

SECOND REGULAR SESSION

[TRULY AGREED TO AND FINALLY PASSED]

# HOUSE BILL NO. 1291

92ND GENERAL ASSEMBLY

4123L.01T

2004

---

---

## AN ACT

To repeal section 375.937, RSMo, and to enact in lieu thereof one new section relating to unfair insurance practice and fraud.

---

---

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

Section A. Section 375.937, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 375.937, to read as follows:

375.937. 1. No person may require as a condition precedent to the lending of money or extension of credit, or any renewal thereof, that the person to whom such money or credit is extended or whose obligation a creditor is to acquire or finance, negotiate any contract of insurance or renewal thereof through a particular insurer or group of insurers or agent, broker or group of agents or brokers.

2. No person who lends money or extends credit may:

(1) Unreasonably reject a contract of insurance furnished by the borrower for the protection of the property securing the credit or lien. A rejection shall not be deemed unreasonable if it is based on reasonable standards, uniformly applied, relating to the extent of coverage required and the financial soundness and the services of an insurer. Such standards shall not discriminate against any particular type of insurer, nor shall such standards call for rejection of an insurance contract because the contract contains coverage in addition to that required in the credit transaction;

(2) Require that any borrower, mortgagor, purchaser, insurer, broker or agent pay a separate charge, in connection with the handling of any contract of insurance required as security for a loan on real estate, or pay a separate charge to substitute the insurance policy of one insurer for that of another. This subdivision does not include the interest which may be charged on premium loans or premium advancements in accordance with the terms of the loan or credit documents;

20 (3) Use or disclose, without the prior written consent of the borrower, mortgagor, or  
21 purchaser taken at a time other than the making of the loan or extension of credit, information  
22 relative to a contract of insurance which is required by the credit transaction, for the purpose of  
23 replacing such insurance;

24 (4) Require any procedures or conditions of duly licensed agents, brokers or insurers not  
25 customarily required of those agents, brokers or insurers affiliated or in any way connected with  
26 the person who lends money or extends credit;

27 (5) Solicit insurance for the protection of real property, after a person indicates interest  
28 in securing a first mortgage credit extension, until such person has received a commitment in  
29 writing from the lender as to a loan or credit extension;

30 **(6) As a condition of financing a residential mortgage or providing other financial**  
31 **arrangements for residential property, require a borrower to purchase homeowners'**  
32 **insurance coverage in an amount exceeding the replacement value of the improvements**  
33 **and contents on the real property. A violation of this subdivision shall not affect the**  
34 **validity of the loan, note secured by a deed of trust, mortgage, or deed of trust.**

35 3. Every person who lends money or extends credit and who solicits insurance on real  
36 and personal property subject to subsection 2 of this section must explain to the borrower in  
37 writing that the insurance related to such credit extension may be purchased from an insurer or  
38 agent of the borrower's choice, subject only to the lender's right to reject a given insurer or agent  
39 as provided in subdivision (1) of subsection 2 of this section. Compliance with disclosures as  
40 to insurance required by truth-in-lending laws or comparable state laws shall be in compliance  
41 with this subsection. This requirement for a commitment shall not apply in cases where the  
42 premium for the required insurance is to be financed as part of the loan or extension of credit  
43 involving personal property transactions. The commitment shall contain the rate or rate formula,  
44 amount and terms of the loan, subject to the creditworthiness of the borrower, valuation of the  
45 property and the insurability to value of the property.

46 4. The director shall have the power to examine and investigate those insurance-related  
47 activities of any person which may be in violation of this section. Any affected person may  
48 submit to the director a complaint or material pertinent to the enforcement of this section.

49 5. Nothing in this section shall prevent a person who lends money or extends credit from  
50 placing insurance on real or personal property in the event the mortgagor, borrower or purchaser  
51 has failed to provide required insurance in accordance with the terms of the loan or credit  
52 document.

53           6. Nothing contained in this section shall apply to credit life or credit accident and health  
54 insurance.