

SECOND REGULAR SESSION

# HOUSE BILL NO. 877

## 92ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES SALVA (Sponsor),  
DOUGHERTY AND WILDBERGER (Co-sponsors).

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STEPHEN S. DAVIS, Chief Clerk

2931L.011

### AN ACT

To repeal section 375.918, RSMo, and to enact in lieu thereof one new section relating to insurance credit scoring.

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

Section A. Section 375.918, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 375.917, to read as follows:

**375.917. 1. Notwithstanding any other provision of law to the contrary, no insurer shall use credit reports or credit scoring as a factor in underwriting an insurance contract issued or renewed on or after August 28, 2004.**

**2. A violation of this section may be enforceable under section 374.280, RSMo.**

[375.918. 1. As used in this section, the following terms mean:

(1) "Adverse action", a denial, nonrenewal of, or a reduction in the amount of benefits payable or types of coverages under any contract, existing or applied for, in connection with the underwriting of insurance. An offer by an insurer to write a contract through an affiliated insurer does not constitute an adverse action;

(2) "Contract", any automobile insurance policy as defined in section 379.110, RSMo, or any property insurance policy as defined in section 375.001, including such a policy on a mobile home or residential condominium unit or a policy of renters' or tenants' insurance. Contract shall not include any policy of mortgage insurance or commercial insurance;

(3) "Credit report", any written or electronic communication

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

15 of any information by a consumer reporting agency that:  
16 (a) Bears on a person's credit worthiness, credit standing, or  
17 credit capacity; and  
18 (b) Is used or collected wholly or partly to serve as a factor in  
19 the underwriting of a contract;  
20 (4) "Credit scoring entity", any entity that is involved in  
21 creating, compiling, or providing insurance credit scores;  
22 (5) "Insurance credit score", a numerical representation of the  
23 insurance risk a person presents using the person's attributes derived  
24 from a credit report or credit information in a formula to assess  
25 insurance risk on an actuarial or statistical basis;  
26 (6) "Insurer", any insurance company or entity that offers a  
27 contract;  
28 (7) "Underwriting", the selection of the risk that will be  
29 assumed by the insurer on a contract, and specifically the decision  
30 whether to accept, deny, renew, nonrenew, reduce, or increase the  
31 amount of benefits payable or types of coverages under the contract.  
32 2. An insurer using a credit report or insurance credit score  
33 as a factor in underwriting shall not take an adverse action based on  
34 such factor without consideration of another noncredit-related  
35 underwriting factor.  
36 3. No insurer shall take an adverse action against an applicant  
37 or insured based on inability to compute an insurance credit score  
38 without consideration of another underwriting factor, unless the  
39 insurer can justify the credibility that the lack of an insurance credit  
40 score has in underwriting to the director of insurance.  
41 4. An insurer using a credit report or insurance credit score  
42 as a factor in underwriting a contract shall disclose at the time of the  
43 original application for the contract or on the application itself that  
44 the insurer may gather credit information.  
45 5. An insurer using a credit report or insurance credit score  
46 as a factor in underwriting of a contract shall not take an adverse  
47 action on such contract based on information that is the subject of a  
48 written dispute between the policyholder or applicant and a consumer  
49 reporting agency, as noted in such person's credit report, until such  
50 dispute has reached final determination in accordance with the federal  
51 Fair Credit Reporting Act, 15 U.S.C. Section 1681, et seq. In the  
52 event that information is the subject of a written dispute under this  
53 subsection, the sixty-day period provided by section 375.002 or  
54 section 379.110, RSMo, shall be extended until fifteen days after the  
55 dispute reaches final determination. Nothing in this subsection shall  
56 be construed to require any consumer reporting agency, as defined by  
57 the federal Fair Credit Reporting Act, 15 U.S.C. Section 1681, et

58 seq., to include any information on a credit report beyond the extent  
59 required by the federal Fair Credit Reporting Act, 15 U.S.C. Section  
60 1681, et seq.

