

House \_\_\_\_\_ Amendment NO. \_\_\_\_\_

Offered By

1 AMEND House Committee Substitute for House Bill No. 2194, Page 1, In the title, Line 3, by  
2 deleting all of said line and inserting in lieu thereof the following:

3 "relating to the business of insurance.": and  
4

5 Further amend said bill, Page 2, Section 375.004, Line 24, by inserting after all of said line the  
6 following:

7 "375.918. 1. As used in this section, the following terms mean:

8 (1) "Adverse action", [a denial, nonrenewal of, or a reduction in the amount of benefits  
9 payable or types of coverages under any contract, existing or applied for, in connection with the  
10 underwriting of insurance. An offer by an insurer to write a contract through an affiliated insurer  
11 does not constitute an adverse action] the same meaning as defined in the Fair Credit Reporting Act,  
12 15 U.S.C. Section 1681, et. seq. Adverse actions include, but are not limited to:

13 (a) Cancellation, denial, or nonrenewal of personal insurance coverage;

14 (b) Charging a higher insurance premium for personal insurance than would have been  
15 offered if the credit history or insurance credit score had been more favorable, whether the charge is  
16 by application of a rating rule, assignment to a rating tier that does not have the lowest available  
17 rates, or placement with an affiliate company that does not offer the lowest rates available to the  
18 consumer within the affiliate group of insurance companies; or

19 (c) Any reduction or adverse or unfavorable change in the terms of coverage or amount of  
20 any personal insurance due to a consumer's credit history or insurance credit score. A reduction or  
21 adverse or unfavorable change in the terms of coverage occurs when either the coverage provided to  
22 the consumer is not as broad in scope as coverage requested by the consumer but is available to  
23 other insureds of the insurer or any affiliate, or the consumer is not eligible for benefits such as  
24 dividends that are available through affiliated insurers;

25 (2) "Contract", any [automobile] insurance policy [as defined in section 379.110, or any  
26 property insurance policy as defined in section 375.001, including such a policy on a mobile home  
27 or residential condominium unit or a policy of renters' or tenants' insurance. Contract shall not  
28 include any] issued in this state other than a policy of mortgage insurance or commercial insurance;

29 (3) "Credit information", any insurance credit score or credit-related information derived  
30 from a credit report, found on a credit report itself, or provided on an application for insurance, but  
31 shall not include information that is not credit-related;

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

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

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

Standing Action Taken \_\_\_\_\_ Date \_\_\_\_\_

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1           [(4)] (5) "Credit scoring entity", any entity that is involved in creating, compiling, or  
2 providing insurance credit scores;

3           [(5)] (6) "Insurance credit score", a rating or numerical representation [of the insurance risk  
4 a person presents using the person's attributes derived from a] derived by using a formula,  
5 algorithm, computer application, model, or other process that is based, in whole or in part, on the  
6 credit report or credit information [in a formula to assess insurance risk on an actuarial or statistical  
7 basis] of an applicant;

8           [(6)] (7) "Insurer", any insurance company or entity that offers a contract;

9           [(7)] (8) "Underwriting", the selection of the risk that will be assumed by the insurer on a  
10 contract, and specifically the decision whether to accept, deny, renew, nonrenew, reduce, or increase  
11 the amount of benefits payable, premium rate for coverage, or types of coverages under the contract.

12           2. An insurer using a credit report or insurance credit score as a factor in underwriting shall  
13 not take an adverse action against a new applicant based on such factor without consideration of  
14 another noncredit-related underwriting factor.

15           3. No insurer shall take an adverse action against [an] a new applicant [or insured] based on  
16 inability to compute an insurance credit score without consideration of another underwriting factor,  
17 unless the insurer can justify the credibility that the lack of an insurance credit score has in  
18 underwriting to the director of the department of insurance, financial institutions and professional  
19 registration.

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

23           5. An insurer using a credit report or insurance credit score as a factor in underwriting of a  
24 contract for a new applicant shall not take an adverse action on such contract based on information  
25 that is the subject of a written dispute between the [policyholder or] applicant and a consumer  
26 reporting agency, as noted in such person's credit report, until such dispute has reached final  
27 determination in accordance with the federal Fair Credit Reporting Act, 15 U.S.C. Section 1681, et  
28 seq. In the event that information is the subject of a written dispute under this subsection, the sixty-  
29 day period provided by section 375.002 or section 379.110, shall be extended until fifteen days after  
30 the dispute reaches final determination. Nothing in this subsection shall be construed to require any  
31 consumer reporting agency, as defined by the federal Fair Credit Reporting Act, 15 U.S.C. Section  
32 1681, et seq., to include any information on a credit report beyond the extent required by the federal  
33 Fair Credit Reporting Act, 15 U.S.C. Section 1681, et seq.

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

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

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

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

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

46           7. Within thirty days from the date the insurer provides notice of an adverse action pursuant  
47 to subdivision (1) of subsection 6 of this section, the new applicant [or insured] may in writing  
48 request from the insurer a statement of reasons for such action. For purposes of determining the

1 thirty-day period, the notice of an adverse action is deemed received three days after mailing. The  
2 statement of reasons shall be sufficiently clear and specific so that a person of average intelligence  
3 can identify the basis for the insurer's decision without further inquiry. An insurer may provide an  
4 explanation of significant characteristics of the credit history that may have impacted such person's  
5 insurance credit score to meet the requirements of this subsection. Standardized credit explanations  
6 provided by credit scoring entities comply with this subsection.

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

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

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

16 11. Nothing in this section shall be construed as superceding the provisions of section  
17 375.002 and section 379.114. Nothing in this section shall be construed as prohibiting any insurer  
18 from using credit information in determining whether to offer a policyholder or applicant the option  
19 to finance or establish a payment plan for the payment of any premium for a contract. Nothing in  
20 this section shall apply to any entity not acting as an insurer or credit scoring entity as defined in  
21 subsection 1 of this section.

22 12. No credit scoring entity shall provide or sell to any party, other than the insurer, its  
23 insurance company affiliates or holding companies, and the producer from whom the inquiry was  
24 generated, data or lists that include any information that in whole or in part is submitted in  
25 conjunction with credit inquiries about consumers. Such information includes, but is not limited to,  
26 expiration dates, information that may identify time periods during which a consumer's insurance  
27 may expire, or other nonpublic personal information as defined under the Gramm-Leach-Bliley Act,  
28 15 U.S.C. Sections 6801 to 6809. The provisions of this subsection shall not preclude the exchange  
29 of information specifically authorized under the federal Fair Credit Reporting Act, 15 U.S.C.  
30 Section 1681, et seq., the Gramm-Leach-Bliley Act, 15 U.S.C. Sections 6801 to 6809 and other  
31 applicable federal law. The provisions of this subsection shall not apply to data disclosed in  
32 connection with a proposed or actual sale, merger, transfer or exchange of all or a portion of an  
33 insurer's or producer's business or operating unit, including but not limited to, the sale of a portfolio  
34 of contracts, if such disclosure concerns solely consumers of the business or unit and such disclosure  
35 is not the primary reason for the sale, merger, transfer or exchange.

36 13. Notwithstanding any other provision of law, no insurer shall use a credit report or  
37 insurance credit score as a factor in underwriting or take any adverse action based on a credit report  
38 or insurance credit score against a person currently insured under an existing insurance contract with  
39 the insurer.

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

41 [14.] 15. The provisions of this section shall apply to all contracts entered into on or after  
42 [July 1, 2003] January 1, 2017."; and

43  
44 Further amend said bill by amending the title, enacting clause, and intersectional references  
45 accordingly.