualty license or both a property and a casualty license; and
 - 16 hours of instruction for those with a life, health, accident, property, and casualty license. Of the 16 hours training required above, the hours need not be divided equally.

- b. The courses or programs must include instruction on Missouri law.
- c. Some of the courses or instruction that meet the Director's standards for continuing educational requirements are:
 - American College Courses (CLU[®], ChFC[®]);
 - Life Underwriters Training Council (LUTC);
 - Certified Insurance Counselor (CIC);
 - Chartered Property and Casualty Underwriter (CPCU[®]);
 - Insurance Institute of America (IIA);
 - 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;
 - a course developed or sponsored by any authorized insurer, recognized producer association, or trade association; and
 - a course presented by a local producer group as long as the instructor receives no compensation.
- d. A person teaching any approved course will qualify for the same number of classroom hours as would be granted to a person taking the course.
- e. Excess classroom hours accumulated during any two-year period may be carried forward to the next two-year period.
- f. **Extensions [375.020(5)]** For good cause, the Director may grant an extension of time of one year to complete the educational requirement. The Director may grant an individual waiver of the continuing education requirement if the licensee can show proof of conditions, such as:
 - serious physical injury or illness;
 - active duty in the armed services for an extended period of time;
 - residence outside the United States; or
 - at least 70 years of age.
- g. Continuing education providers must, within 30 working days of a licensed producer completing his approved course, submit certification of completion to the Director.
- h. The continuing education requirement does not apply to:
 - 1.) anyone holding a license for which an examination is not required;
 - 2.) any limited lines insurance producer license or restricted license; and
 - 3.) a life insurance producer who transacts only specific life insurance policies of less than \$5,000, or annuities of under \$10,000, and that are designated for the payment of funeral or burial expenses.

4. Producer appointments [375.022]

- a.** An authorized insurer must maintain a register of appointed insurance producers.
 - 1.)** An insurance producer may not act on behalf of an insurer unless the producer is listed on the company register.
 - 2.)** Within 30 days of an insurer authorizing a producer to transact insurance business on its behalf, the insurer must enter the name and license number of the producer in the company register.
 - 3.)** No fee is charged for adding or terminating a producer from the register.
- b.** The register of appointed insurance producers must be available for examination by the Director at all times during regular business hours. The register of may be maintained electronically.
- c.** An insurer that terminates the appointment, employment, contract, or business relationship with an insurance producer for any reason must notify the Director within 30 days of the termination.
 - 1.)** The register must be updated by entering the date of the termination within 30 days after the termination.
 - 2.)** The insurer must promptly notify the Director if, upon further investigation, the insurer discovers additional information that should have been reported to the Director had the insurer known of its existence.
- d. Appointment termination [375.022(5)]**
 - 1.)** The appointment of an individual insurance producer terminates upon the producer's termination or resignation; upon termination of the licensed business entity by the insurer; or upon nonrenewal, suspension, revocation, or surrender of the individual insurance producer's license.
 - 2.)** The notice of termination must be accompanied by a report or summary of the acts of the terminated insurance producer and a copy of the documentation collected by the insurer that led to the termination.

5. Confidentiality [375.022(8)-(14)]

- a.** Any information filed by an insurance company or obtained by the Director is confidential and privileged. There will be no liability on the part of, and no cause of action may arise against, any insurer, its producers, its authorized sources, or the Director in connection with any information obtained by them in good faith. The Director will, upon written request by the producer, furnish to the producer a copy of all information obtained during an investigation.

- b.** Neither the Director nor any person who received confidential documents while acting under the Director's authority is required to testify in any private civil action concerning information contained in them.
- c.** In the performance of the duties of the Director, he may:
 - share confidential documents or information with other state, federal, and international regulatory agencies, with the National Association of Insurance Commissioners, and with any law enforcement authorities, provided that the recipient agrees to maintain the confidentiality and privileged status of the material; or
 - receive confidential documents or information from the National Association of Insurance Commissioners, as well as regulatory and law enforcement officials of other jurisdictions, and maintain its confidential or privileged status.
- d.** No waiver of any privilege or claim of confidentiality in the documents or information will occur as a result of disclosure to the Director or sharing them as authorized in this section.
- e.** Nothing prohibits the Director from releasing final, adjudicated actions including for cause terminations that are open to public inspection to a database or other clearinghouse maintained by the National Association of Insurance Commissioners or any other database approved by the Director.
- f.** If the Director suspends, revokes, or refuses to issue or renew a license, he must provide public notice.

6. Temporary license [375.025]

- a.** The Director may issue a temporary insurance producer license for up to 90 days without requiring an examination if the Director decides the license is necessary for the servicing of an insurance business:
 - to the surviving spouse or court-appointed representative of a licensed producer who dies or becomes disabled to allow time for the sale of the business or the training and licensing of new personnel to operate the business;
 - to a member or employee of a business entity licensed as an insurance producer, upon the death or disability of an individual designated in the business entity application or the license;
 - to the designee of a licensed insurance producer entering active service in the armed forces; or
 - in any other circumstance in which the Director feels that the public interest would be served by the issuance of the license.
- b.** To protect insureds and the public, the Director may:
 - limit the authority of any temporary licensee;

- require that the temporary licensee have a suitable sponsor who is a licensed producer or insurer to assume responsibility for all acts of the temporary licensee; or
 - revoke a temporary license if the public's interests are endangered.
- c. A temporary license may not continue after the owner or the representative disposes of the business.

7. Producer license registry [375.071] The Director may participate in a multi-state producer licensing registry and adopt procedures required by the registry, such as the centralized collection of license fees.

8. Disciplinary actions

a. Suspension or termination of license [375.141, 374.280] The business of insurance requires honesty and good faith. For this reason, the insurance industry is regulated to ensure that its responsibilities to the public are upheld.

- 1.)** The Director may suspend, revoke, refuse to issue, or refuse to renew an insurance producer license for:
- intentionally providing materially incorrect, misleading, incomplete, or untrue information in the license application;
 - violating any insurance laws, or violating any regulation, subpoena, or order of the Director or of any another insurance commissioner;
 - obtaining or attempting to obtain a license through material misrepresentation or fraud;
 - improperly withholding, misappropriating, or converting any monies or properties received in the course of doing insurance business;
 - intentionally misrepresenting the terms of an actual or proposed contract or application for insurance;
 - having been convicted of a felony or crime involving moral turpitude;
 - having admitted or been found to have committed any insurance unfair trade practice or fraud;
 - using fraudulent, coercive, or dishonest practices or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of insurance business in Missouri;
 - having an insurance producer license or its equivalent denied, suspended, or revoked in any other state, province, district, or territory;
 - signing the name of another to an application for insurance or to any document related to an insurance transaction without authorization;
 - improperly using notes or any other reference material to complete an examination for an insurance license;
 - knowingly acting as an insurance producer when not licensed or accepting insurance business from an individual knowing that person is not licensed;

- failing to comply with an administrative or court order imposing a child support obligation; or
 - failing to comply with any administrative or court order directing payment of state or federal income tax.
- 2.) If the Director denies a license application or does not renew a license, he must:
- notify the applicant or licensee in writing; and
 - include the reason for the denial or nonrenewal.
- 3.) The license of a business entity may be suspended, revoked, or refused if the Director finds that:
- a violation of an individual producer was known or should have been known by the partners or managers of the business entity; and
 - the violation was neither reported to the Director nor corrected.
- 4.) The Director may also revoke or suspend any license if the licensee failed to renew the license and surrendered it.

b. Reporting of actions [375.141(6)]

- 1.) An insurance producer must report to the Director any administrative action taken against him in another jurisdiction or by another governmental agency in Missouri within 30 days of the final disposition of the matter. This report must include a copy of the order, consent order, or other relevant legal documents.
- 2.) Within 30 days of the initial pretrial hearing date, a producer must report to the Director any criminal prosecution for a felony or a crime involving moral turpitude. The report must include a copy of the indictment or information filed, the order resulting from the hearing, and any other relevant legal documents.

c. Penalties [375.146, 374.280]

- 1.) A person who willfully violates any of these provisions is guilty of a Class A misdemeanor. If convicted, his license will be revoked by the Director (in addition to any criminal penalties that may apply).
- 2.) The Director may, after a hearing, order a civil penalty or forfeiture payable to the state of Missouri, which, if unpaid within 10 days, may be recovered by a civil action brought by and in the name of the Director.

d. Court action [374.048]

- 1.) If the Director believes that a person has engaged in a violation of Missouri law, rules, or regulations relating to insurance, the Director may

initiate a court action to enforce compliance with the laws of this state relating to insurance.

- 2.) The court may issue a permanent or temporary injunction, restraining order, or declaratory judgment, or order other relief, which may include:
 - an asset freeze;
 - ordering the Director to take control of a defendant's property;
 - imposing a civil penalty or forfeiture;
 - imposing an order of restitution;
 - ordering the payment of prejudgment and post-judgment interest;
 - ordering reasonable costs of investigation and prosecution;
 - ordering the payment to the insurance dedicated fund an additional amount equal to 10% of the total restitution ordered; or
 - such other relief as the court considers necessary or appropriate.
- 3.) A *consumer restitution fund* will be created for the purpose of preserving and distributing to aggrieved consumers disgorgement or restitution funds obtained through enforcement proceedings brought by the Director.

