

FIRST REGULAR SESSION

# HOUSE BILL NO. 206

## 93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SALVA.

Read 1<sup>st</sup> time January 11, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

0922L.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Section A. Section 375.918, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 375.917, to read as follows: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, 2005.**

**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 of any information by a consumer reporting agency that:

(a) Bears on a person's credit worthiness, credit standing, or credit

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.

15 capacity; and

16 (b) Is used or collected wholly or partly to serve as a factor in the  
17 underwriting of a contract;

18 (4) "Credit scoring entity", any entity that is involved in creating,  
19 compiling, or providing insurance credit scores;

20 (5) "Insurance credit score", a numerical representation of the insurance  
21 risk a person presents using the person's attributes derived from a credit report or  
22 credit information in a formula to assess insurance risk on an actuarial or  
23 statistical basis;

24 (6) "Insurer", any insurance company or entity that offers a contract;

25 (7) "Underwriting", the selection of the risk that will be assumed by the  
26 insurer on a contract, and specifically the decision whether to accept, deny,  
27 renew, nonrenew, reduce, or increase the amount of benefits payable or types of  
28 coverages under the contract.

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

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

36 4. An insurer using a credit report or insurance credit score as a factor in  
37 underwriting a contract shall disclose at the time of the original application for  
38 the contract or on the application itself that the insurer may gather credit  
39 information.

40 5. An insurer using a credit report or insurance credit score as a factor in  
41 underwriting of a contract shall not take an adverse action on such contract based  
42 on information that is the subject of a written dispute between the policyholder  
43 or applicant and a consumer reporting agency, as noted in such person's credit  
44 report, until such dispute has reached final determination in accordance with the  
45 federal Fair Credit Reporting Act, 15 U.S.C. Section 1681, et seq. In the event  
46 that information is the subject of a written dispute under this subsection, the  
47 sixty-day period provided by section 375.002 or section 379.110, RSMo, shall be  
48 extended until fifteen days after the dispute reaches final determination. Nothing  
49 in this subsection shall be construed to require any consumer reporting agency,  
50 as defined by the federal Fair Credit Reporting Act, 15 U.S.C. Section 1681, et  
51 seq., to include any information on a credit report beyond the extent required by  
52 the federal Fair Credit Reporting Act, 15 U.S.C. Section 1681, et seq.

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

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

58 (2) The name, address, and telephone number of the consumer credit  
59 reporting agency that furnished the credit information, in compliance with the  
60 notice requirements of the federal Fair Credit Reporting Act, 15 U.S.C. Section  
61 1681, et seq.;

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

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

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

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

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

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

91 11. Nothing in this section shall be construed as superceding the  
92 provisions of section 375.002 and section 379.114, RSMo. Nothing in this  
93 section shall be construed as prohibiting any insurer from using credit  
94 information in determining whether to offer a policyholder or applicant the option  
95 to finance or establish a payment plan for the payment of any premium for a  
96 contract. Nothing in this section shall apply to any entity not acting as an insurer  
97 or credit scoring entity as defined in subsection 1 of this section.

98 12. No credit scoring entity shall provide or sell to any party, other than  
99 the insurer, its insurance company affiliates or holding companies, and the  
100 producer from whom the inquiry was generated, data or lists that include any

101 information that in whole or in part is submitted in conjunction with credit  
102 inquiries about consumers. Such information includes, but is not limited to,  
103 expiration dates, information that may identify time periods during which a  
104 consumer's insurance may expire, or other nonpublic personal information as  
105 defined under the Gramm-Leach- Bliley Act, 15 U.S.C. Sections 6801 to 6809.  
106 The provisions of this subsection shall not preclude the exchange of information  
107 specifically authorized under the federal Fair Credit Reporting Act, 15 U.S.C.  
108 Section 1681, et seq., the Gramm-Leach-Bliley Act, 15 U.S.C. Sections 6801 to  
109 6809 and other applicable federal law. The provisions of this subsection shall not  
110 apply to data disclosed in connection with a proposed or actual sale, merger,  
111 transfer or exchange of all or a portion of an insurer's or producer's business or  
112 operating unit, including but not limited to, the sale of a portfolio of contracts, if  
113 such disclosure concerns solely consumers of the business or unit and such  
114 disclosure is not the primary reason for the sale, merger, transfer or exchange.

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

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