

FIRST REGULAR SESSION

# HOUSE BILL NO. 96

## 93RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE HAYWOOD.

Pre-filed December 16, 2004 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

0527L.011

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### 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.

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*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Section A. Section 375.918, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 375.918, to read as follows: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], **including rating that results in surcharges or placement within a higher rated tier of an insurer or an insurance group;**

(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] **policy of property insurance, casualty insurance, or both, issued to an individual for person, family, or household purposes and not in connection with any business, trade, or profession.** Contract shall not include any policy of mortgage insurance or commercial insurance;

(3) "Credit report", any written [or], **oral, electronic, or other** communication of any information by a consumer reporting agency **or any other source** that:

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

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

52 action, the insurer shall provide the policyholder or applicant:

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

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

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

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

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

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

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

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

82 11. Nothing in this section shall be construed as superceding the provisions of section  
83 375.002 and section 379.114, RSMo. Nothing in this section shall be construed as prohibiting  
84 any insurer from using credit information in determining whether to offer a policyholder or  
85 applicant the option to finance or establish a payment plan for the payment of any premium for  
86 a contract. Nothing in this section shall apply to any entity not acting as an insurer or credit  
87 scoring entity as defined in subsection 1 of this section.

88           12. No credit scoring entity shall provide or sell to any party, other than the insurer, its  
89 insurance company affiliates or holding companies, and the producer from whom the inquiry was  
90 generated, data or lists that include any information that in whole or in part is submitted in  
91 conjunction with credit inquiries about consumers. Such information includes, but is not limited  
92 to, expiration dates, information that may identify time periods during which a consumer's  
93 insurance may expire, or other nonpublic personal information as defined under the  
94 Gramm-Leach-Bliley Act, 15 U.S.C. Sections 6801 to 6809. The provisions of this subsection  
95 shall not preclude the exchange of information specifically authorized under the federal Fair  
96 Credit Reporting Act, 15 U.S.C. Section 1681, et seq., the Gramm-Leach-Bliley Act, 15 U.S.C.  
97 Sections 6801 to 6809 and other applicable federal law. The provisions of this subsection shall  
98 not apply to data disclosed in connection with a proposed or actual sale, merger, transfer or  
99 exchange of all or a portion of an insurer's or producer's business or operating unit, including but  
100 not limited to, the sale of a portfolio of contracts, if such disclosure concerns solely consumers  
101 of the business or unit and such disclosure is not the primary reason for the sale, merger, transfer  
102 or exchange.

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

104           14.] The provisions of this section shall apply to all contracts [entered into on or after  
105 July 1, 2003] **issued or renewed on or after August 28, 2005.**