C. UNFAIR TRADE PRACTICES [375.936]

1. It is illegal to engage in any trade practice that is an unfair method of competition or an unfair or deceptive act. The Director may investigate possible unfair trade practices and fine, suspend, or revoke violators' licenses if the practice continues. The following are some of the unfair and deceptive practices identified in the Missouri Insurance Code.

a. Rebates and illegal inducements [375.936(9)]

- 1.) It is illegal to offer anything of value, other than what is specifically provided in the policy, to policyholders as an inducement to purchase a policy. This includes:
 - rebates of premiums payable on the contract;
 - special favors or advantages in the dividends or other benefits;
 - valuable considerations or inducements; and
 - stocks, bonds, or other securities of any insurance company or other association or any of its dividends or profits.
- 2.) The following, however, are not considered to be rebates and are not illegal. These include:
 - paying fair bonuses to life insurance or annuity nonparticipating policyholders or reducing their premiums out of surplus accumulated from nonparticipating insurance;

- making allowances to policyholders of life insurance issued on the industrial debit plan who, for a specified period, have made premium payments directly to the insurer in an amount that represents the saving in collection expenses; and
- readjustment of the premium rate for a group insurance policy based on loss or expense experience, which may be made retroactive only for the stated policy year.

b. Misrepresentations and false advertising [375.936 (4), (5), (6), (7)]

- 1.) It is illegal to make, issue, or circulate deceptive or misleading statements about the insurance business or an insurer. Specifically prohibited is information that misrepresents:
 - benefits, advantages, conditions, or terms of any policy;
 - dividends or share of the surplus previously paid or to be received on any policy;
 - financial condition of any insurer or the legal reserve system on which any life insurer operates;
 - any policy's name or title to misrepresent its true nature;
 - any policy as being shares of stock;
 - misrepresentations to induce the purchase, lapse, or exchange of a policy, including any intentional misquote of a premium rate (also known as twisting); and
 - misrepresentations to cause a pledge, assignment, or loan against a policy.
- 2.) It is illegal for a producer to make any misrepresentations in the form of false or fraudulent statements on an application for the purpose of making a sale and obtaining a fee, commission, or any other benefit from an insurer or another producer.
- 3.) Filing with the Department of Insurance any false information as to the financial condition of a company is also illegal, as is presenting any false or misleading information about an insurer to the public.

c. Twisting [375.936(6)(f)] When a producer engages in a policy replacement (i.e., sells a policy that will result in the lapse, cancellation, or significant reduction in benefits of an existing similar policy), care must be taken not to make any misrepresentations to the applicant regarding the existing policy, the proposed one, or any other related issue. To replace a policy through some means of misrepresentation is illegal and generally known as **twisting**.

d. Defamation of insurer [375.936(2)] It is illegal to make or circulate any oral or written statement that is false or maliciously critical about any insurer's financial condition in order to injure the insurer.

e. Unfair discrimination [375.007, 375.936(11)] It is illegal to make or permit any unfair discrimination between individuals of the same class and equal life expectancy in policy rates, dividends, or benefits.

- 1.) Assigning different rate classifications to people of the same age, race, sex, and so forth because of their different risk profile is not considered unfair discrimination.
- 2.) Prohibited actions include:
 - not permitting the insured full freedom of choice to select any licensed physician, surgeon, optometrist, chiropractor, dentist, psychologist, pharmacist, pharmacy, or podiatrist, except in the case of health maintenance organizations;
 - refusing to insure or limiting the amount of coverage available to an individual because of sex or marital status (although insurers can take marital status into account to define persons eligible for dependent benefits);
 - refusing to issue, refusing to renew, cancelling, or limiting the amount of insurance coverage on a property or casualty risk because of the geographic location of the risk;
 - refusing to issue, refusing to renew, cancelling or limiting the amount of insurance coverage on a residential property risk, or the personal property contained in it, because of the age of the residential property;
 - refusing to insure solely because another insurer has refused to issue a policy or has canceled or refused to renew an existing policy for that person (though applicants cannot be required to divulge whether any insurer has canceled or refused to renew their policies and insurers may require the name of the prior carrier in order to verify the applicant's previous claims or medical history);
 - cancelling or refusing to insure a policy solely because of race, sex, color, creed, national origin, or ancestry; and
 - refusing to provide property or casualty insurance solely because the applicant or employee is mentally or physically impaired. (This does not apply to accident and health insurance sold by a casualty insurer and does not modify any other provision of law relating to the termination, modification, issuance, or renewal of any insurance policy or contract.)

f. Failure to maintain complaint handling procedures [375.936(3)] Everyone engaged in the insurance business must record and file all written complaints for at least three years. The record must indicate:

- the total number of complaints;
- their classification by line of insurance;
- the nature and disposition of each complaint; and
- the time it took to process each complaint.

g. Boycott, coercion, and intimidation [375.936(1)] It is illegal to enter into any agreement to commit an act of boycott, coercion, or intimidation resulting in unreasonable restraint of or monopoly in the business of insurance.

h. Sex or marital status discrimination [375.995]

- 1.) The availability of any insurance contract may not be denied to any insured or prospective insured on the sole basis of the sex or marital status of such insured or prospective insured.
- 2.) Neither the amount of benefits payable under a contract, nor any term, condition, or type of coverage within a contract, may be restricted, modified, excluded, or reduced solely on the basis of the sex or marital status of the insured or prospective insured except in the application of rate differentials permitted under the insurance laws of this state.

2. Hearings regarding unfair practices [375.940]

- a. The Director can issue a statement of charges to any person or insurer believed to be engaged in an unfair practice or method of competition if a proceeding appears to be in the public's best interest. The statement must include a notice of hearing to be held no earlier than 20 days after the date of notice.
- b. At the hearing, the person or insurer is given the opportunity to show cause why the Director should not issue an order to cease and desist from the practice. Formal rules of pleading and evidence are not required at the hearing.
- c. At the hearing, the Director can:
 - examine witnesses;
 - receive evidence;
 - administer oaths;
 - subpoena witnesses; and
 - require the production of documents relevant to the hearing.
- d. Failure to comply with a subpoena may be punished as contempt of court.

3. Cease and desist orders [374.046; 374.048; 374.049; 375.942]

- a. The Director may examine any producer, agency, or insurance company at any time to determine if any violations of the Missouri Insurance Code have been made.
- b. The Director may issue warning of a cease and desist order to anyone who appears to violate a state insurance law or regulation. The person is entitled to a public hearing before the Director to show why a final cease and desist order should not be issued.
- c. Before the actual order is issued, a copy of the proposed order must be delivered to the producer.

- 1.) The actual order will become effective 15 days following delivery of the proposed order.
 - 2.) The producer (or company) against whom a proposed order is issued may request a hearing to review the matter.
 - 3.) The hearing must be requested within 15 days from receipt of the proposed order.
- d. The Director has 10 days after the hearing to issue the proposed order, modify the order, or notify the person that no order shall be issued.
- e. Insurance law violations are classified into five levels, each with an increasing range of fines. For example, a violation of or failure to comply with a cease and desist order is a level three violation, and the court may fine the person for contempt in an amount not less than \$5,000 and up to \$100,000, as well as sentence the person to prison for up to 10 years for each violation.
- f. The Director can also suspend or revoke the violator's insurance license or certificate of authority. If it appears that the violation could cause injury to the public or any person in the state, the Director may ask the circuit court for an injunction or restraining order to prohibit the act.

4. Fiduciary responsibilities [375.051]

- a. Any person appointed or acting as a producer for a Missouri insurance company or who solicits applications, delivers policies or renewal receipts, or collects premiums for any insurance company doing business in Missouri will be held responsible in a trust or fiduciary capacity to the company for any money that he collects or receives for the company.
- b. The producer has a fiduciary responsibility to:
- the policyowner from whom the producer receives the premiums; and
 - the insurance company for whom the producer holds the premiums until transferred.
- c. An insurance producer is not required to maintain a separate bank account or deposit for the funds of each payor, as long as the funds held are reasonably ascertainable from the books of account and records of the insurance producer.

d. Compensation [375.116]

- 1.) An insurance company or insurance producer may pay money, commissions, or fees to a licensed insurance producer for placing or soliciting insurance contracts. Nothing limits the amount of compensation that may be paid to a producer.

- 2.) The right to compensation is based on a written agreement between the insurance producer and the insured clearly defining the amount or extent of the compensation.

e. Commissions [375.076, .116, .158(3)]

- 1.) An insurance company or producer may not pay a commission, service fee, or other consideration to a person for selling insurance if that person was not licensed at the time of the sale.
 - a.) A person cannot accept a commission, service fee, or other consideration for selling insurance if that person is required to be licensed and is not.
 - b.) Renewal or other deferred commissions may be paid to a person if the person was required to be licensed at the time of the insurance transaction and was so licensed at that time.
- 2.) An insurer or insurance producer may pay or assign commissions, service fees, brokerages, or other valuable consideration to a business entity licensed as an insurance producer or to persons who do not sell insurance, unless the payment would violate insurance law.
- 3.) Under no circumstances may an insurer or insurance producer pay or assign commissions, service fees, brokerages, or other valuable consideration to a person whose license is suspended or revoked.
- 4.) **Surplus lines compensation [384.045]** A surplus lines licensee may originate surplus lines insurance or accept such insurance from any other agent or broker duly licensed as to the kinds of insurance involved, and the surplus lines licensee may compensate an agent or broker.

