

SECOND REGULAR SESSION

SENATE BILL NO. 1215

91ST GENERAL ASSEMBLY

INTRODUCED BY SENATORS BLAND, COLEMAN, WIGGINS, STOLL, SIMS AND DePASCO.

Read 1st time February 26, 2002, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

4821S.011

AN ACT

To amend chapter 375, RSMo, by adding thereto twenty-eight new sections relating to 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 twenty-eight new sections, to be known as sections 375.1601, 375.1602, 375.1603, 375.1604, 375.1605, 375.1606, 375.1607, 375.1608, 375.1609, 375.1701, 375.1702, 375.1703, 375.1704, 375.1705, 375.1706, 375.1707, 375.1708, 375.1709, 375.1710, 375.1711, 375.1712, 375.1713, 375.1714, 375.1715, 375.1716, 375.1717, 375.1718, and 375.1719, to read as follows:

375.1601. 1. Sections 375.1601 to 375.1609 shall apply to each property and casualty insurer that uses credit reports or credit scores for:

(1) Underwriting purposes, including declinations and placement with a particular insurer within a group of affiliated insurers; or

(2) Rate-making purposes, including determinations that result in surcharges or tier placement within an insurer.

Sections 375.1601 to 375.1609 do not apply to the use of a credit report or credit score by an insurer in an insurance transaction that is not initiated by a consumer and consists of a firm offer of insurance.

2. If an insurer refuses to underwrite after a consumer submits an application in response to a firm offer of insurance, the refusal to underwrite is not part of a transaction that is not initiated by a consumer and is subject to sections 375.1601 to 375.1609 and any provisions of state law that are applicable to underwriting.

3. Sections 375.1601 to 375.1609 do not apply to a dispute regarding the

accuracy or completeness of information in a credit report.

375.1602. As used in sections 375.1601 to 375.1609, the following terms mean:

(1) "Affiliated insurer", an insurer that directly or indirectly through one or more intermediaries controls, is controlled by, or is under common control with another insurer;

(2) "Control", has the same meaning as defined in section 382.010, RSMo;

(3) "Credit criterion", information bearing on a particular aspect of an individual's credit history;

(4) "Credit Report", any written, oral, or other communication of any information by a consumer reporting agency that:

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

(b) Is used or collected or expected to be used or collected wholly or partly to serve as a factor in establishing the consumer's eligibility or pricing for personal lines of property and casualty insurance that are used primarily for personal, family, or household purposes.

Credit report does not include an accident history report, record of motor vehicle violations, a property loss report, or claims history report as long as such reports do not also include information that bears on a consumer's credit worthiness, credit standing, or credit capacity;

(5) "Credit Score", a score that is derived by utilizing data from an individual's credit report in an algorithm, computer program, model, or other process that reduces the data to a number or rating;

(6) "Director", the director of the Missouri department of insurance;

(7) "Firm offer of insurance", an offer of insurance to a consumer that will be honored if the consumer is determined, based on information in a credit report on the consumer, to meet the specific criteria used to select the consumer for the offer and may be further conditioned on one or more of the following:

(a) A determination, based on information in the consumer's application for insurance, that the consumer meets specific criteria that bears on insurability and were established before selection of the consumer for the offer and for the purpose of determining whether to extend insurance pursuant to the offer;

(b) A verification that the consumer continues to meet the specific criteria used to select the consumer for the offer, by using information in a credit report on the consumer, information in the consumer's application for the insurance, or other information bearing on the insurability of the consumer;

(c) A verification of the information in the consumer's application for

insurance to determine that the consumer meets the specific criteria bearing on credit worthiness or insurability; or

(d) Provision by the consumer of any collateral that is a requirement for the extension of the insurance which requirement was established before selection of the consumer for the offer of insurance and disclosed to the consumer in the offer of insurance;

(8) "Tier", a category within a single insurer into which insureds with similar risk characteristics are placed for purposes of determining a premium rate.

375.1603. 1. An insurer or an agent of an insurer shall not obtain a credit report or credit score for an applicant or insured unless the insurer or agent obtains a credit report or credit score for each applicant or insured of the insurer or in accordance with a written standard for determining when to obtain a credit report or credit score that meets the requirements of subsection 2 of this section.

