

FIRST REGULAR SESSION

# HOUSE BILL NO. 214

## 98TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE FRAKER.

0287H.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

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

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*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Section A. Section 375.918, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 375.918, to read as follows: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 actions include, but are 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, 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, adverse, or unfavorable change in the terms of coverage occurs if**

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.

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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 insurance, financial institutions and  
54 professional registration.

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

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

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

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

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

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

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

82           7. Within thirty days from the date the insurer provides notice of an adverse action  
83 pursuant to subdivision (1) of subsection 6 of this section, the **new** applicant [or insured] may  
84 in writing request from the insurer a statement of reasons for such action. For purposes of  
85 determining the thirty-day period, the notice of an adverse action is deemed received three days

86 after mailing. The statement of reasons shall be sufficiently clear and specific so that a person  
87 of average intelligence can identify the basis for the insurer's decision without further inquiry.  
88 An insurer may provide an explanation of significant characteristics of the credit history that may  
89 have impacted such person's insurance credit score to meet the requirements of this subsection.  
90 Standardized credit explanations provided by credit scoring entities comply with this subsection.

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

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

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

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

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

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

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

127           **[14.] 15.** The provisions of this section shall apply to all contracts entered into on or after  
128 **[July 1, 2003] January 1, 2016.**

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