- f. Disclosure of additional incidental fees [375.052]** An insurer or insurance producer may charge additional incidental fees for premium installments, late payments, policy reinstatements, or other similar services specifically provided for by law or regulation. Such fees must be disclosed to the applicant or insured in writing.

g. Minimum standards of competency and trustworthiness [20 CSR 700-1.140]

1.) Document and premium handling standards

- a.) When dealing with any personal insurance policy, a producer must comply with the following standards of promptness regarding securing and amending coverage, providing written evidence of insurance transactions and handling premiums. Where it is the insurer's responsibility to take these actions, this responsibility must be delineated in

a written document, a copy of which must be retained by the licensee and available for examination by the department.

- b.)** Every insurance producer must handle every application for new coverage under a personal insurance policy in a manner which will secure the coverage as soon as is reasonably possible, unless a longer time is permitted under a written agreement between the licensee and the insured. If within 30 days of the original application for insurance the licensee has not yet secured an insurer willing to provide coverage, the licensee immediately must inform the prospective insured of this fact in writing.
- c.)** Whenever an insurer requires additional information prior to issuing a new personal insurance policy, the insurance producer must inform, at the earliest reasonable opportunity, the insured or prospective insured of the need for the additional information from the insured or prospective insured.
- d.)** Every insurance producer must provide a purchaser of a personal insurance policy with written evidence of coverage as soon after as is reasonably possible, no later than 30 days after the date the coverage is bound or the policy is issued. A written binder or insurance policy constitutes written evidence of coverage. When an insurer declines to cover a prospective insured, the insurer's written denial of coverage must be provided by the licensee to the prospective insured as soon as is reasonably possible, no later than 30 days after the date the coverage is denied.
- e.)** Insurance producers must remit all premium payments associated with a personal insurance policy as soon as is reasonably possible, no later than 30 days after the date of receipt.
- f.)** Premiums may be remitted at a later point in time if the licensee is so authorized under a written agreement between the licensee and the person legally entitled to the premiums. In no event, however, may a licensee retain premium payments if doing so will result in the failure to obtain or continue coverage on behalf of an insured or prospective insured.
- g.)** No insurance producer or member of the insurance producer's immediate family may be named as a beneficiary or acquire any ownership interest in an insurance policy held by a client.
- h.)** No insurance producer may obtain a loan from a client or any type of ownership interest in any insurance policy held by an insurance client or former or prospective insurance client.

2.) Receipts for cash premiums payments Whenever a cash premium payment is received by an insurance producer for a personal insurance policy, a written receipt must be executed by the licensee.

3.) Minimum recordkeeping requirements for all insurance producers

- a.)** Every insurance producer must maintain a complete set of records for each personal insurance policy applied for or procured through the licensee. Where it is the insurer's responsibility to maintain these records, this responsibility must be delineated in writing. The records that must be maintained include:
- any policy applications, declaration pages, endorsements, riders, or binders associated with the policy;
 - any written correspondence or copies of records transmitted to or received by the licensee concerning the policy;
 - any documents associated with any claims filed with the licensee under the policy; and
 - any receipts for premium payments.
- b.)** The records required to be maintained under this section must be open to the examination of the Director of insurance.
- c.)** An insurance producer operating under an exclusive contract with an insurer will be required, upon termination of the agency appointment, to maintain only those records as the contract authorizes him to retain.
- d.)** All records required to be maintained under this section must be maintained for as long as the personal insurance policy is in force and for at least three years thereafter.

4.) Discipline Violation by an insurance producer of the provisions of this regulation will be deemed incompetent or untrustworthy behavior, and shall constitute grounds for discipline of the licensee under applicable law.

5. Retrospective commission contracts [20 CSR 700-1.060] This regulation restricts the authority of insurance producers to settle claims when they profit directly from the refusal to pay claims.

- a. Retrospective commission contracts prohibited** No insurance company licensed or authorized to do business in Missouri may use a payment plan which allows the company to receive an agreed portion of its earned premium free from any normal claims, and allows any insurance producer to pay all normal claims from the remainder and retain the money not paid to claimants as his compensation.

- b. Profit sharing permitted** Commission agreements may contain a provision for varying the amount of commission paid an insurance producer with the loss experience of the policies he has written, provided the company is directly liable for claims and the insurance producer has no authority to deny or refuse to pay or compromise any claim.
- c. Records required** Copies of commission agreements must be maintained as business records by both the company and the insurance producer for three years.

6. Fair Credit Reporting Act [15 USC 1681-1681d]

- a.** Insurance companies doing business in Missouri are required to comply with the provisions of the federal Fair Credit Reporting Act (FCRA).
- b.** To protect consumers, the FCRA states that if a consumer is denied insurance because of information contained in a credit report dealing with the applicant's credit rating, general reputation, or personal character, the person must be notified of the denial by the insurer.
 - 1.)** The consumer must be instructed in how to obtain the information in the file from the credit reporting agency.
 - 2.)** This gives an applicant the opportunity to refute the information in the report and clear up any errors or discrepancies that may have resulted in the denial of coverage.
- c.** Information must be corrected within six months of notification to the consumer.

7. Fraud and false statements [18 USC 1033, 1034] A person who transacts insurance in interstate commerce and who intentionally makes false material statements in connection with financial reports or documents presented to insurance regulators or their deputies appointed to investigate the person and to influence the actions of such officials is subject to penalties, such as:

- a fine;
 - imprisonment for up to 10 years; or
 - both.
- a.** Imprisonment can be ordered for up to 15 years if the false statements jeopardized the safety and soundness of an insurer and was a significant cause of the insurer being placed in conservation, rehabilitation, or liquidation by the courts.
 - b.** Officers, Directors, agents, and employees of an insurance company who willfully embezzle or misappropriate funds are subject to the same consequence described above.
 - 1.)** If these actions jeopardized an insurer and significantly caused it to enter conservation, rehabilitation, or liquidation by the courts, imprisonment can be ordered for up to 15 years. If the amount embezzled does not

exceed \$5,000, the perpetrator will be fined as noted above, or imprisoned for up to one year, or both.

- 2.) The attorney general may also prosecute such offenders. Upon conviction, they are subject to a penalty of up to \$50,000 for each violation or the amount of compensation that the person received offered for the prohibited conduct, whichever is greater.

D. RENEWAL, NONRENEWAL, AND CANCELLATION OF PROPERTY AND CASUALTY INSURANCE POLICIES

1. General cancellation provisions

- a. **Reasons for cancellation [375.002]** An insurer may cancel a policy only if the cancellation is based on:
 - nonpayment of premium;
 - fraud or material misrepresentation of the insured;
 - the insured's conviction of a crime arising out of acts that increase the hazard insured against in the policy; or
 - physical changes to the property that increase the hazard insured against.
- b. These provisions do not apply to a policy that has been in effect for fewer than 60 days unless it is a renewal policy.
- c. **Notice of cancellation [375.003]** Notice of cancellation must be mailed or delivered to the named insured at least 30 days before the effective date of cancellation.
 - 1.) When cancellation is due to nonpayment of premium, only 10 days' notice is required.
 - 2.) The notice must include the reason for cancellation expressed in a way that a person of average intelligence can understand without further inquiry.
 - 3.) Generalized reasons such as "personal habits," "living conditions," or "poor morals" are not sufficient to meet the requirements of this section.

2. Nonrenewal [375.004, .005]

- a. No insurer can refuse to renew a policy unless it delivers to the named insured notice of its intent not to renew.
 - 1.) The notice must be mailed or delivered to the address shown in the policy no fewer than 30 days in advance of nonrenewal.
 - 2.) The notice must state the insurer's reason for nonrenewal and the insured's possible eligibility for coverage under the Missouri Basic Property Insurance Inspection and Placement Program.

- 3.)** This notice is not necessary:
- if the insurer has shown a willingness to renew;
 - in case of nonpayment;
 - if the insured has indicated he does not wish to renew the policy; or
 - if the insured fails to pay any advance premium required for renewal.
- b.** Renewal of a policy does not prevent an insurer from exercising its right of cancellation as allowed by law.
- c.** Proof of mailing to the insured at the address in the policy is sufficient proof that notice has been sent.

3. Prohibited cancellations [375.007]

- a.** No insurer may cancel, refuse to write, or refuse to renew a policy solely based on the applicant's or insured's:
- age;
 - place of residence;
 - race;
 - sex;
 - color;
 - creed;
 - national origin or ancestry; or
 - lawful occupation.
- b.** An insurer may not refuse insurance to an applicant based on the fact that the person was canceled, nonrenewed, or refused insurance by another insurer, nor may the insurer require that the applicant divulge the fact that they have been canceled, nonrenewed, or refused insurance. This provision does not apply to a situation in which the hazard insured against is increased solely based on the place or residence or lawful occupation of an insured or applicant.

4. Binders [375.421; Reg. 500-1.300]

- a.** A **binder** is a contract that provides insurance coverage for a limited time period, usually up to 30 days, pending the issuance of the permanent policy.
- b.** Any property and casualty insurance policy that replaces a binder must provide coverage from the date of coverage under the binder.
- c.** Binders that cover property or casualty risks may not be used to create a rate advantage for any party.
- d.** If a binder is not replaced by an insurance policy, a binder premium charge must be made that does not exceed the pro rata amount of premium that would have been applicable for that coverage if the policy had been issued.

- e. If an insurer requires money to be paid before a policy is issued, the insurer may not retain the money for more than 60 days unless it issues and delivers to the applicant:
 - 1.) the policy or contract for which application is made on or before the 60th day; or
 - 2.) a binder, conditional receipt, or temporary insurance agreement providing the coverage for which the application was made, to extend from the date of application to the date the policy or contract is issued.

