

House _____ Amendment NO. _____

Offered By _____

1 AMEND House Committee Substitute for Senate Bill No. 874, Page 1, Section 354.465, Line 8, by
2 inserting after all of said section and line the following:

3
4 "375.918. 1. As used in this section, the following terms mean:

5 (1) "Adverse action", [a denial, nonrenewal of, or a reduction in the amount of benefits
6 payable or types of coverages under any contract, existing or applied for, in connection with the
7 underwriting of insurance. An offer by an insurer to write a contract through an affiliated insurer
8 does not constitute an adverse action] the same meaning as defined in the Fair Credit Reporting Act,
9 15 U.S.C. Section 1681, et. seq. Adverse actions include, but are not limited to:

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

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

16 (c) Any reduction, adverse, or unfavorable change in the terms of coverage or amount of any
17 personal insurance due to a consumer's credit history or insurance credit score. A reduction, adverse,
18 or unfavorable change in the terms of coverage occurs when either the coverage provided to the
19 consumer is not as broad in scope as coverage requested by the consumer but is available to other
20 insureds of the insurer or any affiliate, or the consumer is not eligible for benefits such as dividends
21 that are available through affiliated insurers;

22 (2) "Contract", any [automobile] insurance policy [as defined in section 379.110, or any
23 property insurance policy as defined in section 375.001, including such a policy on a mobile home or
24 residential condominium unit or a policy of renters' or tenants' insurance. Contract shall not include
25 any] issued in this state other than a policy of mortgage insurance or commercial insurance;

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

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

Action Taken _____ Date _____

1 (a) Bears on a person's credit worthiness, credit standing, or credit capacity; and
 2 (b) Is used or collected wholly or partly to serve as a factor in the underwriting of a contract;
 3 [(4)] (5) "Credit scoring entity", any entity that is involved in creating, compiling, or
 4 providing insurance credit scores;

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

10 [(6)] (7) "Insurer", any insurance company or entity that offers a contract;

11 [(7)] (8) "Underwriting", the selection of the risk that will be assumed by the insurer on a
 12 contract, and specifically the decision whether to accept, deny, renew, nonrenew, reduce, or increase
 13 the amount of benefits payable, premium rate for coverage, or types of coverages under the contract.

14 2. An insurer using a credit report or insurance credit score as a factor in underwriting shall
 15 not take an adverse action against a new applicant based on such factor without consideration of
 16 another noncredit-related underwriting factor.

17 3. No insurer shall take an adverse action against [an] a new applicant [or insured] based on
 18 inability to compute an insurance credit score without consideration of another underwriting factor,
 19 unless the insurer can justify the credibility that the lack of an insurance credit score has in
 20 underwriting to the director of the department of insurance, financial institutions and professional
 21 registration.

22 4. An insurer using a credit report or insurance credit score as a factor in underwriting a
 23 contract for a new applicant shall disclose at the time of the original application for the contract or on
 24 the application itself that the insurer may gather credit information.

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

36 6. If the use of a credit report or insurance credit score on a contract results in an adverse
 37 action against a new applicant, the insurer shall provide the [policyholder or] applicant:

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

40 (2) The name, address, and telephone number of the consumer credit reporting agency that
 41 furnished the credit information, in compliance with the notice requirements of the federal Fair

1 Credit Reporting Act, 15 U.S.C. Section 1681, et seq.;

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

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

7 7. Within thirty days from the date the insurer provides notice of an adverse action pursuant
8 to subdivision (1) of subsection 6 of this section, the new applicant [or insured] may in writing
9 request from the insurer a statement of reasons for such action. For purposes of determining the
10 thirty-day period, the notice of an adverse action is deemed received three days after mailing. The
11 statement of reasons shall be sufficiently clear and specific so that a person of average intelligence
12 can identify the basis for the insurer's decision without further inquiry. An insurer may provide an
13 explanation of significant characteristics of the credit history that may have impacted such person's
14 insurance credit score to meet the requirements of this subsection. Standardized credit explanations
15 provided by credit scoring entities comply with this subsection. 8. If an insurer bases an adverse
16 action in part on a credit report or insurance credit score, the new applicant [or insured] may within
17 thirty days of such adverse action make a written request for reunderwriting following any correction
18 relating to the credit report or insurance credit score.

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

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

25 11. Nothing in this section shall be construed as superceding the provisions of section
26 375.002 and section 379.114. Nothing in this section shall be construed as prohibiting any insurer
27 from using credit information in determining whether to offer a policyholder or applicant the option
28 to finance or establish a payment plan for the payment of any premium for a contract. Nothing in
29 this section shall apply to any entity not acting as an insurer or credit scoring entity as defined in
30 subsection 1 of this section.

31 12. No credit scoring entity shall provide or sell to any party, other than the insurer, its
32 insurance company affiliates or holding companies, and the producer from whom the inquiry was
33 generated, data or lists that include any information that in whole or in part is submitted in
34 conjunction with credit inquiries about consumers. Such information includes, but is not limited to,
35 expiration dates, information that may identify time periods during which a consumer's insurance
36 may expire, or other nonpublic personal information as defined under the Gramm-Leach-Bliley Act,
37 15 U.S.C. Sections 6801 to 6809. The provisions of this subsection shall not preclude the exchange
38 of information specifically authorized under the federal Fair Credit Reporting Act, 15 U.S.C. Section
39 1681, et seq., the Gramm-Leach-Bliley Act, 15 U.S.C. Sections 6801 to 6809 and other applicable
40 federal law. The provisions of this subsection shall not apply to data disclosed in connection with a
41 proposed or actual sale, merger, transfer or exchange of all or a portion of an insurer's or producer's

1 business or operating unit, including but not limited to, the sale of a portfolio of contracts, if such
2 disclosure concerns solely consumers of the business or unit and such disclosure is not the primary
3 reason for the sale, merger, transfer or exchange.

4 13. Notwithstanding any other provision of law, no insurer shall use a credit report or
5 insurance credit score as a factor in underwriting or to take any adverse action based on a credit
6 report or insurance credit score against a person currently insured under an existing insurance
7 contract with the insurer.

8 14. A violation of this section may be enforceable under section 374.280.

9 [14.] 15. The provisions of this section shall apply to all contracts entered into on or after
10 [July 1, 2003] January 1, 2015."; and

11
12 Further amend said bill by amending the title, enacting clause, and intersectional references
13 accordingly.