

SECOND REGULAR SESSION

# HOUSE BILL NO. 1131

## 92ND GENERAL ASSEMBLY

---

INTRODUCED BY REPRESENTATIVES HAYWOOD (Sponsor), WILSON (42), JONES, BROOKS,  
EL-AMIN, HOSKINS, BLAND, BOYKINS, HUBBARD AND WALTON (Co-sponsors).

Read 1<sup>st</sup> time January 15, 2004, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

3925L.011

---

### AN ACT

To repeal section 375.918, RSMo, and to enact in lieu thereof one new section relating to the use of credit scoring for insurance purposes.

---

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Section A. Section 375.918, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 375.918, to read as follows:

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] **the same meaning as defined in the Fair Credit Reporting Act, 15 U.S.C. Section 1681, et seq. Adverse actions include, but are not limited to:**

(a) **Cancellation, denial, or nonrenewal of personal insurance coverage;**  
(b) **Charging a higher insurance premium for personal insurance than would have been offered if the credit history or insurance credit score had been more favorable, whether the charge is by application of a rating rule, assignment to a rating tier that does not have the lowest available rates, or placement with an affiliate company that does not**

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.

13 offer the lowest rates available to the consumer within the affiliate group of insurance  
14 companies;

15 (c) Any reduction or adverse or unfavorable change in the terms of coverage or  
16 amount of any personal insurance due to a consumer's credit history or insurance credit  
17 score. A reduction or adverse or unfavorable change in the terms of coverage occurs when  
18 either the coverage provided to the consumer is not as broad in scope as coverage  
19 requested by the consumer but is available to other insureds of the insurer or any affiliate,  
20 or the consumer is not eligible for benefits such as dividends that are available through  
21 affiliated insurers;

22 (2) "Affiliate", any company that controls, is controlled by, or is under common  
23 control with another company;

24 (3) "Applicant", an individual who has applied to be covered by a personal  
25 insurance policy with an insurer;

26 (4) "Consumer", an insured whose credit information is used or whose insurance  
27 credit score is calculated in the underwriting or rating of a personal insurance policy or  
28 an applicant for such a policy;

29 (5) "Consumer reporting agency", any entity which, for monetary fees, dues, or on  
30 a cooperative nonprofit basis regularly engages in whole or in part, in the practice of  
31 assembling or evaluating consumer credit information or other information on consumers  
32 for the purpose of furnishing consumer reports or credit insurance scores to third parties;

33 [(2)] (6) "Contract", any automobile insurance policy as defined in section 379.110,  
34 RSMo, or any property insurance policy as defined in section 375.001, including [such a policy  
35 on a mobile home or residential condominium unit or a policy of renters' or tenants' insurance]  
36 private passenger automobile, homeowners, motorcycle, mobile homeowners,  
37 manufactured homeowners, condominium owners, renter's coverage, personal liability and  
38 theft coverage, personal inland marine coverage, mechanical breakdown coverage for  
39 personal auto or home appliances, noncommercial dwelling fire insurance policies, boat,  
40 personal watercraft, snowmobile, and recreational vehicle policies. Contract shall not  
41 include any policy of mortgage insurance or commercial insurance;

42 (7) "Credit information", any insurance credit score or credit-related information  
43 derived from a credit report, found on a credit report itself, or provided on an application  
44 for insurance, but shall not include information that is not credit-related;

45 [(3)] (8) "Credit report", any written or electronic communication of any information by  
46 a consumer reporting agency that:

47 (a) Bears on a person's credit worthiness, credit standing, or credit capacity; and

48 (b) Is used or collected wholly or partly to serve as a factor in the underwriting of a

49 contract;

50 [(4)] (9) "Credit scoring entity", any entity that is involved in creating, compiling, or  
51 providing insurance credit scores;

52 [(5)] (10) "Insurance credit score", a **rating or** numerical representation [of the insurance  
53 risk a person presents using the person's attributes] derived [from] **by using a formula,**  
54 **algorithm, computer application, model, or other process that is based in whole or in part**  
55 **on the** credit report or credit information [in a formula to assess insurance risk on an actuarial  
56 or statistical basis] **of an applicant;**

57 [(6)] (11) "Insurer", any insurance company or entity that offers a contract;

58 [(7)] (12) "Underwriting", the selection of the risk that will be assumed by the insurer  
59 on a contract, and specifically the decision whether to accept, deny, renew, nonrenew, reduce,  
60 or increase the amount of benefits payable, **premium rate for coverage**, or types of coverages  
61 under the contract.