2. A written standard for determining when to obtain a credit report or credit score shall:

(1) Prohibit obtaining a credit report or credit score based wholly or partly on race, color, creed, sex, religion, national origin, place of residency, blindness, or any other physical handicap or disability of an applicant or insured;

(2) Prohibit obtaining a credit report or credit score for any arbitrary, capricious, or unfairly discriminatory reason;

(3) Require the decision to obtain a credit report or credit score to be reasonably related to the insurer's economic and business purposes; and

(4) Otherwise comply with the insurance laws of this state.

3. If an insurer uses credit criteria or a credit score for initial underwriting and has a renewal underwriting program to evaluate an insured's eligibility for continued coverage or continued placement in a tier, the insurer shall, at the time of renewal underwriting, obtain a current credit report or credit score for each insured that is subject to the renewal underwriting program.

4. At the request of the director, an insurer shall file with the director a copy of its written standard established pursuant to subsections 1 and 2 of this section.

5. A written standard submitted to the director under subsection 4 of this section shall be treated as a trade secret and entitled to confidential treatment under this state's open records law and the regulations promulgated by the director. If the director finds that a written standard is not a trade secret or confidential commercial information under its regulations, the insurer that submitted the written standard may withdraw the written standard. An insurer shall not use a written standard that has been withdrawn.

375.1604. 1. If an insurer, or an agent on behalf of an insurer, uses credit criteria or a credit score wholly or partly as a reason to cancel or refuse to renew coverage or to refuse to underwrite a particular insurance risk or class of risk, the credit criteria or credit score shall be established and used in a manner that:

(1) Is not based wholly or partly on race, color, creed, sex, religion, national origin, place of residency, blindness, or any other physical handicap or disability of an applicant or insured;

(2) Is not arbitrary, capricious, or unfairly discriminatory;

(3) Is reasonably related to the insurer's economic and business purposes; and

(4) Otherwise complies with the insurance laws of this state.

2. If an insurer or agent cancels or refuses to renew a policy or refuses to underwrite a risk based wholly or partly on information contained in a credit report or credit score that the insurer or agent knows is inaccurate or incomplete, the action of the insurer or agent is deemed to be arbitrary, capricious, and unfairly discriminatory and not reasonably related to the insurer's economic and business purposes.

3. If an insurer uses directly or indirectly the number of insurance inquiries made by a consumer as a negative factor in its credit rating or credit scoring formulas, the resulting rate is deemed to be excessive and unfairly discriminatory.

4. If an insurer uses credit criteria or a credit score wholly or partly as a reason to cancel or refuse to renew coverage or to refuse to underwrite a particular insurance risk or class of risk, the insurer, or another person authorized to act on behalf of the insurer, shall file with the director:

(1) The characteristics or factors from a credit report that are used as credit criteria or used in determining a credit score;

(2) In the case of credit scoring, the algorithm, computer program, model, or other process that is used in determining a credit score along with the underlying support, including statistical validation, for the development of the algorithm, computer program, model, or other process that is used in determining a credit score; and

(3) Any underwriting guidelines relating to the use of the credit criteria or credit scores along with all appropriate supporting material for the use of the underwriting guidelines.

5. Materials and documentation submitted to the director under subsection 4 of this section shall be treated as a trade secret and entitled to confidential treatment under this state's open records laws and the regulations promulgated by the director. After August 28, 2002, an insurer shall not use an underwriting guideline or

an algorithm, computer program, model, or other process required to be filed under subsection 4 of this section unless it has been filed with the director under subsection 4 of this section.

375.1605. 1. This section shall only apply to an insurer with more than one tier.

2. If an insurer uses credit criteria or a credit score as part of the insurer's rate-making standards, the credit criteria or credit score shall be established and used in a manner that does not result in rates that are excessive, inadequate, or unfairly discriminatory and otherwise complies with the laws of this state.

3. If an insurer increases a premium based wholly or partly on information contained in a credit report or credit score that the insurer knows is inaccurate or incomplete, the resulting rate is deemed to be excessive and unfairly discriminatory. If an insurer uses directly or indirectly the number of insurance inquiries made by a consumer as a negative factor in its credit rating or credit scoring formulas, the resulting rate is deemed to be excessive and unfairly discriminatory.