61 6. If the use of a credit report or insurance credit score on a  
62 contract results in an adverse action, the insurer shall provide the  
63 policyholder or applicant:

64 (1) Notice that a credit report or insurance credit score  
65 adversely affected the underwriting of the contract;

66 (2) The name, address, and telephone number of the  
67 consumer credit reporting agency that furnished the credit  
68 information, in compliance with the notice requirements of the  
69 federal Fair Credit Reporting Act, 15 U.S.C. Section 1681, et seq.;

70 (3) Notice of the right to obtain a free credit report from the  
71 consumer credit reporting agency within sixty days; and

72 (4) Notice of the right to lodge a dispute with the consumer  
73 credit reporting agency to have any erroneous information corrected  
74 in accordance with the federal Fair Credit Reporting Act, 15 U.S.C.  
75 Section 1681, et seq.

76 7. Within thirty days from the date the insurer provides notice  
77 of an adverse action pursuant to subdivision (1) of subsection 6 of  
78 this section, the applicant or insured may in writing request from the  
79 insurer a statement of reasons for such action. For purposes of  
80 determining the thirty-day period, the notice of an adverse action is  
81 deemed received three days after mailing. The statement of reasons  
82 shall be sufficiently clear and specific so that a person of average  
83 intelligence can identify the basis for the insurer's decision without  
84 further inquiry. An insurer may provide an explanation of significant  
85 characteristics of the credit history that may have impacted such  
86 person's insurance credit score to meet the requirements of this  
87 subsection. Standardized credit explanations provided by credit  
88 scoring entities comply with this subsection.

89 8. If an insurer bases an adverse action in part on a credit  
90 report or insurance credit score, the applicant or insured may within  
91 thirty days of such adverse action make a written request for  
92 reunderwriting following any correction relating to the credit report  
93 or insurance credit score.

94 9. An insurer may obtain and use a current credit report or  
95 insurance credit score on new business or renewal contracts, but shall  
96 not take an adverse action with respect to renewal contracts based  
97 upon such credit report or insurance credit score until or after the  
98 third anniversary date of the initial contract.

99 10. Insurance inquiries shall not directly or indirectly be used  
100 as a negative factor in any insurance credit scoring formula or in the

101 use of a credit report in underwriting.

102 11. Nothing in this section shall be construed as superceding  
103 the provisions of section 375.002 and section 379.114, RSMo.  
104 Nothing in this section shall be construed as prohibiting any insurer  
105 from using credit information in determining whether to offer a  
106 policyholder or applicant the option to finance or establish a payment  
107 plan for the payment of any premium for a contract. Nothing in this  
108 section shall apply to any entity not acting as an insurer or credit  
109 scoring entity as defined in subsection 1 of this section.

110 12. No credit scoring entity shall provide or sell to any party,  
111 other than the insurer, its insurance company affiliates or holding  
112 companies, and the producer from whom the inquiry was generated,  
113 data or lists that include any information that in whole or in part is  
114 submitted in conjunction with credit inquiries about consumers. Such  
115 information includes, but is not limited to, expiration dates,  
116 information that may identify time periods during which a consumer's  
117 insurance may expire, or other nonpublic personal information as  
118 defined under the Gramm-Leach-Bliley Act, 15 U.S.C. Sections 6801  
119 to 6809. The provisions of this subsection shall not preclude the  
120 exchange of information specifically authorized under the federal Fair  
121 Credit Reporting Act, 15 U.S.C. Section 1681, et seq., the  
122 Gramm-Leach-Bliley Act, 15 U.S.C. Sections 6801 to 6809 and other  
123 applicable federal law. The provisions of this subsection shall not  
124 apply to data disclosed in connection with a proposed or actual sale,  
125 merger, transfer or exchange of all or a portion of an insurer's or  
126 producer's business or operating unit, including but not limited to, the  
127 sale of a portfolio of contracts, if such disclosure concerns solely  
128 consumers of the business or unit and such disclosure is not the  
129 primary reason for the sale, merger, transfer or exchange.

130 13. A violation of this section may be enforceable under  
131 section 374.280, RSMo.

132 14. The provisions of this section shall apply to all contracts  
133 entered into on or after July 1, 2003.]