

SECOND REGULAR SESSION

HOUSE BILL NO. 1116

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES SALVA (Sponsor) AND WILDBERGER (Co-sponsor).

Pre-filed December 14, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

3433L.01I

AN ACT

To repeal section 375.918, RSMo, and to enact in lieu thereof one new section relating to insurance credit scoring.

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Section A. Section 375.918, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 375.917, to read as follows:

375.917. 1. Notwithstanding any other provision of law to the contrary, no insurer shall use credit reports or credit scoring as a factor in underwriting an insurance contract issued or renewed on or after August 28, 2006.

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

[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;

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

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

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.

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

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

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

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

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

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

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

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

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

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

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

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

58 (2) The name, address, and telephone number of the consumer credit
59 reporting agency that furnished the credit information, in compliance with the
60 notice requirements of the federal Fair Credit Reporting Act, 15 U.S.C. Section
61 1681, et seq.;

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

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

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

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

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

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

91 11. Nothing in this section shall be construed as superceding the
92 provisions of section 375.002 and section 379.114, RSMo. Nothing in this
93 section shall be construed as prohibiting any insurer from using credit
94 information in determining whether to offer a policyholder or applicant the option
95 to finance or establish a payment plan for the payment of any premium for a
96 contract. Nothing in this section shall apply to any entity not acting as an insurer
97 or credit scoring entity as defined in subsection 1 of this section.

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

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

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

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