

SECOND REGULAR SESSION

# HOUSE BILL NO. 1379

## 95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SALVA.

3773L.01I

D. ADAM CRUMBLISS, Chief Clerk

### AN ACT

To repeal section 375.918, RSMo, and to enact in lieu thereof one new section relating to the use of credit scores by insurance companies.

*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Section A. Section 375.918, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 375.918, to read as follows: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] **the same meaning as defined in the Fair Credit Reporting Act, 15 U.S.C. Section 1681, et. seq. Adverse actions include, but are not limited to:**

(a) **Cancellation, denial, or nonrenewal of personal insurance coverage;**

(b) **Charging a higher insurance premium for personal insurance than would have been offered if the credit history or insurance credit score had been more favorable, whether the charge is by application of a rating rule, assignment to a rating tier that does not have the lowest available rates, or placement with an affiliate company that does not offer the lowest rates available to the consumer within the affiliate group of insurance companies; or**

(c) **Any reduction, adverse, or unfavorable change in the terms of coverage or amount of any personal insurance due to a consumer's credit history or insurance credit score. A reduction, adverse, or unfavorable change in the terms of coverage occurs when**

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.

18 **either the coverage provided to the consumer is not as broad in scope as coverage**  
19 **requested by the consumer but is available to other insureds of the insurer or any affiliate,**  
20 **or the consumer is not eligible for benefits such as dividends that are available through**  
21 **affiliated insurers;**

22 (2) "Contract", any automobile insurance policy as defined in section 379.110, RSMo,  
23 or any property insurance policy as defined in section 375.001, [including such a policy on a  
24 mobile home or residential condominium unit or a policy of renters' or tenants' insurance]  
25 **private passenger automobile, homeowners, motorcycle, mobile homeowners,**  
26 **manufactured homeowners, condominium owners, renter's coverage, personal liability and**  
27 **theft coverage, personal inland marine coverage, mechanical breakdown coverage for**  
28 **personal auto or home appliances, noncommercial dwelling fire insurance policies, boat,**  
29 **personal watercraft, snowmobile, and recreational vehicle policies. The term "contract"**  
30 **shall also include professional liability and malpractice liability policies.** Contract shall not  
31 include any policy of mortgage insurance or commercial insurance;

32 (3) "Credit information", any insurance credit score or credit-related information  
33 **derived from a credit report, found on a credit report itself, or provided on an application**  
34 **for insurance, but shall not include information that is not credit-related;**

35 (4) "Credit report", any written or electronic communication of any information by a  
36 consumer reporting agency that:

37 (a) Bears on a person's credit worthiness, credit standing, or credit capacity; and

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

40 [(4)] (5) "Credit scoring entity", any entity that is involved in creating, compiling, or  
41 providing insurance credit scores;

42 [(5)] (6) "Insurance credit score", a **rating or** numerical representation [of the insurance  
43 risk a person presents using the person's attributes derived from a] **derived by using a formula,**  
44 **algorithm, computer application, model, or other process that is based in whole or in part**  
45 **on the** credit report or credit information [in a formula to assess insurance risk on an actuarial  
46 or statistical basis] **of an applicant;**

47 [(6)] (7) "Insurer", any insurance company or entity that offers a contract;

48 [(7)] (8) "Underwriting", the selection of the risk that will be assumed by the insurer on  
49 a contract, and specifically the decision whether to accept, deny, renew, nonrenew, reduce, or  
50 increase the amount of benefits payable, **premium rate for coverage,** or types of coverages  
51 under the contract.

52           2. An insurer using a credit report or insurance credit score as a factor in underwriting  
53 shall not take an adverse action based on such factor [without consideration of another  
54 noncredit-related underwriting factor].

55           3. No insurer shall take an adverse action against an applicant or insured based on  
56 inability to compute an insurance credit score [without consideration of another underwriting  
57 factor, unless the insurer can justify the credibility that the lack of an insurance credit score has  
58 in underwriting to the director of the department of insurance, financial institutions and  
59 professional registration] . **No insurer shall consider an absence of credit information or an**  
60 **inability to calculate an insurance score in underwriting or rating personal insurance.**

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

64           5. An insurer using a credit report or insurance credit score as a factor in underwriting  
65 of a contract shall not take an adverse action on such contract based on information that is the  
66 subject of a written dispute between the policyholder or applicant and a consumer reporting  
67 agency, as noted in such person's credit report, until such dispute has reached final determination  
68 in accordance with the federal Fair Credit Reporting Act, 15 U.S.C. Section 1681, et seq. In the  
69 event that information is the subject of a written dispute under this subsection, the sixty-day  
70 period provided by section 375.002 or section 379.110, RSMo, shall be extended until fifteen  
71 days after the dispute reaches final determination. Nothing in this subsection shall be construed  
72 to require any consumer reporting agency, as defined by the federal Fair Credit Reporting Act,  
73 15 U.S.C. Section 1681, et seq., to include any information on a credit report beyond the extent  
74 required by the federal Fair Credit Reporting Act, 15 U.S.C. Section 1681, et seq.

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

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

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

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

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

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

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

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

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

105           [11.] **5.** Nothing in this section shall be construed as superceding the provisions of  
106 section 375.002 and section 379.114, RSMo. Nothing in this section shall be construed as  
107 prohibiting any insurer from using credit information in determining whether to offer a  
108 policyholder or applicant the option to finance or establish a payment plan for the payment of  
109 any premium for a contract. Nothing in this section shall apply to any entity not acting as an  
110 insurer or credit scoring entity as defined in subsection 1 of this section.

111           [12.] **6.** No credit scoring entity shall provide or sell to any party, other than the insurer,  
112 its insurance company affiliates or holding companies, and the producer from whom the inquiry  
113 was generated, data or lists that include any information that in whole or in part is submitted in  
114 conjunction with credit inquiries about consumers. Such information includes, but is not limited  
115 to, expiration dates, information that may identify time periods during which a consumer's  
116 insurance may expire, or other nonpublic personal information as defined under the  
117 Gramm-Leach-Bliley Act, 15 U.S.C. Sections 6801 to 6809. The provisions of this subsection  
118 shall not preclude the exchange of information specifically authorized under the federal Fair  
119 Credit Reporting Act, 15 U.S.C. Section 1681, et seq., the Gramm-Leach-Bliley Act, 15 U.S.C.  
120 Sections 6801 to 6809 and other applicable federal law. The provisions of this subsection shall  
121 not apply to data disclosed in connection with a proposed or actual sale, merger, transfer or  
122 exchange of all or a portion of an insurer's or producer's business or operating unit, including but

123 not limited to, the sale of a portfolio of contracts, if such disclosure concerns solely consumers  
124 of the business or unit and such disclosure is not the primary reason for the sale, merger, transfer  
125 or exchange.

126 [13.] 7. A violation of this section may be enforceable under section 374.280, RSMo.

127 [14.] 8. The provisions of this section shall apply to all contracts entered into **or**  
128 **renewed** on or after July 1, [2003] **2011**.

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