

SENATE SUBSTITUTE

FOR

SENATE COMMITTEE SUBSTITUTE

FOR

HOUSE SUBSTITUTE

FOR

HOUSE COMMITTEE SUBSTITUTE

FOR

HOUSE BILLS NOS. 1502 & 1821

AN ACT

To amend chapter 375, RSMo, by adding thereto one new section relating to credit information used in insurance underwriting.

---

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,  
AS FOLLOWS:

1           Section A. Chapter 375, RSMo, is amended by adding thereto  
2 one new section, to be known as section 375.918, to read as  
3 follows:

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

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

12           (2) "Contract", any automobile insurance policy as defined

1 in section 379.110, RSMo, or any property insurance policy as  
2 defined in section 375.001, including such a policy on a mobile  
3 home or residential condominium unit or a policy of renters' or  
4 tenants' insurance. Contract shall not include any policy of  
5 mortgage insurance or commercial insurance;

6 (3) "Credit report", any written or electronic  
7 communication of any information by a consumer reporting agency  
8 that:

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

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

13 (4) "Credit scoring entity", any entity that is involved in  
14 creating, compiling, or providing insurance credit scores;

15 (5) "Insurance credit score", a numerical representation of  
16 the insurance risk a person presents using the person's  
17 attributes derived from a credit report or credit information in  
18 a formula to assess insurance risk on an actuarial or statistical  
19 basis;

20 (6) "Insurer", any insurance company or entity that offers  
21 a contract;

22 (7) "Underwriting", the selection of the risk that will be  
23 assumed by the insurer on a contract, and specifically the  
24 decision whether to accept, deny, renew, nonrenew, reduce, or  
25 increase the amount of benefits payable or types of coverages  
26 under the contract.

27 2. An insurer using a credit report or insurance credit  
28 score as a factor in underwriting shall not take an adverse

1 action based on such factor without consideration of another  
2 noncredit related underwriting factor.

3 3. No insurer shall take an adverse action against an  
4 applicant or insured based on inability to compute an insurance  
5 credit score without consideration of another underwriting  
6 factor, unless the insurer can justify the credibility that the  
7 lack of an insurance credit score has in underwriting to the  
8 director of insurance.

9 4. An insurer using a credit report or insurance credit  
10 score as a factor in underwriting a contract shall disclose at  
11 the time of the original application for the contract or on the  
12 application itself that the insurer may gather credit  
13 information.

14 5. An insurer using a credit report or insurance credit  
15 score as a factor in underwriting of a contract shall not take an  
16 adverse action on such contract based on information that is the  
17 subject of a written dispute between the policyholder or  
18 applicant and a consumer reporting agency, as noted in such  
19 person's credit report, until such dispute has reached final  
20 determination in accordance with the federal Fair Credit  
21 Reporting Act, 15 U.S.C. Section 1681, et seq. In the event that  
22 information is the subject of a written dispute under this  
23 subsection, the sixty-day period provided by section 375.002 or  
24 section 379.110, RSMo, shall be extended until fifteen days after  
25 the dispute reaches final determination. Nothing in this  
26 subsection shall be construed to require any consumer reporting  
27 agency, as defined by the federal Fair Credit Reporting Act, 15  
28 U.S.C. Section 1681, et seq., to include any information on a

1 credit report beyond the extent required by the federal Fair  
2 Credit Reporting Act, 15 U.S.C. Section 1681, et seq.

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

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

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

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

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

18 7. Within thirty days from the date the insurer provides  
19 notice of an adverse action pursuant to subdivision (1) of  
20 subsection 6 of this section, the applicant or insured may in  
21 writing request from the insurer a statement of reasons for such  
22 action. For purposes of determining the thirty-day period, the  
23 notice of an adverse action is deemed received three days after  
24 mailing. The statement of reasons shall be sufficiently clear  
25 and specific so that a person of average intelligence can  
26 identify the basis for the insurer's decision without further  
27 inquiry. An insurer may provide an explanation of significant  
28 characteristics of the credit history that may have impacted such

1 person's insurance credit score to meet the requirements of this  
2 subsection. Standardized credit explanations provided by credit  
3 scoring entities comply with this subsection.

4 8. If an insurer bases an adverse action in part on a  
5 credit report or insurance credit score, the applicant or insured  
6 may within thirty days of such adverse action make a written  
7 request for re-underwriting following any correction relating to  
8 the credit report or insurance credit score.

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

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

18 11. Nothing in this section shall be construed as  
19 superceding the provisions of section 375.002 and section  
20 379.114, RSMo. Nothing in this section shall be construed as  
21 prohibiting any insurer from using credit information in  
22 determining whether to offer a policyholder or applicant the  
23 option to finance or establish a payment plan for the payment of  
24 any premium for a contract. Nothing in this section shall apply  
25 to any entity not acting as an insurer or credit scoring entity  
26 as defined in subsection 1 of this section.

27 12. No credit scoring entity shall provide or sell to any  
28 party, other than the insurer, its insurance company affiliates

1 or holding companies, and the producer from whom the inquiry was  
2 generated, data or lists that include any information that in  
3 whole or in part is submitted in conjunction with credit  
4 inquiries about consumers. Such information includes, but is not  
5 limited to, expiration dates, information that may identify time  
6 periods during which a consumer's insurance may expire, or other  
7 nonpublic personal information as defined under the Gramm-Leach-  
8 Bliley Act, 15 U.S.C. Sections 6801 to 6809. The provisions of  
9 this subsection shall not preclude the exchange of information  
10 specifically authorized under the federal Fair Credit Reporting  
11 Act, 15 U.S.C. Section 1681, et seq., the Gramm-Leach-Bliley Act,  
12 15 U.S.C. Sections 6801 to 6809 and other applicable federal law.  
13 The provisions of this subsection shall not apply to data  
14 disclosed in connection with a proposed or actual sale, merger,  
15 transfer or exchange of all or a portion of an insurer's or  
16 producer's business or operating unit, including but not limited  
17 to, the sale of a portfolio of contracts, if such disclosure  
18 concerns solely consumers of the business or unit and such  
19 disclosure is not the primary reason for the sale, merger,  
20 transfer or exchange.

21 13. A violation of this section may be enforceable under  
22 section 374.280, RSMo.

23 14. The provisions of this section shall apply to all  
24 contracts entered into on or after July 1, 2003.