E. MISSOURI PROPERTY AND CASUALTY INSURANCE GUARANTY ASSOCIATION [375.771–.779]

1. The Missouri Property and Casualty Insurance Guaranty Association is an association of Missouri insurance companies.
2. Members of this Association pay assessments that provide benefits and limited coverage to insureds whose insurance companies are insolvent and no longer able to meet financial obligations to their insureds.
3. The coverage provided by the association contains the following limitations:
 - No coverage for a claim by or against an insured who at the time of the insurer's insolvency has a net worth of \$25 million or more
 - A maximum of \$300,000 in excess of a \$100 deductible (up to the policy limit)
 - No return of unearned premiums in excess of \$10,000

II. LAWS, RULES, AND REGULATIONS PERTAINING TO PROPERTY INSURANCE

A. GENERAL CONSIDERATIONS

1. In insurance, the terms *property insurance* and *fire insurance* are often used interchangeably. In general, property insurance policies are those designed to provide protection for loss of or damage to buildings and personal property.
2. **Standard fire insurance policy [379.160, Reg. 500-1.100]**
 - a. Missouri law requires every insurer to file a standard fire insurance policy form with the Director, covering the responsibilities of the companies as well as the duties of the assured and to attach the filed form to every risk insuring fire or lightning coverage. The policy roughly follows the provisions of the 1943 New York Standard Fire Insurance Policy, but is modified in accordance with Missouri law.
 - b. Standard fire policies must include an address of the company in the United States, to which the assured may send notice of loss within 60 days after the loss.

B. MISSOURI BASIC PROPERTY INSURANCE INSPECTION AND PLACEMENT PROGRAM [379.810-.880]

1. The purpose of the Missouri Basic Property Insurance Inspection and Placement Program is to assist applicants in securing basic property insurance for property not adequately served by the voluntary insurance market. Basic property insurance includes coverage for buildings and personal property at a fixed location against the perils of:
 - fire;
 - lightning;
 - extended coverage;
 - vandalism; and
 - malicious mischief.
2. The functions required under the program are administered by the All-Industry Placement Facility.
 - a. On receipt of an application and an acceptable inspection report, the facility issues a policy to the application.
 - b. The liability assumed under the policy is apportioned among all property insurers in the state in accordance with their share of the voluntary market.
 - c. The maximum amount of insurance available from the facility is:
 - \$200,000 on habitational property at one location; and
 - \$1,000,000 on commercial property at one location.
 - d. The facility may help to secure insurance in excess of these amounts, but is not required to do so. In terms of the policies provided under this program, the word *location* means real and personal property contained in a single building.

3. Action reports/policy issuance [379.830]

- a. Within five days after receiving an inspection report and application, the facility must complete an action report stating that the risk is:
 - acceptable;
 - acceptable at a surcharged rate and any improvements that are necessary for coverage are to be provided at a nonsurcharged rate;
 - acceptable only if improvements are made and a reinspection conducted; or
 - not acceptable.
- b. A risk may be declined if it fails to meet reasonable underwriting standards including the physical condition of the property, vacancy, overcrowding, and other housekeeping issues. The location of the property or the presence of environmental hazards that are beyond the control of the insured are not acceptable reasons to decline a risk.

- c. The facility may not cancel a policy or binder issued under the program without the approval of the governing committee except in the case of:
 - evidence of incendiaryism (arson committed by or at the direction of the insured);
 - nonpayment of premium;
 - fraud or material misrepresentation of the insured; or
 - a determination that changes in the physical condition of the property or other changed conditions make it uninsurable.
- d. Any notice of cancellation or nonrenewal and a statement of the reason for the action must be sent to the insured no fewer than 30 days before the cancellation or nonrenewal.

4. Joint Reinsurance Association [379.835] A Joint Reinsurance Association consisting of all insurers assumes 100% of all liability from the facility. Each insurer participates based on the proportion of the market the company has for habitational and commercial risks respectively.

5. Policy coverage and term [379.840] All policies issued shall be for basic property insurance on the forms and in accordance with the rate or rating procedures approved by the Director for use with the program. Such policies shall be issued for a term of one year.

6. Policy cancellation [379.845]

- a. The facility shall not cancel a policy or binder issued under the program without approval of the governing committee except in case of:
 - evidence of arson;
 - nonpayment of premium;
 - fraud or material misrepresentation; or
 - evidence that changes in the physical condition of the property or other changed conditions make the risk uninsurable.
- b. Any notice of cancellation or notice of nonrenewal of a policy or binder issued under the program shall be sent to the insured and a copy retained by the facility. Any such notice shall be sent not less than 30 days prior to the cancellation or nonrenewal of any risk under the program to allow ample time for an application for new coverage to be made and a new policy to be written under the program.
- c. Any cancellation or nonrenewal notice to the insured relating to a policy or binder issued under the program shall contain the procedures for obtaining an inspection under the program and shall be accompanied by a statement that the insured has a right of appeal.

C. INLAND MARINE COMBINATION COVERAGES [20 CSR 500-1.200] Inland marine coverage may be combined with fire, casualty, fidelity, and surety coverages as a combination policy, provided the insurer is properly licensed for all the multiple lines and the combination or package has been approved by the Department of Insurance.

D. CANCELLATION/NONRENEWAL [379.160, REG. 500-1.100]

1. Cancellation notices must state that the insured may be eligible for insurance through the Missouri Basic Property Insurance Inspection and Placement Program.
2. For standard fire insurance policies, the insurer must give 30 days' notice of cancellation, nonrenewal, or reduction or adverse modification of the policy terms and conditions except in cases of:
 - nonpayment of premium; or
 - evidence of arson by the insured.
 - a. In these cases, only 10 days' notice is required.
3. Any such notice of cancellation, nonrenewal, or policy change must state:
 - that the insured may contact the insured's agent for coverage;
 - the name, address, and telephone number of the Missouri Property Insurance Placement Facility;
 - the reason for the action; and
 - that a refund of excess premiums will be made within 30 days of the notice.

III. LAWS, RULES, AND REGULATIONS PERTAINING TO CASUALTY INSURANCE

A. AUTO INSURANCE

1. Financial responsibility [303.160]

- a. Owners of registered vehicles must maintain proof of financial responsibility in the event of motor vehicle accidents that result in property damage of \$500 or more or bodily injury.
- b. Financial responsibility must be provided when a vehicle registration is obtained or renewed and may be demonstrated by:
 - making a cash deposit with the State of Missouri;
 - securing a surety bond in favor of the state;
 - providing a certificate of self-insurance; or
 - providing proof of automobile insurance.
- c. The most common method for providing proof of financial responsibility is with an automobile policy.

d. Failure to maintain financial responsibility [303.041]

- 1.) If the Director determines that the owner of a motor vehicle has not maintained financial responsibility, he will, within 33 days, suspend the driving privilege of the owner or operator and/or the registration of the vehicle failing to meet the requirement.
- 2.) The notice of suspension must be mailed to the person at the last known address shown on the department's records. The notice of suspension is deemed received three days after mailing. The notice of suspension must clearly specify the reason and statutory grounds for the suspension and the effective date of the suspension, the right of the person to request a hearing, the procedure for requesting a hearing, and the date by which that request for a hearing must be made. If the request for a hearing is received by the department prior to the effective date of the suspension, the effective date of the suspension will be stayed until a final order is issued following the hearing.
- 3.) Whether or not the owner acquires the required liability insurance policy or terminates ownership of the motor vehicle after the notice of suspension is received will not have any bearing upon the Director's decision to suspend.
- 4.) Until it is terminated, the suspension will remain in force after the registration is renewed or a new registration is acquired for the motor vehicle. The suspension will also apply to any motor vehicle to which the owner transfers the registration.

2. Required provisions [303.190] An automobile insurance policy:

- must be issued by an insurer authorized to do business in Missouri (unless the vehicle is registered in another state);
- must provide a description of all vehicles covered by the policy;
- must include coverage for the insured and permissive users of the vehicles; and
- may exclude coverage for loss arising out of use of the car by a member of the insured's household who is a specifically excluded driver in the policy.

3. Required limits of liability [303.020(10), .030]

- a. The financial responsibility limits in Missouri are 25/50/10:
 - \$25,000 for bodily injury or death of one person
 - \$50,000 for injury or death of two or more persons
 - \$10,000 for damage to property of others
- b. No automobile insurance policy issued as proof of financial responsibility may include limits of bodily injury and property damage less than these amounts.

4. Insurance identification cards [303.024]

- a. Insurers must provide an insurance identification card to the insured for each motor vehicle insured by a motor vehicle liability policy.
- b. The insurance identification card must include:
 - the name and address of the insurer;
 - the name of the named insured;
 - the policy number;
 - the effective dates of the policy, including month, day, and year;
 - a description of the insured motor vehicle, including year and make or at least five digits of the vehicle identification number or the word *Fleet* if the insurance policy covers five or more motor vehicles; and
 - the statement “THIS CARD MUST BE CARRIED IN THE INSURED MOTOR VEHICLE FOR PRODUCTION UPON DEMAND” prominently displayed on the card.

A new insurance identification card shall be issued when the insured motor vehicle is changed, when an additional motor vehicle is insured, and when a new policy number is assigned. A replacement insurance identification card shall be issued at the request of the insured in the event of loss of the original insurance identification card.

