

BY: Finance Committee

AMENDMENTS TO SENATE BILL NO. 511

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, strike “Insurance -”; in the same line, strike “Regulation” and substitute “Authority to Sell or Offer Insurance to Renters”; and strike beginning with “providing” in line 3, down through “Supplement)” in line 16, inclusive and substitute “altering a certain termination provision relating to the authority of motor vehicle rental companies to sell or offer insurance to renters under certain circumstances; requiring a motor vehicle rental company to hold a special restricted certificate of qualification in order to sell or offer insurance to a renter of a motor vehicle under certain circumstances; requiring the Maryland Insurance Commissioner to issue a special restricted certificate of qualification to a motor vehicle rental company under certain circumstances; requiring a motor vehicle rental company to perform certain duties as a condition to receiving a special restricted certificate of qualification, including making available to a renter of a motor vehicle certain disclosures and providing certain training to employees of the motor vehicle rental company; establishing the primacy of an insurance policy sold by a motor vehicle rental company under certain circumstances; authorizing the Commissioner to suspend, revoke, or refuse to renew a special restricted certificate of qualification under certain circumstances; authorizing the Commissioner to adopt certain regulations; defining certain terms; providing for a delayed effective date for certain provisions of this Act subject to a certain contingency; requiring the Commissioner to report by a certain time on certain compensation packages; and generally relating to the authority of motor vehicle rental companies to sell or offer insurance to renters of motor vehicles.”

BY repealing and reenacting, with amendments,

Chapter 746 of the Acts of the General Assembly of 1998

Section 3

BY adding to

Article - Insurance

Section 10-601 through 10-607, inclusive, to be under the new subtitle “Subtitle 6. Motor

(Over)

Vehicle Rental Companies”
Annotated Code of Maryland
(1997 Volume and 1998 Supplement)”.

AMENDMENT NO. 2

On page 1, after line 18, insert:

“Chapter 746 of the Acts of 1998

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 1998. It shall remain effective for a period of 1 year AND 7 MONTHS and, at the end of [May 31, 1999] DECEMBER 31, 1999, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:”.

AMENDMENT NO. 3

On pages 1 through 3, strike in their entirety the lines beginning with line 20 on page 1 through line 37 on page 3, inclusive, and substitute:

“SUBTITLE 6. MOTOR VEHICLE RENTAL COMPANIES.

10-601.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “MOTOR VEHICLE RENTAL COMPANY” MEANS ANY PERSON THAT IS IN THE BUSINESS OF PROVIDING MOTOR VEHICLES TO THE PUBLIC UNDER A RENTAL AGREEMENT FOR A PERIOD OF 180 DAYS OR LESS.

(C) “RENTAL AGREEMENT” MEANS ANY WRITTEN AGREEMENT CONTAINING THE TERMS AND CONDITIONS THAT GOVERN THE USE OF A VEHICLE PROVIDED BY A MOTOR VEHICLE RENTAL COMPANY UNDER THE PROVISIONS OF TITLE 18 OF THE TRANSPORTATION ARTICLE.

(D) “RENTER” MEANS ANY PERSON OBTAINING THE USE OF A VEHICLE FROM A MOTOR VEHICLE RENTAL COMPANY UNDER THE TERMS OF A RENTAL AGREEMENT.

(E) “VEHICLE” MEANS A MOTOR VEHICLE:

(1) OF THE PRIVATE PASSENGER TYPE, INCLUDING PASSENGER VANS, MINIVANS, AND SPORT UTILITY VEHICLES; OR

(2) OF THE CARGO TYPE, INCLUDING CARGO VANS, PICKUP TRUCKS, AND TRUCKS THAT DO NOT REQUIRE THE OPERATOR TO POSSESS A COMMERCIAL DRIVER’S LICENSE.

10-602.

(A) A MOTOR VEHICLE RENTAL COMPANY SHALL HOLD A SPECIAL RESTRICTED CERTIFICATE OF QUALIFICATION BEFORE THE COMPANY OR ITS EMPLOYEES MAY SELL OR OFFER ANY POLICIES OF INSURANCE IN THIS STATE TO A RENTER IN CONNECTION WITH AND INCIDENTAL TO A RENTAL AGREEMENT.

(B) A SPECIAL RESTRICTED CERTIFICATE OF QUALIFICATION ISSUED UNDER THIS SUBTITLE SHALL ALSO AUTHORIZE ANY SALARIED OR HOURLY EMPLOYEE OF THE MOTOR VEHICLE RENTAL COMPANY WHO IS TRAINED, UNDER § 10-604(A)(4) OF THIS SUBTITLE, TO ACT ON BEHALF OF, AND UNDER THE SUPERVISION OF, A MOTOR VEHICLE RENTAL COMPANY, WITH RESPECT TO THE KINDS OF INSURANCE SPECIFIED IN § 10-604(B)(2) OF THIS SUBTITLE.