62 2. An insurer using a credit report or insurance credit score as a factor in underwriting  
63 shall not take an adverse action based on such factor without consideration of another  
64 noncredit-related underwriting factor.

65 3. [No insurer shall take an adverse action against an applicant or insured based on  
66 inability to compute an insurance credit score without consideration of another underwriting  
67 factor, unless the insurer can justify the credibility that the lack of an insurance credit score has  
68 in underwriting to the director of insurance.

69 4.] **An insurer shall not use an insurance credit score to underwrite or rate risks,**  
70 **that is calculated using income, gender, address, zip code, ethnic group, religion, marital**  
71 **status, education level, or nationality of the consumer as a factor. No insurer shall use loss**  
72 **information in calculating its insurance credit score if it also uses loss information**  
73 **separately to calculate its rates.**

74 4. **No insurer shall consider an absence of credit information or an inability to**  
75 **calculate an insurance score in underwriting or rating personal insurance, unless the**  
76 **insurer treats the consumer as if the applicant or insured had neutral credit information**  
77 **or excludes the use of credit information as a factor and uses only other underwriting**  
78 **criteria.**

79 5. **No insurer shall use credit information to underwrite or reunderwrite a policy**  
80 **after the policy has been in force for more than thirty-six months unless there is a**  
81 **substantial change in the risk based upon other underwriting or rating factors, excluding**  
82 **credit information. Notwithstanding the requirements of this subsection:**

83 (1) **At annual renewal, upon the request of a consumer or the consumer's agent, the**  
84 **insurer shall reunderwrite and rerate the policy based upon a current credit report or**

85 **insurance score. An insurer need not recalculate the insurance credit score or obtain the**  
86 **updated credit report of a consumer more frequently than once in a twelve-month period;**

87 **(2) The insurer shall have the discretion to obtain current credit information upon**  
88 **any renewal before the thirty-six month period, if consistent with its underwriting**  
89 **guidelines;**

90 **(3) No insurer needs to obtain current credit information for an insured,**  
91 **notwithstanding the provisions of subdivision (1) of this subsection, if one of the following**  
92 **applies:**

93 **(a) The insured is in the most favorably priced tier of an unaffiliated insurer, or in**  
94 **the most favorably priced tier of the most favorably priced company within a group of**  
95 **affiliated insurers; provided, however, the insurer shall have the discretion to order such**  
96 **a report, if consistent with its underwriting guidelines; or**

97 **(b) Credit was not used for underwriting or rating such insured when the policy**  
98 **was initially written; provided, however, the insurer shall have the discretion to use credit**  
99 **for underwriting or rating such insured upon renewal, if consistent with its underwriting**  
100 **guidelines.**

101 **6.** An insurer using a credit report or insurance credit score as a factor in underwriting  
102 a contract shall disclose at the time of the original application for the contract or on the  
103 application itself that the insurer may gather credit information.

104 [5.] **7.** An insurer using a credit report or insurance credit score as a factor in  
105 underwriting of a contract shall not take an adverse action on such contract based on information  
106 that is the subject of a written dispute between the policyholder or applicant and a consumer  
107 reporting agency, as noted in such person's credit report, until such dispute has reached final  
108 determination in accordance with the federal Fair Credit Reporting Act, 15 U.S.C. Section 1681,  
109 et seq. In the event that information is the subject of a written dispute under this subsection, the  
110 sixty-day period provided by section 375.002 or section 379.110, RSMo, shall be extended until  
111 fifteen days after the dispute reaches final determination. Nothing in this subsection shall be  
112 construed to require any consumer reporting agency, as defined by the federal Fair Credit  
113 Reporting Act, 15 U.S.C. Section 1681, et seq., to include any information on a credit report  
114 beyond the extent required by the federal Fair Credit Reporting Act, 15 U.S.C. Section 1681, et  
115 seq.

116 [6.] **8.** If the use of a credit report or insurance credit score on a contract results in an  
117 adverse action, the insurer shall provide the policyholder or applicant:

118 **(1) Notice that a credit report or insurance credit score adversely affected the**  
119 **underwriting of the contract;**

120 **(2) The name, address, and telephone number of the consumer credit reporting agency**

121 that furnished the credit information, in compliance with the notice requirements of the federal  
122 Fair Credit Reporting Act, 15 U.S.C. Section 1681, et seq.;

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

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

128 [7.] 9. Within thirty days from the date the insurer provides notice of an adverse action  
129 pursuant to subdivision (1) of subsection 6 of this section, the applicant or insured may in writing  
130 request from the insurer a statement of reasons for such action. For purposes of determining the  
131 thirty-day period, the notice of an adverse action is deemed received three days after mailing.  
132 The statement of reasons shall be sufficiently clear and specific so that a person of average  
133 intelligence can identify the basis for the insurer's decision without further inquiry. An insurer  
134 may provide an explanation of significant characteristics of the credit history that may have  
135 impacted such person's insurance credit score to meet the requirements of this subsection.  
136 Standardized credit explanations provided by credit scoring entities comply with this subsection.