- c. **Proof of insurance required for re-registration [303.044]** After a period of suspension has elapsed, the owner or operator whose license or registration has been suspended must file proof of insurance for a period of three years thereafter. If proof of insurance is not maintained during the three-year period, the Director will again suspend the license and all registrations until the owner or operator thereafter maintains proof of insurance.
- d. **Duty to maintain financial responsibility [303.025]** No owner of a motor vehicle registered in this state, or required to be registered in this state, shall operate, register, or maintain registration of a motor vehicle, or permit another person to operate such vehicle, unless the owner maintains the financial responsibility which conforms to the requirements of the laws of this state.
 - Any person who violates this section is guilty of a misdemeanor. A first violation of this section shall be punishable by a fine not to exceed \$300. A second or subsequent violation of this section shall be punishable by imprisonment in the county jail for a term not to exceed 15 days and/or a fine not to exceed \$300.

5. Uninsured motorists coverage [379.203]

- a. **Uninsured motorists (UM) coverage** allows the insured, resident relatives, and passengers in a covered auto to collect sums another driver would be legally liable to pay for bodily injury or property damage.
 - 1.) In other words, the insured’s policy responds by transferring the insured’s liability insurance to the party causing the accident.

- 2.) This coverage is intended to protect people injured in an accident that was caused by an uninsured motorist, a hit-and-run driver, or a driver whose insurer is insolvent.
- b. In Missouri, all automobile policies that provide liability insurance must also provide uninsured motorists coverage.
 - 1.) The coverage may not be rejected by the insured.
 - 2.) UM coverage may be issued in an amount less than the limits provided in the policy for bodily injury and property damage, but in no event less than the financial responsibility limit of the state.

6. Underinsured motorists coverage [379.203]

- a. **Underinsured motorists coverage (UIM)** provides protection when the person responsible for the accident has insurance, but his liability limits are less than the limit provided by the underinsured motorists coverage.
- b. The limit of liability for the insurer providing UIM coverage is the difference in coverages, up to the UIM limit. (UM and UIM coverages are mutually exclusive and do not duplicate each other.)
- c. The insured may reject the coverage or may select lower limits.

7. Required automobile insurance policy provisions [Reg. 500-2.100]

- a. Under Missouri law, all private passenger auto policies must contain:
 - medical payments coverage, if provided, shall not be excess over any accident or sickness policy;
 - physical damage insurance may not exclude any attached, factory-installed equipment that is usual and incidental to the operation of a private passenger vehicle;
 - the geographic limits of the policy include the US, its territories, possessions, and Canada; and
 - newly acquired and replacement vehicles are insured for no fewer than 30 days following acquisition.
- b. Uninsured motorists coverage cannot:
 - permit offset with medical payments or workers' compensation coverages;
 - force the arbitration of claims;
 - deny carrier insolvency as a basis for a claim; or
 - define any term more restrictively than the way the term is defined by statute.

- c. Under theft coverage for loss of use, a policy must:
 - provide a waiting period of not more than 48 hours;
 - provide at least a limit of \$10 per day and an aggregate limit of \$300; and
 - provide for termination on the carrier's extension of a reasonable settlement offer to the insured.
- d. A policy may contain a named driver exclusion.
- e. No policy may be issued that restricts, limits, or reduces coverage based on the age, residence, race, sex, color, creed, national origin, ancestry, or lawful occupation of the insured.

8. Missouri automobile insurance plan [303.200; Reg. 500-2.300(6)]

- a. The state operates a plan to apportion substandard auto insurance risks among all insurers in the state.
- b. Any notice of cancellation, nonrenewal, or refusal to write a policy must contain the following notice or a notice substantially similar: "You may obtain automobile insurance through the Missouri Automobile Insurance Plan (AIP) if you qualify. We urge you to contact any insurance producer of your choice immediately for further information."
- c. After consultation with insurance companies authorized to issue automobile liability policies in this state, the Director of the Department of Insurance shall approve a reasonable plan for the equitable apportionment of applicants for motor vehicle liability policies who are in good faith entitled to but are unable to procure such policies through ordinary methods. When any such plan has been approved, all such insurance companies shall subscribe and participate. By October 1 of each year, any company that elects to accept and service applicants and policies for the next calendar year for any such plan shall so notify the plan. The fee shall be based on the company's market share on the kinds of insurance offered by the plan.

9. Suspension of license after accident [303.030] Within 20 days after an accident that has resulted in death, bodily injury, or property damage in excess of \$5,000 and the operator has insufficient funds to pay for damages, the Director must be notified. The Director shall, within 90 days after the receipt of such report of a motor vehicle accident, suspend the license of each operator, and all registrations of each owner of a motor vehicle, in any manner involved in the accident.

10. Auto insurance cancellation [379.110; Reg. 500-2.300]

- a. Missouri's cancellation provisions dealing with auto insurance apply to an automobile policy providing auto liability coverage, uninsured motorists coverage, medical payments, or physical damage insuring a private passenger auto owned by an individual or partnership that has been in effect for more than 60 days or is a renewal.

- b.** These provisions do not apply to:
- any policy issued under the state assigned risk plan;
 - any policy insuring more than four vehicles;
 - any policy covering an auto business such as a repair shop, garage, or service station; or
 - any policy issued to provide only excess insurance.

c. Reasons for cancellation [379.114]

- 1.)** Cancellation of auto insurance may only be effected for:
- nonpayment of premium; or
 - suspension or revocation of the insured's driver's license at any time during the policy period.
- 2.)** Renewal of a policy does not prohibit the insurer from canceling for the above reasons if the reasons for cancellation existed before the renewal date and were unknown to the insurer.
- 3.)** A policy may not be canceled, refused, or nonrenewed for any person with at least two years' driving experience based solely on the age, residence, race, sex, color, creed, national origin, ancestry, or lawful occupation of the insured or applicant.

d. Refusal [379.120]

- 1.)** If an insurer refuses to write an automobile policy, it must send a written explanation of such refusal to the applicant within 30 days.
- 2.)** The notice must be sent by certified mail or certificate of mailing and must include the reason for the refusal.

B. UNFAIR CLAIMS SETTLEMENT PRACTICES [375.1005, .1007]

- 1.** Claim settlement practices that are recognized as unfair trade practices in Missouri include:
- misrepresenting relevant facts or policy provisions relating to coverages at issue;
 - failing to acknowledge with reasonable promptness pertinent communications with respect to claims arising under its policies;
 - failing to adopt and implement reasonable standards for the prompt investigation and settlement of claims arising under its policies;
 - not attempting in good faith to effectuate prompt, fair, and equitable settlement of claims submitted in which liability has become reasonably clear;
 - compelling insureds or beneficiaries to institute suits to recover amounts due under its policies by offering substantially less than the amounts ultimately recovered in suits brought by them;
 - refusing to pay claims without conducting a reasonable investigation;

- failing to affirm or deny coverage of claims within a reasonable time after proof of loss statements have been completed and communicated to the insurer;
- attempting to settle a claim for less than the amount to which a reasonable person would believe the insured or beneficiary was entitled by reference to written or printed advertising material accompanying or made part of an application;
- attempting to settle claims on the basis of an application that was materially altered without notice to, or knowledge or consent of, the insured;
- making a claims payment to an insured or beneficiary without indicating the coverage under which each payment is being made;
- unreasonably delaying the investigation or payment of claims by requiring both a formal proof of loss form and subsequent verification that would result in duplication of information and verification appearing in the formal proof of loss form;
- failing to promptly provide a reasonable and accurate explanation of the basis for a claim denial or compromise settlement offer;
- failing to provide forms necessary to present claims within 15 calendar days of a request with reasonable explanations regarding their use;
- failing to adopt and implement reasonable standards to assure that the repairs of a repairer owned by or required to be used by the insurer are performed in a workmanlike manner; and
- failing to promptly settle claims where liability has become reasonably clear under one portion of the insurance policy coverage in order to influence settlements under other portions of the insurance policy coverage.

2. Acknowledgment of communications [Reg. 100-1.030]

- a. Insurers have 10 days to acknowledge that a first-party claimant notified them of a claim, unless payment was made within that time period. When a claimant notifies an agent, it is considered to be notification to the insurer.
- b. Upon receiving notification of a claim, insurers must promptly provide necessary claim forms, instructions, and reasonable assistance to help first-party claimants comply with the policy conditions and the insurer's reasonable requirements.

3. Prompt investigation and settlement

- a. **Completion of investigations [Reg. 100-1.030]** Insurers must complete claim investigation within 30 days after notification of the claim, unless investigation cannot reasonably be completed within this time.
- b. **Notification of claim acceptance or denial [Reg. 100-1.040]**
 - 1.) The insurer must advise the first-party claimant of the acceptance or denial of a claim no later than 15 days after all necessary forms have been submitted to establish the nature and extent of the claim. Insurers cannot deny claims on the grounds of specific policy provisions, conditions, or exclusions without referring to the specifics in the denial.
 - 2.) The denial must be given to the claimant in writing and a copy kept on file with the insurer.