4. An insurer, or another person authorized by the director to act on behalf of the insurer, that uses as part of its rating methodology, credit criteria, or a credit score for determining placement in a tier or as a rating factor shall file with the director as part of the insurer's rate filing:

- (1) The credit criterion or factor associated with the tier rating factor;**
- (2) The tier rating factor;**
- (3) In the use of credit scoring, the algorithm, computer program, model, or other process that is used in determining a credit score; and**
- (4) The underlying support, including statistical validation, for the development of the standards listed in subdivisions (1) to (3) of this subsection.**

5. Materials and documentation submitted to the director under subsection 4 of this section shall be treated as a trade secret and entitled to confidential treatment under this state's open records law and the regulations promulgated by the director. After August 28, 2002, an insurer shall not use an underwriting guideline or an algorithm, computer program, model, or other process required to be filed under subsection 4 of this section unless it has been filed with the director under subsection 3 of this section.

375.1606. 1. When an insurer cancels or refuses to renew a policy or binder or cancels, refuses to renew, or reduces coverage under a policy based wholly or partly on a credit criterion or credit score, the insurer shall provide the insured with:

- (1) A sufficiently clear and specific statement of the reasons for the insurer's decision; and**

(2) The information needed to obtain a copy of the insured's credit report as required by the federal Fair Credit Reporting Act, 15 U.S.C. Section 1681, et seq. The use of generalized terms such as "poor credit history", "poor credit rating", or "poor credit score" does not meet the requirements of this subsection. A reason provided in the statement of actual reason is sufficiently clear and specific if it identifies the primary attributes or characteristics of the insured's credit history that led to the insurer's decision.

2. If an insured believes that a cancellation of, refusal to renew, increase in premium for, or reduction in coverage under a policy or violates any of the provisions of sections 375.1601 to 375.1609, the insured may request the director to review the action of the insurer. In the case of a cancellation of or refusal to renew a policy, the policy remains in effect until a finding is issued if, before the effective date of the termination of the policy, the insured asks the director to review the cancellation or refusal to renew and the director begins action to investigate and issue a finding.

3. If an insured believes that a cancellation of, refusal to renew, increase in premium for, or reduction of coverage under a policy or binder with respect to private passenger automobile insurance violates any of the provisions of sections 375.1601 to 375.1609, the insured may protest the action of the insurer. A timely filed protest stays the proposed action of the insurer pending a final determination by the director.

4. The information that an insurer or agent is required to provide under sections 375.1601 to 375.1609 is in addition to any other information required to be provided by any other provision of law.

375.1607. 1. When an insurer, or an agent on behalf of an insurer, denies insurance to an applicant based wholly or partly on information in a credit report or on a credit score, the insurer or agent shall comply with any notice requirements of this state and the federal Fair Credit Reporting Act, 15 U.S.C. Section 1681, et seq.

2. If an applicant believes that a denial of insurance violates the provisions of sections 375.1601 to 375.1609, the insured may request the director to review the denial of insurance.

375.1608. If an insurer, or an agent on behalf of an insurer, uses credit criteria or a credit score wholly or partly as a reason to cancel or refuse to renew coverage, to refuse to underwrite, or as a basis for rating any risks or classes of risk, any insured may request reevaluation for the purposes of determining entitlement to a more favorable rate as a result on credit criteria.

375.1609. 1. The director shall establish statistical bases for the reporting of data regarding the relationship between consumer credit ratings and losses under property and casualty insurance policies.

2. Each insurer employing the use of credit rating or credit scoring in its underwriting or rating shall annually report to the director, or a statistical agency designated by the director, its experience loss data and related credit score data in such a manner as the director shall require. Such reports by insurers to the director shall be confidential and not subject to this state's open records laws. The director shall have the authority to review and verify the accuracy of the data reported. The director shall make aggregate reports of data acquired hereunder and such reports shall be made available to the public.

375.1701. Sections 375.1701 to 375.1719 shall apply to all insurers issuing or renewing in this state any policy or certificate of insurance as defined in section 375.1702. Nothing herein shall be construed to create or imply a private cause of action for a violation of sections 375.1701 to 375.1719 except that a named insured may appeal the termination of the named insured's policy pursuant to section 375.1715.