137 [8.] 10. If an insurer bases an adverse action in part on a credit report or insurance credit  
138 score, the applicant or insured may within thirty days of such adverse action make a written  
139 request for reunderwriting following any correction relating to the credit report or insurance  
140 credit score.

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

145 10. Insurance inquiries shall not directly or indirectly be used as a negative factor in any  
146 insurance credit scoring formula or in the use of a credit report in underwriting.]

147 11. **Neither the insurer nor consumer reporting agency shall use the following as**  
148 **a negative factor in any insurance scoring methodology or in reviewing credit information**  
149 **for the purpose of underwriting or rating a policy of personal insurance:**

150 (1) **Credit inquiries not initiated by the consumer or inquiries requested by the**  
151 **consumer for his or her own credit information;**

152 (2) **Inquiries relating to insurance coverage, if so identified on a consumer's credit**  
153 **report;**

154 (3) **Collection accounts with a medical industry code, if so identified on the**  
155 **consumer's credit report;**

156 (4) **Multiple lender inquiries, if coded by the consumer reporting agency on the**

157 **consumer's credit report as being from the home mortgage industry and made within**  
158 **thirty days of each other, unless only one inquiry is considered;**

159 **(5) Multiple lender inquiries, if coded by the consumer reporting agency on the**  
160 **consumer's credit report as being from the automobile lending industry and made within**  
161 **thirty days of each other, unless only one inquiry is considered;**

162 **(6) The absence of credit history or the inability to determine the consumer's credit**  
163 **history unless pursuant to the provisions of subsection 4 of this section;**

164 **(7) The consumer's use of a particular type of credit card, charge card, or debit**  
165 **card; or**

166 **(8) The consumer's total available line of credit; provided, however, an insurer may**  
167 **consider the total amount of outstanding debt in relation to the total available line of credit.**

168 **12.** Nothing in this section shall be construed as superceding the provisions of section  
169 375.002 and section 379.114, RSMo. Nothing in this section shall be construed as prohibiting  
170 any insurer from using credit information in determining whether to offer a policyholder or  
171 applicant the option to finance or establish a payment plan for the payment of any premium for  
172 a contract. Nothing in this section shall apply to any entity not acting as an insurer or credit  
173 scoring entity as defined in subsection 1 of this section.

174 [12.] **13.** No credit scoring entity shall provide or sell to any party, other than the insurer,  
175 its insurance company affiliates or holding companies, and the producer from whom the inquiry  
176 was generated, data or lists that include any information that in whole or in part is submitted in  
177 conjunction with credit inquiries about consumers. Such information includes, but is not limited  
178 to, expiration dates, information that may identify time periods during which a consumer's  
179 insurance may expire, or other nonpublic personal information as defined under the  
180 Gramm-Leach-Bliley Act, 15 U.S.C. Sections 6801 to 6809. The provisions of this subsection  
181 shall not preclude the exchange of information specifically authorized under the federal Fair  
182 Credit Reporting Act, 15 U.S.C. Section 1681, et seq., the Gramm-Leach-Bliley Act, 15 U.S.C.  
183 Sections 6801 to 6809 and other applicable federal law. The provisions of this subsection shall  
184 not apply to data disclosed in connection with a proposed or actual sale, merger, transfer or  
185 exchange of all or a portion of an insurer's or producer's business or operating unit, including but  
186 not limited to, the sale of a portfolio of contracts, if such disclosure concerns solely consumers  
187 of the business or unit and such disclosure is not the primary reason for the sale, merger, transfer  
188 or exchange.

189 [13.] **14.** A violation of this section may be enforceable under section 374.280, RSMo.

190 **15. Insurers that use insurance credit scores to underwrite and rate risks shall file**  
191 **their scoring models or other scoring processes with the department of insurance. A third**  
192 **party may file scoring models on behalf of insurers. A filing that includes insurance**

193 **scoring may include loss experience justifying the use of credit information. Any filing**  
194 **relating to credit information is considered trade secret pursuant to sections 417.450 to**  
195 **417.467, RSMo.**

196 [14.] **16.** The provisions of this section shall apply to all contracts entered into on or after  
197 July 1, 2003.