- c. Insurers who need more time to determine whether a claim should be accepted must notify the first-party claimant of the delay no later than 15 working days after all necessary forms have been submitted.
 - 1.) If the investigation remains incomplete after 45 days, the insurer must send the claimant a letter explaining why additional time is needed for the investigation.
 - 2.) A similar letter must be sent every 45 days until the investigation is complete.
- d. **Refusal of claims [Reg. 100-1.050]** Insurers cannot refuse to settle first-party claims on the basis that responsibility for payment should be assumed by others, unless otherwise provided by the policy provisions.
- e. **Written notice [Reg. 100-1.050]**
 - 1.) Insurers cannot prolong negotiations or claim settlements directly with claimants who are not represented by an attorney until their rights are affected by a statute of limitations or policy time limit without giving the claimants written notice that the time limit may be expiring and may affect their rights.
 - 2.) This notice must be given:
 - to first-party claimants 30 days before the expiration of the time limit; and
 - 60 days before for third-party claimants.
 - 3.) Insurers cannot make statements indicating that the rights of a third-party claimant may be impaired if a release form is not completed within a given time period, except when notifying the third-party claimant of the provision of a statute of limitations.

C. WORKERS' COMPENSATION COVERAGE

- 1. **Exclusive remedy [287.120(2)]** Workers' compensation provides compensation to employees who are injured on the job, generally without any consideration of fault or negligence on the part of either the employer or employee.
 - a. In return for this right of compensation, the employee gives up the right to sue the employer for perhaps a larger but uncertain benefit.
 - b. The amount of an employee's compensation is fixed by law.
 - c. Workers' compensation insurance is an exclusive remedy coverage.
- 2. In Missouri, this coverage may be sold by a private insurer, by the state fund, or arranged by an employer who is self-insured or a self insurance trust.

3. Employer's insurance or self-insurance [287.280; Reg. 500-6.300]

Businesses subject to the workers' compensation law are required to obtain insurance or qualify as self-insureds for possible compensation liability to their employees.

- a. An employer or group of employers may qualify to self-insure their liability.
- b. Groups of employers qualified to insure their liability must utilize a uniform experience rating plan promulgated by an approved advisory organization.
- c. Such groups must develop experience ratings for their members based on the plan.

4. Covered employment [287.020(1, 6); .030, .035, .037, .040, .061]

- a. The word *employee* means every person in the service of an employer under a contract of hire, express or implied, oral or written, or under an appointment or election, including executive officers of corporations.
- b. It also includes all minors who work for an employer, whether lawfully employed or not.
- c. A person who is employed by the same employer for more than 5½ consecutive work days is considered an employee.
- d. All businesses employing five or more employees must comply with the state's workers' compensation law.
- e. Coverage is provided for sole proprietors and partners only if they have individually elected to obtain workers' compensation insurance for themselves.
- f. Insurance companies providing workers' compensation coverage to a limited liability company shall provide coverage for employees who are not members. Members may be covered but may individually elect to reject coverage via written notice to the company and insurer. A member who rejects workers' compensation coverage is not entitled to workers' compensation benefits until the member submits written notice that rescinds the prior rejection of coverage. If a member rescinds the prior rejection, workers' compensation benefits begin on or after the date the notice of rescission is received by the insurance company.
- g. In general, contractors that are used to carry out the usual business of an employer are considered employees of the employer for workers' compensation purposes. However, independent contractors hired for building, repair, or demolition projects on a premises are not considered employees of the employer. But those independent contractors are employers of their own employees and subcontractors for workers' compensation purposes. Construction contractors are required to have a certificate of insurance for workers' compensation in order to obtain or keep a business license.
- h. For-hire truck drivers generally are considered independent contractors and not employees for workers' compensation purposes.

- 5. Exempted employers [287.090]** The workers' compensation law does not apply to:
- employment of farm labor, domestic servants in a private home, including family chauffeurs, or occasional labor performed for a private household;
 - real estate agents and direct sellers;
 - employment provided by inmates confined in a state prison, penitentiary, county or municipal jail, or by patients in a state mental health facility;
 - volunteers of a tax-exempt organization who are not paid wages, but provide services purely on a charitable and voluntary basis; or
 - sports officials, volunteers, or contest workers for interscholastic activities programs or amateur youth programs who are not otherwise employed by the sponsoring school or program.

6. Performance standards for workers' compensation carriers [20 CSR 500-6.500]

a. Policy service standards

- 1.) A new policy must be issued within 60 days of the receipt of the application. A renewal policy must be issued within 60 days of receipt of the deposit premium.
- 2.) Endorsements must be issued within 60 days of the receipt of the request.
- 3.) Reinstatement notices must be issued within 30 days after the request for reinstatement has been received and the premium due has been paid.
- 4.) Certificates of insurance must be mailed within five working days of receipt of the request.

b. Audit standards

- 1.) Audits must be completed, billed, and premiums returned within 120 days of policy expiration or cancellation. This standard will not be applicable:
 - if a delay is caused by the policyholder's failure to respond to reasonable audit requests; or
 - if a delay is by the mutual agreement of the policyholder and insurance company provided that the agreement is adequately documented.
- 2.) If the policyholder or insurance company has any objection to the results of any audit, the policyholder or insurance company will have up to three years from the date of expiration or cancellation of that policy in which to send a written notice demanding a reconsideration of the audit. The written notice must be based upon sufficiently clear and specific facts as to why the audit should be reconsidered.

7. Carriers' establishment of safety engineering and management programs [287.123]

- a. Each insurance carrier writing workers' compensation insurance in Missouri must establish a program providing comprehensive safety engineering and management services upon the policyholder's request.
- b. The insurance carrier must provide the Director of the department of labor and industrial relations with a written outline of the safety engineering and management program, subject to the Director's certification.
- c. Safety engineering and management programs must be reviewed by the Director at least annually to determine that they are delivering comprehensive services for safety education and the elimination of and protection against unsafe acts in the workplace and frequently recognized compensable worker injuries.

8. Posted notice [287.127] All employers must post a notice stating:

- the name, address, and telephone number of the insurer;
- the name, address, and the toll free telephone number of the division of workers' compensation;
- that the employer is operating under and subject to the provisions of the Missouri workers' compensation law;
- that employees must report all injuries immediately to the employer and that the employee may lose the right to receive compensation if the injury or illness is not reported within 30 days;
- that the employer will supply, upon request, additional information provided by the division of workers' compensation; and
- that a fraudulent action by the employer, employee, or any other person is unlawful.

9. Covered injuries [287.110, 287.020 (2-5), 287.120]

- a. Workers' compensation covers all injuries received and occupational diseases contracted in the state, regardless of where the contract of employment was made, and also to injuries received and occupational diseases contracted outside of the state under contract of employment made in Missouri unless the employment contract provides otherwise.
- b. Workers' compensation covers an employee's injury or occupational disease that has arisen out of and in the course of employment. An injury is deemed to arise out of and in the course of employment only if:
 - the employment is a substantial factor in causing the injury;
 - it followed as a natural incident of the work;
 - it can be fairly traced to the employment as a proximate cause; and
 - it does not come from a hazard or risk unrelated to the workers' employment but from a risk exposed to during the course of normal nonemployment life.

- c. Workers' compensation benefits are not payable for injuries or death due to the employee's intentional self-inflicted injury. The employer or the person contesting the claim bears the burden of proof.
- d. If an injury is caused by the employer's failure to comply with Missouri laws or a lawful order of the division or the commission, the compensation and death benefit provided will be increased 15%.
- e. If the injury is caused by the employee's willful failure to use safety devices provided by the employer or to obey reasonable rules adopted by the employer for the safety of employees, the compensation and death benefit provided will be reduced 15% if:
 - the employee had actual knowledge of the employer's rule; and
 - the employer had, before the injury, made a diligent effort to cause his employees to use the safety devices and to obey or follow the safety rules.
- f. If the injury or death was sustained while using alcohol or nonprescribed controlled drugs, the benefit is reduced 15%.
- g. If the employee's participation in a voluntary recreational activity or program is the proximate cause of the injury, benefits, or compensation otherwise payable will be forfeited regardless of whether the employer promoted or supported the activity. Benefits will not be forfeited if:
 - the employee was directly ordered by the employer to participate in the activity;
 - the employee was paid wages or travel expenses while participating in the activity; or
 - the injury occurred on the employer's premises due to an unsafe condition and the employer had actual knowledge of the employee's participation in the activity and of the unsafe condition of the premises and failed to either curtail the recreational activity or program or cure the unsafe condition.
- h. Mental injury resulting from work-related stress does not arise out of and in the course of the employment, unless the stress is work related and was extraordinary and unusual. The amount of work stress is measured by objective standards and actual events.
- i. A mental injury is not considered to arise out of and in the course of the employment if it resulted from any disciplinary action, work evaluation, job transfer, layoff, demotion, termination, or any similar action taken in good faith by the employer.

10. Benefits provided [287.140]

- a. **Medical benefits [287.140]** In addition to all other compensation, an employee is entitled to all medical, surgical, chiropractic, and hospital treatment, including nursing, custodial, ambulance, and medicines, as may reasonably be required after the injury or disability. The employee has the right to select his own physician, surgeon, or other health care provider at his own expense.

