

FIRST REGULAR SESSION

# HOUSE BILL NO. 823

## 95TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE SKAGGS.

1909L.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

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

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Section A. Section 375.918, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 375.918, to read as follows: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

(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;

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

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.

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 the department of insurance, financial institutions and  
31 professional registration.

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

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

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

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

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

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

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

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

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

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

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

76 11. Nothing in this section shall be construed as superceding the provisions of section  
77 375.002 and section 379.114, RSMo. Nothing in this section shall be construed as prohibiting  
78 any insurer from using credit information in determining whether to offer a policyholder or  
79 applicant the option to finance or establish a payment plan for the payment of any premium for  
80 a contract. Nothing in this section shall apply to any entity not acting as an insurer or credit  
81 scoring entity as defined in subsection 1 of this section.

82 12. No credit scoring entity shall provide or sell to any party, other than the insurer, its  
83 insurance company affiliates or holding companies, and the producer from whom the inquiry was  
84 generated, data or lists that include any information that in whole or in part is submitted in  
85 conjunction with credit inquiries about consumers. Such information includes, but is not limited  
86 to, expiration dates, information that may identify time periods during which a consumer's  
87 insurance may expire, or other nonpublic personal information as defined under the  
88 Gramm-Leach-Bliley Act, 15 U.S.C. Sections 6801 to 6809. The provisions of this subsection

89 shall not preclude the exchange of information specifically authorized under the federal Fair  
90 Credit Reporting Act, 15 U.S.C. Section 1681, et seq., the Gramm-Leach-Bliley Act, 15 U.S.C.  
91 Sections 6801 to 6809 and other applicable federal law. The provisions of this subsection shall  
92 not apply to data disclosed in connection with a proposed or actual sale, merger, transfer or  
93 exchange of all or a portion of an insurer's or producer's business or operating unit, including but  
94 not limited to, the sale of a portfolio of contracts, if such disclosure concerns solely consumers  
95 of the business or unit and such disclosure is not the primary reason for the sale, merger, transfer  
96 or exchange.

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

98 14. The provisions of this section shall apply to all contracts entered into on or after July  
99 1, 2003] **Notwithstanding any other provision of law to the contrary, no insurer shall use**  
100 **credit reports or credit scoring as a factor in underwriting an insurance contract issued or**  
101 **renewed on or after August 28, 2009.**

102 2. A violation of this section may be enforceable under section 374.280, RSMo.

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