375.1702. As used in sections 375.1701 to 375.1719, the following terms shall mean:

(1) "Cancellation" or "canceled", the termination of a policy by an insurer prior to the expiration date of the policy;

(2) "Concealed or misrepresented a material fact or circumstance", falsification or omission of a material fact that had the insurer known the truth it would not have insured the risk, would not have issued the policy, would have charged a higher premium other than an incidental amount for insuring the risk, or would not have issued a policy in as large an amount or under the same terms;

(3) "Director", the director of the Missouri department of insurance;

(4) "Improper termination", a termination which violates any provision of sections 375.1701 to 375.1719 or any regulations promulgated thereunder;

(5) "Insurer", shall have the same meaning as defined in section 375.012, RSMo;

(6) "Lapse", a policy which expires by its own terms on the policy expiration date unless premiums are received by the insurer for succeeding policy periods on or before the policy expiration date;

(7) "Nonpayment of premium", failure of the named insured to discharge, when due, any obligations in connection with the payment of premium;

(8) "Nonrenewal", the termination of a policy by an insurer at the expiration date of the policy;

(9) "Policy delivered or issued for delivery in this state", shall include but not be limited to all binders of insurance, whether written or oral, and all applications bound for future delivery;

(10) "Policy" or "certificate", a contract of insurance, except allocated and

unallocated annuities, life, accident and health, fidelity, suretyship, mortgage guaranty, boiler and machinery, reinsurance, umbrella if the underlying coverages have been terminated, ocean marine policies, dealers' policies written as inland marine insurance under the Nationwide Inland Marine Definition and contracts of insurance procured pursuant to the excess and surplus lines laws of this state. For purposes of sections 375.1701 to 375.1719, policy or certificate does not include contracts issued to a commercial insured having:

- (a) Total insured property values of five million dollars or more;**
- (b) Total annual gross revenues of ten million dollars or more; or**
- (c) Total annual premiums in excess of twenty-five thousand dollars written**

under a single policy;

(11) "Premium", the payment that is due for a policy and includes audit premiums due on the preceding policy and additional premiums due on retrospectively rated policies, but does not include membership dues or other consideration required to be a member of an organization in order to be eligible for the policy;

(12) "Producer", a person who solicits, negotiates, effects, procures, delivers, renews, continues, or binds policies of insurance to which sections 375.1701 to 375.1719 apply on risks that reside, is located, or is performed in this state;

(13) "Renewal" or "to renew", the issuance and delivery by an insurer of a policy for the same or similar coverage superseding at the end of the policy period a policy previously issued and delivered by the same insurer or the issuance and delivery of a certificate or notice extending the term of a policy beyond its policy period or term. A policy shall not be considered renewed if the insurer imposes a substantial increase in deductibles or a substantial reduction in coverage at renewal;

(14) "Rescission" or "rescinded", the unilateral action by an insurer to declare an insurance contract void from its inception as though it never existed;

(15) "Residual market mechanism", an arrangement, either expressly authorized or mandated by law, involving participation by insurers in the equitable apportionment among them of insurance which may be afforded applicants who are unable to obtain insurance through the voluntary market;

(16) "Termination" or "terminated", any practice or act by an insurer which has the effect of discontinuing an insurance policy including cancellation, nonrenewal, and rescission.

375.1703. 1. A policy shall not be delivered or issued for delivery in this state unless it contains provisions setting out the manner in which the policy may be terminated.

2. If a policy or certificate is used as evidence of financial responsibility for a

license or permit, and a statute or regulation requires that notice of termination of the policy or certificate be provided to the government agency that issued the license or permit, the time period for advance notice of the termination shall be the longer of the time period required by section 375.1707 or the time period required by the statute or regulation that establishes the financial responsibility requirement.

375.1704. 1. An insurer shall not terminate a policy because of the insured's race, color, creed, national origin, ancestry, gender, sexual orientation, or marital status. An insurer shall not terminate a policy because of the insured's age or disability, or because of the geographic location or age of the insured risk, unless the action is the result of the application of sound underwriting and actuarial principles related to actual or reasonably anticipated loss experience.

2. An insurer shall not terminate a policy for any other reason that would be prohibited under the insurance laws of this state.

375.1705. An insurer shall not terminate all or substantially all of a line of the insurer's business for the purpose of withdrawing from a market in this state without notifying the director of the action as well as the reasons for the action at least one year before the effective date of the termination of any policy due to the withdrawal, unless the insurer has filed a plan of action for the orderly cessation of the insurer's business within a shorter time period and received approval from the director.