- b. Physical rehabilitation benefits [287.141]** After an employee has received medical benefits, an employer or insurer must offer physical rehabilitation benefits if necessary.
- 1.) The Director of the division of workers' compensation must approve such benefits and will requisition the payment of \$40 per week from the second injury fund to be paid to the employee.
 - 2.) Physical rehabilitation benefits may be offered for up to 20 weeks.
- c. Waiting period [287.160]** No compensation is payable for the first three days or less of disability unless the disability lasts longer than 14 days. If the disability lasts longer than 14 days, payment for the first three days is made retroactively.
- d. Permanent total disability [287.200]**
- 1.) A loss that is total and permanent entitles the employee to $66\frac{2}{3}\%$ of his average weekly earnings as of the date of the injury, paid as long as the disability continues provided that the weekly compensation paid does not exceed 105% of the state average weekly wage.
 - 2.) The weekly compensation may not be less than \$40 per week.
- e. Death benefits [287.240]**
- 1.) If an employee dies, the employer must pay any accrued and unpaid compensation to his dependents or, if there are no dependents, to his personal representative.
 - 2.) The employer must pay up to \$5,000 in burial expenses for the deceased employee.
 - 3.) The employer will also pay the employee's dependents a death benefit based on the employee's average weekly earnings during the year immediately preceding the injury that results in the death of the employee.
 - The weekly compensation shall be an amount equal to $66\frac{2}{3}\%$ of the injured employee's average weekly earnings, the weekly compensation paid shall not exceed an amount equal to 100% of the state average weekly wage.
 - 4.) Alternatively, the dependent and the employer may, by agreement, enter into a structured settlement that provides for different weekly benefits.

11. Effective date of experience rating modification [20 CSR 500-6.600]

- a. An insurer may not implement an increase in premiums through the application of an assigned risk adjustment program (ARAP) factor, or other surcharge

authorized by the Department of Insurance after the effective date of the policy (or at the anniversary date of the policy, if different) unless the insured is issued an endorsement describing the potential of the pending increase when the policy is issued.

- b.** Any factor or other surcharge applied after the policy effective date (or anniversary rating date, if different) which increases premiums will not become effective until 60 days after the date the insurer provides written notification to the insured of the increase.

12. Workers' Compensation Determinations Review Board [287.335]

- a.** The Workers' Compensation Determinations Review Board exists to review determinations by an insurer regarding uniform code classifications, basic manual rule interpretations, uniform experience rating plan rule interpretations, calculations of an individual employer's modification factor, Missouri-assigned risk plan underwriting rule interpretations, and any other related uniform rule interpretations not addressed by department rule or regulation.
- b.** Upon application of any employer, the board will review the code classification made on that employer. If the board determines that the classification was erroneous, it may change the classification by placing the employer under a different code classification already established or by creating a new classification code. The Director of the department of insurance will review the filed rate.
- c.** The board may also recommend changes to the uniform classification system.

D. MEDICAL MALPRACTICE INSURANCE ASSOCIATIONS [REG. 500-5.100]

1. Articles of association [383.015]

- a.** Any group providing malpractice insurance or indemnification for its members must pay a license fee of \$100 and must file articles of association with the Director of insurance. The articles must include the names of persons initially associated, the method by which other persons may be admitted to the association as members, the purposes for which organized, the amount of the initial assessment which has been paid into the association, the method of assessment thereafter, and the maximum amount of any assessment which the association may make against any member. The articles of association must provide for bylaws and for the amendment of the articles of association and bylaws.
- b.** Each association must designate and maintain a registered agent.
- c.** The articles of association must be accompanied by a copy of the initial bylaws of the association. The bylaws must provide for a governing body for the association, a manner of their election, the manner in which assessments will be made, the specific kinds of insurance or indemnification that will be offered, the classes of membership that will be offered, and may provide that assessments of various amounts for particular classes of membership may be made.

- 2. Assessments [383.016]** The articles of association and bylaws of a malpractice association must specify:

 - the types of assessments made;
 - the exact method and criteria by which the amounts of each type of assessment are to be determined;
 - the time in which the assessments must be paid;
 - that such assessments shall be made without limitation as to frequency;
 - the maximum amount of any single assessment; and
 - how such assessments apply to members and former members.
- 3. License [383.020]** The Director of insurance must, within 30 days after articles of association are filed, determine if the proposed association meets the requirements of Missouri law, and if it does, issue a license to the association authorizing it to do business for a one-year period.
- 4. Commencement of business [383.025]** The association may commence to do business on the seventh day after authorization.
- 5. Members' liability [383.025]** No member of the association will be liable for any amounts because of his membership in the association other than his assessments as provided in the articles of association, the bylaws of the association, or as ordered by the Director.
- 6. License renewal [383.030]** Any existing association may also, at the time it files for renewal of its license, file any amendments to its articles of association or bylaws which have been adopted in the preceding year.
- 7. Premium rates [383.037]** The rates made by each malpractice association may not be excessive, inadequate, or unfairly discriminatory.
- 8. Premium tax exemption [383.040]** No malpractice association is required to pay any premium tax in connection with the conduct of its business.
- 9. Formation [383.150, .155]**

 - a.** A joint underwriting association may be created after a public hearing determining that medical malpractice liability insurance is not reasonably available for health care providers in the voluntary market. The association will contain as members all companies authorized to write and engaged in writing, on a direct basis, any insurance or benefit, the premium for which is included under the definition of *net direct premiums*. Membership in the association is a condition of continued authority to do business in Missouri.
 - b.** The association has the authority:

 - to issue policies of insurance to applicants subject to limits of up to \$1 million for each claimant under one policy and \$3 million for all claimants under one policy in any one policy year;
 - to underwrite insurance and to adjust and pay losses;

- to assume reinsurance from its members; and
- to cede reinsurance.

10. Initial premium payment [383.165] Each policyholder must pay double the amount of premium due in the first policy year. This charge must be separately stated in the policy.

11. Eligible policyholders [383.170]

- a. Any health care provider is entitled to apply to the association for medical malpractice liability insurance. Applications may be made on behalf of an applicant by a broker or agent authorized by the applicant.
- b. If the association determines that the applicant meets the underwriting standards of the association and there is no unpaid, uncontested premium due from the applicant for prior insurance, then the association will issue a policy of medical malpractice liability insurance.

E. COMMERCIAL CASUALTY INSURANCE PROVISIONS

1. Cancellation [379.883]

- a. No notice of cancellation of a commercial casualty insurance policy shall be effective unless 60 days' prior written notice is provided to the insured by mail or delivery.
- b. This provision does not apply to cancellation based on:
 - nonpayment of premium;
 - fraud or material misrepresentation by the insured;
 - insolvency of the insurer;
 - the insurer involuntarily loses reinsurance for the policy; or
 - changes in conditions that materially increase the hazards insured against.

2. Nonrenewal [379.883]

- a. Nonrenewal of a commercial casualty policy also requires 60 days' advance notice.
- b. Notice of cancellation or nonrenewal must state the insurer's reason for taking the action. Proof of mailing is sufficient proof of notice.

3. Right to claims history [379.884] When a commercial casualty policy is canceled or nonrenewed, the policyholder has the right to receive, within 30 days of his written request, a statement of the claims history under the policy for the three-year period before the cancellation or nonrenewal.

4. Notice of block cancellation [379.886] When an insurer cancels or nonrenews an entire line or class of commercial casualty insurance, 90 days' notice must be provided to the insured.

MISSOURI LAW SUPPLEMENT PRACTICE FINAL

Student instructions: Following your thorough study of this supplement, take this 50-question sample examination. Grade your performance using the answer key provided. Carefully review the topics pertaining to those questions answered incorrectly.

I. General Insurance

1. The Director may issue a temporary insurance producer license for up to how many days?
 - A. 30
 - B. 45
 - C. 60
 - D. 90
2. No examination is required of a nonresident licensed producer who moves to Missouri if he applies for a resident license within how many days of moving?
 - A. 30
 - B. 60
 - C. 90
 - D. 180
3. The Insurance Department must examine each domestic insurer every
 - A. year
 - B. 3 years
 - C. 4 years
 - D. 5 years
4. When an insurance company becomes impaired, the organization that responds to policyholder claims is
 - A. the Missouri Property and Casualty Insurance Guaranty Association
 - B. the Missouri Insurance and Risk Placement Facility
 - C. the Missouri Insolvent Insurers Fund
 - D. the Missouri Independent Insurance Agents Association
5. The document that an insurance company receives in order to transact business in Missouri is
 - A. a license
 - B. a certificate of authority
 - C. an admission ticket
 - D. a bond
6. Licensing is required for all of the following functions EXCEPT
 - A. taking insurance applications
 - B. receiving or collecting premiums
 - C. issuing or delivering policies
 - D. transacting reinsurance
7. In order to obtain an insurance license, a person must
 - A. complete 4 years of college
 - B. be at least 18 years of age
 - C. be a resident of the state for 3 years
 - D. post a bond with the state
8. All of the following are exempt from the state's licensing requirements EXCEPT
 - A. a clerical employee working in an insurance agency
 - B. the employee who processes enrollments into a group health plan
 - C. the copy writer of an insurance advertising campaign
 - D. an individual who wishes to sell only commercial property insurance
9. After issuance, a producer must renew a license
 - A. every year
 - B. every 2 years
 - C. every 3 years
 - D. only when requested by the Insurance Department
10. Before selling insurance on the behalf of an insurer, the producer must first
 - A. complete one full term of licensure
 - B. comply with the insurer's requirements for becoming licensed
 - C. submit a continuing education certificate to the Director
 - D. become appointed by the insurer

