

FIRST REGULAR SESSION

# HOUSE BILL NO. 1387

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE GRAY.

2742H.011

DANA RADEMAN MILLER, Chief Clerk

## AN ACT

To repeal sections 375.918 and 379.110, RSMo, and to enact in lieu thereof two new sections relating to the use of credit scores by insurance companies, with penalty provisions.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 375.918 and 379.110, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 375.918 and 379.110, to read as follows: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 action" includes, but is 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 or 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 or adverse or unfavorable change in the terms of coverage occurs**

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 **when 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**  
20 **affiliate, or the consumer is not eligible for benefits such as dividends that are available**  
21 **through affiliated insurers;**

22 (2) "Contract", any ~~[automobile]~~ insurance policy ~~[as defined in section 379.110, or~~  
23 ~~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 **Contract shall not include any] issued in this state other than a policy of mortgage insurance**  
26 **or commercial insurance;**

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

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

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

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

36 ~~[(4)]~~ (5) "Credit scoring entity", any entity that is involved in creating, compiling, or  
37 providing insurance credit scores;

38 ~~[(5)]~~ (6) "Insurance credit score", a **rating or** numerical representation ~~[of the~~  
39 ~~insurance risk a person presents using the person's attributes derived from a]~~ **derived by**  
40 **using a formula, algorithm, computer application, model, or other process that is based,**  
41 **in whole or in part, on the credit report or credit information [in a formula to assess**  
42 ~~insurance risk on an actuarial or statistical basis]~~ **of an applicant;**

43 ~~[(6)]~~ (7) "Insurer", any insurance company or entity that offers a contract;

44 ~~[(7)]~~ (8) "Underwriting", the selection of the risk that will be assumed by the insurer  
45 on a contract, and specifically the decision whether to accept, deny, renew, nonrenew, reduce,  
46 or increase the amount of benefits payable, **premium rate for coverage**, or types of  
47 coverages under the contract.

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

51 3. No insurer shall take an adverse action against ~~an~~ **a new applicant** ~~[or insured]~~  
52 based on inability to compute an insurance credit score without consideration of another  
53 underwriting factor, unless the insurer can justify the credibility that the lack of an insurance  
54 credit score has in underwriting to the director of the department of commerce and insurance.

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

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

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

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

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

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

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

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

91 of this subsection. Standardized credit explanations provided by credit scoring entities  
92 comply with this subsection.

93 8. If an insurer bases an adverse action in part on a credit report or insurance credit  
94 score, the **new** applicant [~~or insured~~] may within thirty days of such adverse action make a  
95 written request for reunderwriting following any correction relating to the credit report or  
96 insurance credit score.

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

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

103 11. Nothing in this section shall be construed as superceding the provisions of section  
104 375.002 and section 379.114. Nothing in this section shall be construed as prohibiting any  
105 insurer from using credit information in determining whether to offer a policyholder or  
106 applicant the option to finance or establish a payment plan for the payment of any premium  
107 for a contract. Nothing in this section shall apply to any entity not acting as an insurer or  
108 credit scoring entity as defined in subsection 1 of this section.

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

124 13. **Notwithstanding any other provision of law, no insurer shall use a credit**  
125 **report or insurance credit score as a factor in underwriting or take any adverse action**  
126 **based on a credit report or insurance credit score against a person currently insured**  
127 **under an existing insurance contract with the insurer.**

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

129           ~~[14.]~~ **15.** The provisions of this section shall apply to all contracts entered into on or  
130 after ~~July 1, 2003]~~ **January 1, 2024.**

          379.110. As used in sections 379.110 to 379.120 the following words and terms  
2 mean:

3           (1) "Insurer", any insurance company, association or exchange authorized to issue  
4 policies of automobile insurance in the state of Missouri;

5           (2) "Nonpayment of premium", failure of the named insured to discharge when due  
6 any of his or her obligations in connection with the payment of premiums on a policy, or any  
7 installment of such premium, whether the premium is payable directly to the insurer or its  
8 agent or indirectly under any premium finance plan or extension of credit;

9           (3) "Policy", an automobile policy providing automobile liability coverage, uninsured  
10 motorists coverage, automobile medical payments coverage, or automobile physical damage  
11 coverage insuring a private passenger automobile owned by an individual or partnership  
12 which has been in effect for more than sixty days or has been renewed. Policy does not mean:

13           (a) Any policy issued under an automobile assigned risk plan or automobile insurance  
14 plan;

15           (b) Any policy insuring more than four motor vehicles;

16           (c) Any policy covering the operation of a garage, automobile sales agency, repair  
17 shop, service station or public parking place;

18           (d) Any policy providing insurance only on an excess basis, or to any contract  
19 principally providing insurance to such named insured with respect to other than automobile  
20 hazards or losses even though such contract may incidentally provide insurance with respect  
21 to such motor vehicles;

22           (4) "Reduction in coverage", a change made at renewal by the insurer to a policy form  
23 which is effective to all insureds with that policy form, which results in a removal of  
24 coverage, diminution in scope or less coverage, or the addition of an exclusion. Reduction in  
25 coverage does not include any change, reduction, or elimination of coverage made at the  
26 request of the insured. The correction of typographical or scrivener's errors or the application  
27 of mandated legislative changes is not a reduction in coverage. A reduction in coverage  
28 mandated by the insurer which does not apply to all insureds with the same policy form shall  
29 be treated as a nonrenewal;

30           (5) "Renewal" or "to renew", the issuance and delivery by an insurer of a policy  
31 superseding at the end of the policy period a policy previously issued and delivered by the  
32 same insurer, or the issuance and delivery of a certificate or notice extending the term of a  
33 policy beyond its policy period or term; provided, however, that any policy with a policy  
34 period or term of less than six months or any period with no fixed expiration date shall for the

35 purpose of this section be considered as if written for successive policy periods or terms of six  
36 months. Nothing in this subdivision shall be construed as superseding the provisions of  
37 subsection 9 of section 375.918~~], and the term "third anniversary date of the initial contract"~~  
38 ~~as used in subsection 9 of section 375.918, means three years after the date of the initial~~  
39 ~~contract].~~

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