375.1706. Nothing in sections 375.1701 to 375.1719 shall limit an insurer's right to rescind a policy if an insured or an applicant for insurance has intentionally or knowingly concealed or misrepresented a material fact or circumstance concerning the risk assumed by the insurer; except that, a policy or policy renewal shall not be rescinded after the policy has been in effect for one hundred eighty days or one policy period, whichever is greater.

375.1707. 1. A notice of cancellation shall not be effective unless mailed or delivered by the insurer to the first named insured's last known address. The information contained on the notice of cancellation shall also be mailed, delivered, or electronically transmitted to the producer of record's last known address. The insurer shall maintain proof of mailing of the notice to the first named insured's last known address.

2. All notices of cancellation of insurance shall be mailed or delivered at least thirty days prior to the effective date of cancellation during the first sixty days of coverage. After the coverage has been effective for sixty-one days or more or if the policy is a renewal, all notices shall be mailed or delivered at least forty-five days prior to the effective date of cancellation; except that, where cancellation is for one of the reasons permitted in subsections 2 and 3 of section 375.1708, at least ten days'

notice of cancellation shall be given. All notices shall clearly state the specific reason or reasons for cancellation.

375.1708. 1. After a policy has been in effect for sixty days or more or if the policy is a renewal, it may be canceled with forty-five days notice for one or more of the following reasons:

(1) An insured violated any terms or conditions of the policy to the detriment of the insurer;

(2) The risk originally accepted has increased, and if the increased risk had been present at the time the policy was originally issued the insurer would have increased the premium originally charged, other than an incidental amount, or declined to issue the policy;

(3) A determination by the director that continuation of the policy would threaten the financial solvency of the insurer;

(4) A determination by the director that the continuation of the policy could place the insurer in violation of the insurance laws of this state; or

(5) The failure to repair or rehabilitate an insured property or relevant portion thereof within a reasonable period of time as required in section 375.1709.

2. After a policy has been in effect for sixty days or more or if the policy is a renewal, it may be canceled with ten days' notice for one or more of the following reasons:

(1) Nonpayment of premium;

(2) The policy was obtained because an insured concealed or misrepresented a material fact or circumstance;

(3) With regard to a policy of automobile insurance, the driver's license of any insured or any driver who lives with the insured or who customarily uses a covered vehicle has been suspended or revoked or is under a suspension or revocation for moving violations at any time during the twelve-month period immediately preceding the notice of cancellation; or

(4) Fraud in the submission of a claim.

3. In addition to the reasons stated in subdivisions (1), (2), and (4) of subsection 2 of this section, a property insurance policy or a policy renewal may be canceled with ten days' notice if the insured property is found to have one or more of the following conditions:

(1) Permanent repairs have not commenced within sixty days after satisfactory adjustment of a loss, unless the delay is beyond the insured's control or the failure to repair does not increase the risk assumed;

(2) Buildings that have been unoccupied sixty consecutive days or vacant

thirty consecutive days, except buildings that have a seasonal occupancy, buildings that are actively advertised for rent, or buildings that are undergoing construction, repair, or reconstruction and are properly secured against unauthorized entry;

(3) Buildings on which, because of their physical condition, there is an outstanding order to vacate or an outstanding demolition order or that have been declared unsafe in accordance with applicable law; or

(4) The risk originally accepted has increased to the degree that it would have increased the premium charged, other than an incidental amount, or affected the insurer's decision to issue the policy.

4. During the first sixty days of a policy, the policy shall not be canceled for the reason that the insured has made a valid claim.

375.1709. Notwithstanding the provisions of section 375.1708, after a property insurance policy covering property that is capable of being repaired or rehabilitated has been in effect for sixty-one days or more, except in the situation of a constructive total loss, an insurer shall not give notice of cancellation based on the condition of the property without allowing the first named insured a reasonable period of time in which to repair defects in the insured property or relevant portion of the property. The repair or rehabilitative efforts shall be in compliance with applicable local building codes. The notice of need for repair or rehabilitation shall be from the insurer and shall be itemized and specific with regard to the defect to be repaired and the time period in which to complete the repairs. The notice shall be sent to the first named insured at any time during the policy term.

