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BY ELECTIONS
DURING 2010**

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ADOPTED AUGUST 3, 2010

PROPOSITION C. — (Proposed by the 95th General Assembly, Second Regular Session - SS SCS HCS HB 1764) Shall the Missouri Statutes be amended to:

- Deny the government authority to penalize citizens for refusing to purchase private health insurance or infringe upon the right to offer or accept direct payment for lawful healthcare services?

- Modify laws regarding the liquidation of certain domestic insurance companies?

It is estimated this proposal will have no immediate costs or savings to state or local governmental entities. However, because of the uncertain interaction of the proposal with implementation of the federal Patient Protection and Affordable Care Act, future costs to state governmental entities are unknown.

SECTION

A. Enacting clause.

1.330. Health care, no requirement to participate, no penalties — purchase or sale of health insurance in private system not prohibited — definitions.

375.1175. Grounds for liquidation — voluntary dissolution and liquidation, conditions.

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

SECTION A. ENACTING CLAUSE. — Section 375.1175, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 1.330 and 375.1175, to read as follows:

1.330. HEALTH CARE, NO REQUIREMENT TO PARTICIPATE, NO PENALTIES — PURCHASE OR SALE OF HEALTH INSURANCE IN PRIVATE SYSTEM NOT PROHIBITED — DEFINITIONS. —

1. No law or rule shall compel, directly or indirectly, any person, employer, or health care provider to participate in any health care system.

2. A person or employer may pay directly for lawful health care services and shall not be required by law or rule to pay penalties or fines for paying directly for lawful health care services. A health care provider may accept direct payment for lawful health care services and shall not be required by law or rule to pay penalties or fines for accepting direct payment from a person or employer for lawful health care services.

3. Subject to reasonable and necessary rules that do not substantially limit a person's options, the purchase or sale of health insurance in private health care systems shall not be prohibited by law or rule.

4. This section does not:

(1) Affect which health care services a health care provider or hospital is required to perform or provide;

(2) Affect which health care services are permitted by law;

(3) Prohibit care provided under workers' compensation as provided under state law;

(4) Affect laws or regulations in effect as of January 1, 2010;

(5) Affect the terms or conditions of any health care system to the extent that those terms and conditions do not have the effect of punishing a person or employer for paying directly for lawful health care services or a health care provider or hospital for accepting direct payment from a person or employer for lawful health care services.

5. As used in this section, the following terms shall mean:

- (1) "Compel", any penalties or fines;
- (2) "Direct payment or pay directly", payment for lawful health care services without a public or private third party, not including an employer, paying for any portion of the service;
- (3) "Health care system", any public or private entity whose function or purpose is the management of, processing of, enrollment of individuals for or payment for, in full or in part, health care services or health care data or health care information for its participants;
- (4) "Lawful health care services", any health-related service or treatment to the extent that the service or treatment is permitted or not prohibited by law or regulation that may be provided by persons or businesses otherwise permitted to offer such services; and
- (5) "Penalties or fines", any civil or criminal penalty or fine, tax, salary or wage withholding or surcharge or any named fee with a similar effect established by law or rule by a government established, created or controlled agency that is used to punish or discourage the exercise of rights protected under this section.

375.1175. GROUNDS FOR LIQUIDATION — VOLUNTARY DISSOLUTION AND LIQUIDATION, CONDITIONS. — 1. The director may petition the court for an order directing him to liquidate a domestic insurer or an alien insurer domiciled in this state on the basis:

- (1) Of any ground for an order of rehabilitation as specified in section 375.1165, whether or not there has been a prior order directing the rehabilitation of the insurer;
- (2) That the insurer is insolvent;
- (3) That the insurer is in such condition that the further transaction of business would be hazardous, financially or otherwise, to its policyholders, its creditors or the public;
- (4) That the insurer is found to be in such condition after examination that it could not meet the requirements for incorporation and authorization specified in the law under which it was incorporated or is doing business; or
- (5) That the insurer has ceased to transact the business of insurance for a period of one year.

2. Notwithstanding any other provision of this chapter, a domestic insurer organized as a stock insurance company may voluntarily dissolve and liquidate as a corporation under sections 351.462 to 351.482, provided that:

(1) The director, in his or her sole discretion, approves the articles of dissolution prior to filing such articles with the secretary of state. In determining whether to approve or disapprove the articles of dissolution, the director shall consider, among other factors, whether:

- (a) The insurer's annual financial statements filed with the director show no written insurance premiums for five years; and**
- (b) The insurer has demonstrated that all policyholder claims have been satisfied or have been transferred to another insurer in a transaction approved by the director; and**
- (c) An examination of the insurer pursuant to sections 374.202 to 374.207 has been completed within the last five years; and**

(2) The domestic insurer files with the secretary of state a copy of the director's approval, certified by the director, along with articles of dissolution as provided in section 351.462 or 351.468.

Adopted August 3, 2010. (For — 669,847; Against — 272,723)
Effective August 3, 2010.