11. The continuing education requirement for a producer who holds a property and casualty license is how many hours?
 - A. 10
 - B. 12
 - C. 15
 - D. 16
12. All of the following are exempt from the continuing education requirements EXCEPT
 - A. holders of licenses that do not require an examination
 - B. nonresident producers who are required to complete CE in their home state
 - C. licensees who are 60 years of age
 - D. limited lines insurance producers
13. A producer's license may be terminated by the Director of insurance if the producer
 - A. violates the insurance laws of Missouri
 - B. fails to complete the application properly
 - C. is convicted of any crime
 - D. is found guilty of a misdemeanor
14. If a producer changes his place of residence, he is required to notify the Director in writing within how many days?
 - A. 10
 - B. 20
 - C. 30
 - D. 60
15. The company register listing all appointed producers of an insurer must be made available to the Director
 - A. once a week
 - B. once a month
 - C. 4 times a year
 - D. whenever the Director wishes to view it
16. Collection of premiums on behalf of an insurer creates what type of responsibility for insurance producers?
 - A. Legal liability
 - B. Fiduciary responsibility
 - C. Financial responsibility
 - D. Limited liability
17. A temporary license may be granted to each of the following individuals EXCEPT
 - A. the surviving spouse of a deceased producer
 - B. the employee of a physically disabled producer
 - C. the designee of a producer entering active military service
 - D. the appointee of an insurer operating in another jurisdiction
18. Which of the following is NOT an example of an illegal rebate?
 - A. A rebate of premiums on a contract of insurance
 - B. A special favor granted to a prospective policyholder
 - C. A bonus paid to the owner of a life insurance policy out of surplus
 - D. Stock options of the insurance company entering into a contract
19. Each of the following is an example of a misrepresentation EXCEPT
 - A. exaggerating the benefits provided by an insurance policy
 - B. overstating the dividends paid on a policy
 - C. inflating the value of property to be insured under a policy
 - D. misstating the financial condition of an insurer
20. For how many years must records pertaining to an insurance policy be maintained after the policy is no longer in force?
 - A. 1
 - B. 3
 - C. 5
 - D. 10
21. Which of the following is an example of unfair discrimination?
 - A. Charging more for a life insurance policy based on the applicant's sex
 - B. Requiring a higher premium for male drivers than for female drivers
 - C. Refusing to issue a policy because the applicant was canceled by another insurer
 - D. Charging more for fire insurance on houses with wood shingle roofs

22. An individual who willfully violates a final cease and desist order may be fined an amount of not less than
- A. \$500
 - B. \$1,000
 - C. \$3,000
 - D. \$5,000

II. Property Insurance

23. Under Missouri law, if a personal property insurance policy has been in effect for more than 60 days, it may be canceled for any of the following reasons EXCEPT
- A. nonpayment of premium
 - B. failure to report a loss under the policy
 - C. fraud in obtaining the insurance
 - D. physical changes to the property that increase the hazard insured against
24. When a standard fire insurance policy is canceled for nonpayment of premium, how many days before cancellation is the insurer required to give notice?
- A. 10
 - B. 20
 - C. 30
 - D. 60
25. An insurer is prohibited from cancelling insurance for a policyholder based solely on any of the following reasons EXCEPT
- A. claims activity by the insured
 - B. the insured's place of residence
 - C. the insured's race or ethnic origin
 - D. the insured's occupation
26. When cancelling a property insurance policy, the insurer must advise the insured of each of the following EXCEPT
- A. the reason for cancellation
 - B. the phone number of the Missouri Property Insurance Placement Facility
 - C. the process for refunding unearned premiums
 - D. the phone number for the Missouri Insurance Department

27. The burden of proving depreciation in any property loss is
- A. the producer's
 - B. the Director's
 - C. the homeowner's
 - D. the insurer's
28. Under the Missouri Basic Property Insurance Inspection and Placement Program the covered perils include all of the following EXCEPT
- A. fire
 - B. lightning
 - C. floods
 - D. vandalism
29. In a standard fire policy, the insured must send the notice of loss within how many days after the loss?
- A. 30
 - B. 60
 - C. 90
 - D. 120
30. The program to assist insurance applicants in securing basic property insurance in Missouri is administered by
- A. the Missouri Department of Insurance
 - B. the Missouri Property Insurance Assigned Risk Plan
 - C. the Missouri Basic Property Insurance Inspection and Placement Program
 - D. the Missouri Basic Insurance Availability Plan
31. The maximum amount of insurance on habitational property at one location provided by the Missouri All-Industry Placement Facility is
- A. \$50,000
 - B. \$200,000
 - C. \$250,000
 - D. \$500,000
32. The Missouri All-Industry Placement Facility must advise an applicant of acceptance or denial of coverage within how many days?
- A. 5
 - B. 10
 - C. 15
 - D. 30

33. The All-Industry Placement Facility may cancel a property insurance policy without the approval of the governing committee in each of the following situations EXCEPT
- A. nonpayment of premium
 - B. evidence of incendiarism
 - C. fraud
 - D. conviction of a misdemeanor
- III. Casualty Insurance**
34. In settling claims, an insurer is prohibited from engaging in each of the following practices EXCEPT
- A. denying a claim based on the insured's failure to submit a proof of loss
 - B. failing to adopt reasonable standards for investigation of settlements
 - C. obtaining a full release of liability by settling only part of a claim
 - D. attempting to negotiate a lower settlement with a third-party claimant
35. A commercial casualty insurance policy may be canceled by the insurer by providing how many days' advance notice?
- A. 10
 - B. 20
 - C. 30
 - D. 60
36. A commercial casualty insurance policy that is nonrenewed by the insurer requires how many days' advance notice?
- A. 10
 - B. 30
 - C. 45
 - D. 60
37. An insurer must acknowledge that a first-party claimant provided notice of a claim within
- A. 10 days
 - B. 14 days
 - C. 21 days
 - D. 30 days
38. Automobile insurance may be lawfully canceled for which of the following reasons?
- A. Failure to install safety devices in a covered auto
 - B. Failure to advise the insurer of a motor vehicle accident
 - C. Suspension of the insured's driver's license
 - D. Suspension of the vehicle's registration
39. Notice of cancellation of automobile insurance requires how many days' advance notice of cancellation if for a reason other than nonpayment of premium?
- A. 10
 - B. 20
 - C. 30
 - D. 45
40. Which of the following groups is covered by Missouri's workers' compensation laws?
- A. Minors
 - B. Real estate agents
 - C. Domestic servants
 - D. Farm workers
41. Owners of vehicles registered in Missouri may demonstrate proof of financial responsibility in any of the following ways EXCEPT
- A. by making a cash deposit
 - B. by securing a surety bond
 - C. by offering an affidavit
 - D. by providing proof of insurance
42. A policy of auto insurance must
- A. be issued by an insurer located in the state of Missouri
 - B. contain a clause that allows any licensed driver to operate covered vehicles
 - C. provide a description of the vehicles covered and not covered by the policy
 - D. include coverage for permissive users of the vehicle
43. The financial responsibility limits in Missouri are
- A. 15/30/5
 - B. 20/50/10
 - C. 25/50/10
 - D. 25/50/25

44. Each of the following statements about uninsured motorists coverage is correct EXCEPT
- it must be included in any policy that provides liability
 - it may be rejected by the insured in writing
 - it must be issued for a minimum of the state financial responsibility limit
 - it may be issued with the same limit as the bodily injury coverage
45. Which of the following statements about underinsured motorists coverage is CORRECT?
- It protects an insured who is hit by someone who has no insurance.
 - It provides coverage for passengers who do not have health insurance.
 - It provides coverage for the driver of a vehicle who is not insured.
 - It provides coverage for the difference between the insured's limits and the other driver's.
46. Under Missouri law, a private passenger auto policy must contain each of the following provisions EXCEPT
- medical payments coverage that does not exceed health insurance policy coverage
 - physical damage coverage that includes factory-installed equipment required to operate the vehicle
 - coverage while the vehicle is operated in the US, its territories, Canada, and Mexico
 - 30 days coverage for newly acquired vehicles
47. When provided under an automobile policy, coverage for loss of use of a motor vehicle that has been stolen must
- have a waiting period of no more than 72 hours
 - provide a limit of at least \$15 per day
 - provide an aggregate limit of at least \$300
 - require arbitration when the insured disputes a claim
48. None of the following types of accidents may be used to increase the rates used on a private passenger auto policy EXCEPT
- collision with an uninsured vehicle if the insured is at fault
 - a rear-end collision in which the insured is not at fault
 - an accident involving the insured's vehicle that was legally parked at the time
 - collision with a bird or animal
49. The coverage provided under a workers' compensation policy includes each of the following EXCEPT
- wage replacement
 - death benefits
 - rehabilitation
 - dependent coverage
50. When an employer must provide workers' compensation insurance but is unable to do so through normal channels, which organization can provide the required coverage?
- Missouri All-Industry Placement Facility
 - Missouri Property Insurance Placement Facility
 - Missouri Alternative Residual Market Plan
 - Missouri Uninsured Employer Plan

ANSWERS TO MISSOURI LAW PRACTICE FINAL

- | | | | | |
|--------------|--------------|--------------|--------------|--------------|
| 1. D | 11. A | 21. C | 31. B | 41. C |
| 2. C | 12. C | 22. D | 32. A | 42. D |
| 3. D | 13. A | 23. B | 33. D | 43. C |
| 4. A | 14. C | 24. A | 34. D | 44. B |
| 5. B | 15. D | 25. A | 35. D | 45. D |
| 6. D | 16. B | 26. D | 36. D | 46. C |
| 7. B | 17. D | 27. D | 37. A | 47. C |
| 8. D | 18. C | 28. C | 38. C | 48. A |
| 9. B | 19. C | 29. B | 39. C | 49. D |
| 10. D | 20. B | 30. C | 40. A | 50. C |

Notes