

FIRST REGULAR SESSION

HOUSE BILL NO. 209

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE GRAY.

0202H.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Section A. Sections 375.918 and 379.110, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 375.918 and 379.110, to read as follows: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 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, or any~~
23 ~~property insurance policy as defined in section 375.001, including such a policy on a mobile~~
24 ~~home or residential condominium unit or a policy of renters' or tenants' insurance. Contract shall~~
25 ~~not include any]~~ **issued in this state other than a policy of mortgage insurance or commercial**
26 **insurance;**

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

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

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

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

35 ~~[(4)]~~ (5) "Credit scoring entity", any entity that is involved in creating, compiling, or
36 providing insurance credit scores;

37 ~~[(5)]~~ (6) "Insurance credit score", a **rating or** numerical representation ~~[of the insurance~~
38 ~~risk a person presents using the person's attributes derived from a]~~ **derived by using a formula,**
39 **algorithm, computer application, model, or other process that is based, in whole or in part,**
40 **on the credit report or credit information** ~~[in a formula to assess insurance risk on an actuarial~~
41 ~~or statistical basis]~~ **of an applicant;**

42 ~~[(6)]~~ (7) "Insurer", any insurance company or entity that offers a contract;

43 ~~[(7)]~~ (8) "Underwriting", the selection of the risk that will be assumed by the insurer on
44 a contract, and specifically the decision whether to accept, deny, renew, nonrenew, reduce, or
45 increase the amount of benefits payable, **premium rate for coverage**, or types of coverages
46 under the contract.

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

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

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

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

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

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

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

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

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

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

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

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

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

100 11. Nothing in this section shall be construed as superceding the provisions of section
101 375.002 and section 379.114. Nothing in this section shall be construed as prohibiting any
102 insurer from using credit information in determining whether to offer a policyholder or applicant
103 the option to finance or establish a payment plan for the payment of any premium for a contract.
104 Nothing in this section shall apply to any entity not acting as an insurer or credit scoring entity
105 as defined in subsection 1 of this section.

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

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

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

126 [14.] 15. The provisions of this section shall apply to all contracts entered into on or after
127 ~~July 1, 2003~~ **January 1, 2022.**

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

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

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

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

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

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

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

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

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

29 (5) "Renewal" or "to renew", the issuance and delivery by an insurer of a policy
30 superseding at the end of the policy period a policy previously issued and delivered by the same
31 insurer, or the issuance and delivery of a certificate or notice extending the term of a policy
32 beyond its policy period or term; provided, however, that any policy with a policy period or term
33 of less than six months or any period with no fixed expiration date shall for the purpose of this
34 section be considered as if written for successive policy periods or terms of six months. Nothing

35 in this subdivision shall be construed as superseding the provisions of subsection 9 of section
36 375.918~~], and the term "third anniversary date of the initial contract" as used in subsection 9 of~~
37 ~~section 375.918, means three years after the date of the initial contract].~~

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