

FIRST REGULAR SESSION

HOUSE BILL NO. 592

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES WILDBERGER (Sponsor), SCHAAF,
CURLS AND MEADOWS (Co-sponsors).

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D. ADAM CRUMBLISS, Chief Clerk

0678L.01I

AN ACT

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

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Section A. Section 375.918, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 375.918, to read as follows: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;
- (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 capacity; and
- (b) Is used or collected wholly or partly to serve as a factor in the underwriting of a contract;

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

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

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

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

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

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

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

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

45 6. **If an insurer uses a credit report or insurance credit score as a factor in**
46 **underwriting of insurance contracts, every fiduciary for such insurer shall annually submit**
47 **the following to the department of insurance, financial institutions, and professional**
48 **registration:**

49 (1) **Each fiduciary's credit score; and**

50 **(2) The total dollar amount paid or provided to each fiduciary for pension and**
51 **retirement payments, bonuses, and forgivable loans.**

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53 **For purposes of this subsection, "fiduciary" means an agent, trustee, partner, corporate**
54 **officer or director, or other representative owing a fiduciary duty with respect to an**
55 **insurer, insurance company, or insurance contract.**

56 **7.** If the use of a credit report or insurance credit score on a contract results in an adverse
57 action, the insurer shall provide the policyholder or applicant:

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

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

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

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

68 **[7.] 8.** Within thirty days from the date the insurer provides notice of an adverse action
69 pursuant to subdivision (1) of subsection [6] **7** of this section, the applicant or insured may in
70 writing request from the insurer a statement of reasons for such action. For purposes of
71 determining the thirty-day period, the notice of an adverse action is deemed received three days
72 after mailing. The statement of reasons shall be sufficiently clear and specific so that a person
73 of average intelligence can identify the basis for the insurer's decision without further inquiry.
74 An insurer may provide an explanation of significant characteristics of the credit history that may
75 have impacted such person's insurance credit score to meet the requirements of this subsection.
76 Standardized credit explanations provided by credit scoring entities comply with this subsection.

77 **[8.] 9.** If an insurer bases an adverse action in part on a credit report or insurance credit
78 score, the applicant or insured may within thirty days of such adverse action make a written
79 request for reunderwriting following any correction relating to the credit report or insurance
80 credit score.

81 **[9.] 10.** An insurer may obtain and use a current credit report or insurance credit score
82 on new business or renewal contracts, but shall not take an adverse action with respect to renewal
83 contracts based upon such credit report or insurance credit score until or after the third
84 anniversary date of the initial contract.

85 [10.] **11.** Insurance inquiries shall not directly or indirectly be used as a negative factor
86 in any insurance credit scoring formula or in the use of a credit report in underwriting.

87 [11.] **12.** Nothing in this section shall be construed as superceding the provisions of
88 section 375.002 and section 379.114, RSMo. Nothing in this section shall be construed as
89 prohibiting any insurer from using credit information in determining whether to offer a
90 policyholder or applicant the option to finance or establish a payment plan for the payment of
91 any premium for a contract. Nothing in this section shall apply to any entity not acting as an
92 insurer or credit scoring entity as defined in subsection 1 of this section.

93 [12.] **13.** No credit scoring entity shall provide or sell to any party, other than the insurer,
94 its insurance company affiliates or holding companies, and the producer from whom the inquiry
95 was generated, data or lists that include any information that in whole or in part is submitted in
96 conjunction with credit inquiries about consumers. Such information includes, but is not limited
97 to, expiration dates, information that may identify time periods during which a consumer's
98 insurance may expire, or other nonpublic personal information as defined under the
99 Gramm-Leach-Bliley Act, 15 U.S.C. Sections 6801 to 6809. The provisions of this subsection
100 shall not preclude the exchange of information specifically authorized under the federal Fair
101 Credit Reporting Act, 15 U.S.C. Section 1681, et seq., the Gramm-Leach-Bliley Act, 15 U.S.C.
102 Sections 6801 to 6809 and other applicable federal law. The provisions of this subsection shall
103 not apply to data disclosed in connection with a proposed or actual sale, merger, transfer or
104 exchange of all or a portion of an insurer's or producer's business or operating unit, including but
105 not limited to, the sale of a portfolio of contracts, if such disclosure concerns solely consumers
106 of the business or unit and such disclosure is not the primary reason for the sale, merger, transfer
107 or exchange.

108 [13.] **14.** A violation of this section may be enforceable under section 374.280, RSMo.

109 [14. The provisions of this section shall apply to all contracts entered into on or after July
110 1, 2003.]

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