375.1710. 1. A policy may be canceled only on a pro rata basis unless the policy form provides for another basis.

2. A producer shall not recommend, suggest, or advise the insured to request cancellation of any policy if the request will cause the policy to be canceled on any manner other than a pro-rata basis, unless the producer first advises the insured in writing of the additional cost of the cancellation.

375.1711. 1. At least forty-five days before the end of the policy term, an insurer shall mail or deliver to the last known address of the first named insured a renewal policy an offer to renew the current policy or a notice of nonrenewal. The information in the renewal policy, the offer to renew or the notice of nonrenewal shall be mailed, delivered, or transmitted electronically to the producer of record's last known address. Proof of mailing or delivery to the first named insured's last known address shall be maintained by the insurer. A notice of nonrenewal shall clearly state the specific reason or reasons for the nonrenewal. An offer to renew the policy shall state the renewal premium and the date the premium is due. The renewal premium

shall be based on the known exposure as of the date of the offer to renew. The premium on the renewal policy may be subsequently amended to reflect any change in exposure not considered in the offer to renew. If the renewal premium is not received by the due date or the policy expiration date, whichever is later, the policy lapses.

2. If an insurer fails to comply with the notice requirements of this section, the policy shall be extended on the same terms and conditions for another policy term or until the effective date of similar insurance procured by the insured, whichever is earlier. The insurer may make continued coverage contingent upon the payment of premium.

3. Any policy with a policy period or term of less than six months or any policy with no fixed expiration date shall be considered as if written for successive policy periods or terms of six months for the purpose of any nonrenewal or renewal notice required by sections 375.1701 to 375.1719.

4. Renewal of a policy does not constitute a waiver or estoppel with respect to grounds for cancellation that existed before the effective date of the renewal.

5. A written binder of insurance issued for a term of sixty days or less which contains on its face a specific inception and expiration date and which has been furnished to the insured shall not be subject to the nonrenewal requirements of sections 375.1701 to 375.1719.

6. An insurer shall not fail to renew a policy that has been in effect for at least five years unless:

(1) The nonrenewal is based on at least one of the reasons set forth in section 375.1708; or

(2) A notice of nonrenewal is mailed or delivered to the last known address of the first named insured at least ninety days before the end of the policy term, subject to all other provisions in this section.

375.1712. 1. For a communication giving notice of or specifying the reasons for a termination or for any statement made in connection with an attempt to discover or verify the existence of conditions that would be a reason for a termination under sections 375.1701 to 375.1719, there shall be no liability on the part of and no cause of action shall arise against:

(1) An insurer or its authorized representatives, producers, or employees;

(2) A licensed insurance producer or broker; or

(3) A person furnishing information to an insurer as to reasons for a termination or declination.

2. Subsection 1 of this section shall not apply to statements not made in good

faith.

375.1713. If a policy is canceled for a reason other than nonpayment of premiums or is nonrenewed, and similar coverage is available through a residual market mechanism in this state, the insurer shall notify the first-named insured of the insured's possible eligibility for insurance from the residual market mechanism. The notice shall be included in the notice of cancellation or nonrenewal. If the residual market mechanism limits its operations to a geographic area or areas within this state, the notice shall not be required if the risk is not located in the geographic area or areas served by the residual market mechanism.

375.1714. Insurers shall include a statement prominently displayed in bold-face type on all notices of termination advising the insured of the insured's right to appeal the termination to the director.

375.1715. 1. A policy that has been canceled for one or more of the reasons permitted in subsection 1 of section 375.1708 or nonrenewed may be appealed by the named insured by giving written notice to the director at least twenty-five days prior to the effective date of the termination. The notice shall clearly state the reason or reasons for the appeal.

2. A policy that has been canceled for one or more of the reasons permitted in subsections 2 and 3 of section 375.1708 may be appealed by the named insured by giving written notice to the director prior to the effective date of the cancellation. The notice shall clearly state the reason or reasons for the appeal.

3. If a named insured timely appeals the termination of a policy, coverage under that policy shall remain in effect until the effective date specified in the order entered by the director in the matter pursuant to subsections 5 and 6 of section 375.1715. Coverage shall only remain in effect so long as the named insured pays the premium due on the policy.

