

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE SUBSTITUTE FOR
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HOUSE BILL NOS. 1502 & 1821
91ST GENERAL ASSEMBLY

3806S.05T

2002

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:

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

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

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

6 (2) "Contract", any automobile insurance policy as defined in section 379.110,
7 RSMo, or any property insurance policy as defined in section 375.001, including such a
8 policy on a mobile home or residential condominium unit or a policy of renters' or tenants'
9 insurance. Contract shall not include any policy of mortgage insurance or commercial
10 insurance;

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

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

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

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

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

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

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

25 2. An insurer using a credit report or insurance credit score as a factor in
26 underwriting shall not take an adverse action based on such factor without consideration
27 of another noncredit related underwriting factor.

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

32 4. An insurer using a credit report or insurance credit score as a factor in
33 underwriting a contract shall disclose at the time of the original application for the
34 contract or on the application itself that the insurer may gather credit information.

35 5. An insurer using a credit report or insurance credit score as a factor in
36 underwriting of a contract shall not take an adverse action on such contract based on
37 information that is the subject of a written dispute between the policyholder or applicant
38 and a consumer reporting agency, as noted in such person's credit report, until such
39 dispute has reached final determination in accordance with the federal Fair Credit
40 Reporting Act, 15 U.S.C. Section 1681, et seq. In the event that information is the subject
41 of a written dispute under this subsection, the sixty-day period provided by section 375.002
42 or section 379.110, RSMo, shall be extended until fifteen days after the dispute reaches
43 final determination. Nothing in this subsection shall be construed to require any consumer
44 reporting agency, as defined by the federal Fair Credit Reporting Act, 15 U.S.C. Section
45 1681, et seq., to include any information on a credit report beyond the extent required by
46 the federal Fair Credit Reporting Act, 15 U.S.C. Section 1681, et seq.

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

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

51 (2) The name, address, and telephone number of the consumer credit reporting

52 agency that furnished the credit information, in compliance with the notice requirements
53 of the federal Fair Credit Reporting Act, 15 U.S.C. Section 1681, et seq.;

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

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

59 7. Within thirty days from the date the insurer provides notice of an adverse action
60 pursuant to subdivision (1) of subsection 6 of this section, the applicant or insured may in
61 writing request from the insurer a statement of reasons for such action. For purposes of
62 determining the thirty-day period, the notice of an adverse action is deemed received three
63 days after mailing. The statement of reasons shall be sufficiently clear and specific so that
64 a person of average intelligence can identify the basis for the insurer's decision without
65 further inquiry. An insurer may provide an explanation of significant characteristics of
66 the credit history that may have impacted such person's insurance credit score to meet the
67 requirements of this subsection. Standardized credit explanations provided by credit
68 scoring entities comply with this subsection.

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

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

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

79 11. Nothing in this section shall be construed as superceding the provisions of
80 section 375.002 and section 379.114, RSMo. Nothing in this section shall be construed as
81 prohibiting any insurer from using credit information in determining whether to offer a
82 policyholder or applicant the option to finance or establish a payment plan for the payment
83 of any premium for a contract. Nothing in this section shall apply to any entity not acting
84 as an insurer or credit scoring entity as defined in subsection 1 of this section.

85 12. No credit scoring entity shall provide or sell to any party, other than the
86 insurer, its insurance company affiliates or holding companies, and the producer from
87 whom the inquiry was generated, data or lists that include any information that in whole

88 or in part is submitted in conjunction with credit inquiries about consumers. Such
89 information includes, but is not limited to, expiration dates, information that may identify
90 time periods during which a consumer's insurance may expire, or other nonpublic personal
91 information as defined under the Gramm-Leach-Bliley Act, 15 U.S.C. Sections 6801 to
92 6809. The provisions of this subsection shall not preclude the exchange of information
93 specifically authorized under the federal Fair Credit Reporting Act, 15 U.S.C. Section
94 1681, et seq., the Gramm-Leach-Bliley Act, 15 U.S.C. Sections 6801 to 6809 and other
95 applicable federal law. The provisions of this subsection shall not apply to data disclosed
96 in connection with a proposed or actual sale, merger, transfer or exchange of all or a
97 portion of an insurer's or producer's business or operating unit, including but not limited
98 to, the sale of a portfolio of contracts, if such disclosure concerns solely consumers of the
99 business or unit and such disclosure is not the primary reason for the sale, merger, transfer
100 or exchange.

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

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