

FIRST REGULAR SESSION

# SENATE BILL NO. 422

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR MAY.

2033S.011

ADRIANE D. CROUSE, Secretary

## AN ACT

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

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Section A. Section 375.918, RSMo, is repealed and one new  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

375.918. 1. As used in this section, the following  
2 terms mean:

3 (1) ["Adverse action", a denial, nonrenewal of, or a  
4 reduction in the amount of benefits payable or types of  
5 coverages under any contract, existing or applied for, in  
6 connection with the underwriting of insurance. An offer by  
7 an insurer to write a contract through an affiliated insurer  
8 does not constitute an adverse action;

9 (2) ] "Contract", any [automobile insurance policy as  
10 defined in section 379.110, or any property insurance policy  
11 as defined in section 375.001, including such a policy on a  
12 mobile home or residential condominium unit or a policy of  
13 renters' or tenants' insurance. Contract] **policy of**  
14 **insurance as defined in section 375.012; except that for**  
15 **purposes of this section, such term** shall not include any  
16 policy of mortgage insurance or commercial insurance;

**EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

17            [(3)] (2) "Credit report", any written or electronic  
18 communication of any information by a consumer reporting  
19 agency that:

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

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

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

27            (5)] (3) "Insurance credit score", a numerical  
28 representation of the insurance risk a person presents using  
29 the person's attributes derived from a credit report or  
30 credit information in a formula to assess insurance risk on  
31 an actuarial or statistical basis;

32            [(6)] (4) "Insurer", any insurance company or entity  
33 that offers a contract;

34            [(7)] (5) "Underwriting", the selection of the risk  
35 that will be assumed by the insurer on a contract, and  
36 specifically the **determination of premium rates or the**  
37 decision whether to accept, deny, renew, nonrenew, reduce,  
38 or increase the amount of benefits payable or types of  
39 coverages under the contract.

40            2. [An] **No** insurer [using] **shall use** a credit report  
41 or insurance credit score as a factor in underwriting [shall  
42 not take an adverse action based on such factor without  
43 consideration of another noncredit-related underwriting  
44 factor] **a contract, as defined in this section.**

45            3. [No insurer shall take an adverse action against an  
46 applicant or insured based on inability to compute an  
47 insurance credit score without consideration of another  
48 underwriting factor, unless the insurer can justify the

49 credibility that the lack of an insurance credit score has  
50 in underwriting to the director of the department of  
51 commerce and insurance.

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

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

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

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

80           (2) The name, address, and telephone number of the  
81 consumer credit reporting agency that furnished the credit  
82 information, in compliance with the notice requirements of  
83 the federal Fair Credit Reporting Act, 15 U.S.C. Section  
84 1681, et seq.;

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

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

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

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

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

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

122           11.] Nothing in this section shall be construed as  
123 superceding the provisions of section 375.002 and section  
124 379.114. Nothing in this section shall be construed as  
125 prohibiting any insurer from using credit information in  
126 determining whether to offer a policyholder or applicant the  
127 option to finance or establish a payment plan for the  
128 payment of any premium for a contract. Nothing in this  
129 section shall apply to any entity not acting as an insurer  
130 [or credit scoring entity], as defined in subsection 1 of  
131 this section.

132           [12. No credit scoring entity shall provide or sell to  
133 any party, other than the insurer, its insurance company  
134 affiliates or holding companies, and the producer from whom  
135 the inquiry was generated, data or lists that include any  
136 information that in whole or in part is submitted in  
137 conjunction with credit inquiries about consumers. Such  
138 information includes, but is not limited to, expiration  
139 dates, information that may identify time periods during  
140 which a consumer's insurance may expire, or other nonpublic  
141 personal information as defined under the Gramm-Leach-Bliley  
142 Act, 15 U.S.C. Sections 6801 to 6809. The provisions of  
143 this subsection shall not preclude the exchange of

144 information specifically authorized under the federal Fair  
145 Credit Reporting Act, 15 U.S.C. Section 1681, et seq., the  
146 Gramm-Leach-Bliley Act, 15 U.S.C. Sections 6801 to 6809 and  
147 other applicable federal law. The provisions of this  
148 subsection shall not apply to data disclosed in connection  
149 with a proposed or actual sale, merger, transfer or exchange  
150 of all or a portion of an insurer's or producer's business  
151 or operating unit, including but not limited to, the sale of  
152 a portfolio of contracts, if such disclosure concerns solely  
153 consumers of the business or unit and such disclosure is not  
154 the primary reason for the sale, merger, transfer or  
155 exchange.

156       13.] 4. A violation of this section may be enforceable  
157 under section 374.280.

158       [14.] 5. The provisions of this section shall apply to  
159 all contracts [entered into] **delivered, issued for delivery,**  
160 **continued, or renewed in this state** on or after [July 1,  
161 2003] **January 1, 2022.**

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