4. The director may decide not to hold a hearing if the director determines:

(1) The appeal was not made in good faith;
(2) There is no violation of sections 375.1701 to 375.1719, even if the facts alleged by the named insured to support the appeal are true; or

(3) The notice of termination on its face does not comply with sections 375.1701 to 375.1719.

5. If the director does not hold a hearing, the director shall issue a written order within ten days after receipt of the named insured's appeal that decides the matter.

6. If the director decides to hold a hearing, the hearing shall be held within twenty days after receipt of the named insured's appeal. The director shall give the

parties at least ten days' notice of the hearing. Within twenty days after the conclusion of the hearing, the director shall issue a written order that decides the matter.

7. When the director issues a written order that decides an appeal, if the director finds for the named insured, the director shall order the insurer to rescind its notice of termination. If the director finds for the insurer, the director shall order that the termination be effective:

(1) Twenty days from the date of the order, if the policy was canceled for one of the reasons permitted in subsection 1 of section 375.1708 or nonrenewed; or

(2) Ten days from the date of the order if the policy was canceled for one of the reasons permitted in subsections 2 and 3 of section 375.1708.

8. Costs of the hearing may be assessed against the losing party but the amount to be assessed shall not exceed fifty dollars.

375.1716. 1. Unless expressly otherwise provided, a notice of termination required to be given to a person by sections 375.1701 to 375.1719 may be given by mailing notice, postage prepaid, addressed to the person to be notified, at the person's last known address.

2. Where proof of mailing of notice to a person is required, the following constitute proof of mailing:

(1) A true copy of the notice mailed which may be a physical duplicate of the original notice reproduced through photocopy, carbon copy, or generation from electronic records;

(2) A declaration made under penalty of attesting to the accuracy of the copy;

(3) A declaration made under penalty of perjury or an affidavit executed by the person who deposited the notice into the mail setting forth the date notice was mailed and the name and last known address of the person to whom notice was mailed;

(4) A document or list of mailed letters setting forth the date notice was mailed and the name and last known address of the person to whom notice was mailed accompanied by either a declaration made under penalty of perjury or an affidavit executed by the person who deposited the notice into the mail attesting to the accuracy of the document;

(5) A United States Certificate of Mailing, also called U.S. Post Office Form 3817 or 3877, for the notice mailed;

(6) A United States Postal Service certified mailing receipt, signed by or on behalf of the person to whom the notice is addressed; or

(7) An evidence of receipt by or on behalf of the person to whom the notice is addressed from a reputable mail delivery service.

375.1717. 1. It is an improper termination practice for any insurer to commit any acts in violation of sections 375.1701 to 375.1719 that are:

(1) Committed flagrantly and in conscious disregard of sections 375.1701 to 375.1719 or any rules promulgated under sections 375.1701 to 375.1719; or

(2) Committed with such frequency as to indicate a general business practice to engage in that type of conduct.

2. If the director finds that an insurer doing business in this state is engaging in any improper termination practice as defined in subsection 1 of this section and that a hearing on the matter would be in the public interest, the director shall issue and serve upon the insurer a notice of hearing which shall contain a statement of charges, a location for the hearing, and a hearing date that shall be not less than ten days or more than twenty days from the date of the notice.

375.1718. If, after a hearing pursuant to section 375.1717, the director finds that the insurer has engaged in an improper termination practice, the director shall reduce the findings to writing and shall issue and cause to be served upon the insurer charged with the violation, a copy of the findings, and an order requiring the insurer to cease and desist from engaging in the act or practice and the director may, at the director's discretion, order one or both of the following:

(1) Payment of a civil penalty of not more than one thousand dollars for each violation, but not to exceed an aggregate civil penalty of one hundred thousand dollars, unless the violation was committed flagrantly and in conscious disregard of sections 375.1701 to 375.1719, in which case the civil penalty shall not be more than twenty-five thousand dollars for each violation not to exceed an aggregate civil penalty of two hundred fifty thousand dollars; or

(2) Suspension or revocation of the insurer's license if the insurer knew or reasonably should have known that it was in violation of sections 375.1701 to 375.1719.

375.1719. If any provision of sections 375.1701 to 375.1719, or the application of the provision to any person or circumstances, shall be held invalid, the remainder of sections 375.1701 to 375.1719, and the application of the provision to persons or circumstances other than those as to which it is held invalid shall not be affected.