(C) THE ACTS OF AN EMPLOYEE OFFERING OR SELLING INSURANCE COVERAGE ON BEHALF OF A MOTOR VEHICLE RENTAL COMPANY SHALL BE DEEMED THE ACTS OF THE MOTOR VEHICLE RENTAL COMPANY FOR THE PURPOSES OF THIS SUBTITLE.

(Over)

(D) A MOTOR VEHICLE RENTAL COMPANY HOLDING A SPECIAL RESTRICTED CERTIFICATE OF QUALIFICATION ISSUED UNDER THIS SUBTITLE IS NOT REQUIRED TO TREAT PREMIUMS COLLECTED FROM A RENTER THAT PURCHASED INSURANCE FROM THE MOTOR VEHICLE RENTAL COMPANY AS FUNDS RECEIVED IN A FIDUCIARY CAPACITY IF:

(1) THE INSURER REPRESENTED BY THE MOTOR VEHICLE RENTAL COMPANY HAS CONSENTED IN A WRITTEN AGREEMENT, SIGNED BY AN OFFICER OF THE INSURER, THAT THE PREMIUMS DO NOT NEED TO BE SEGREGATED FROM OTHER FUNDS RECEIVED BY THE MOTOR VEHICLE RENTAL COMPANY IN CONNECTION WITH THE VEHICLE RENTAL; AND

(2) THE CHARGES FOR INSURANCE COVERAGE ARE ITEMIZED BUT NOT BILLED TO THE RENTER SEPARATELY FROM THE CHARGES FOR THE VEHICLE RENTAL.

10-603.

(A) THE COMMISSIONER SHALL ISSUE TO A MOTOR VEHICLE RENTAL COMPANY, OR A FRANCHISEE OF A MOTOR VEHICLE RENTAL COMPANY, A SPECIAL RESTRICTED CERTIFICATE OF QUALIFICATION AUTHORIZING THE MOTOR VEHICLE RENTAL COMPANY TO OFFER OR SELL INSURANCE IN CONNECTION WITH, AND INCIDENTAL TO, THE RENTAL OF A VEHICLE IF THE MOTOR VEHICLE RENTAL COMPANY:

(1) MEETS THE REQUIREMENTS OF § 10-604 OF THIS SUBTITLE;

(2) PAYS THE FEES FOR AGENTS REQUIRED UNDER § 2-112 OF THIS ARTICLE THAT ARE APPLICABLE TO A CERTIFICATE OF QUALIFICATION; AND

(3) SUBMITS TO THE COMMISSIONER ANY ADDITIONAL INFORMATION OR DOCUMENTATION THAT THE COMMISSIONER REQUIRES, INCLUDING ANY INFORMATION OR DOCUMENTATION TO DETERMINE THE PROFESSIONAL COMPETENCE, GOOD CHARACTER, AND TRUSTWORTHINESS OF THE

MOTOR VEHICLE RENTAL COMPANY.

(B) A SPECIAL RESTRICTED CERTIFICATE OF QUALIFICATION ISSUED UNDER THIS SUBTITLE IS SUBJECT TO THE SAME TERM AND RENEWAL CONDITIONS SPECIFIED FOR A CERTIFICATE OF QUALIFICATION UNDER § 10-115 OF THIS TITLE.

10-604.

(A) A SPECIAL RESTRICTED CERTIFICATE OF QUALIFICATION ISSUED UNDER THIS SUBTITLE AUTHORIZES THE MOTOR VEHICLE RENTAL COMPANY TO OFFER OR SELL, IN CONNECTION WITH, AND INCIDENTAL TO, A MOTOR VEHICLE RENTAL AGREEMENT IN WHICH THE RENTAL PERIOD DOES NOT EXCEED 30 DAYS, THE INSURANCE PRODUCTS SPECIFIED IN PARAGRAPH (B) OF THIS SECTION IF:

(1) THE POLICIES HAVE BEEN FILED WITH AND APPROVED BY THE COMMISSIONER;

(2) THE MOTOR VEHICLE RENTAL COMPANY HOLDS AN APPOINTMENT WITH EACH AUTHORIZED INSURER, UNDER § 10-118(A) OF THIS TITLE, THAT THE MOTOR VEHICLE RENTAL COMPANY INTENDS TO REPRESENT;

(3) PRIOR TO COMPLETION OF THE RENTAL TRANSACTION, THE MOTOR VEHICLE RENTAL COMPANY PROVIDES TO THE RENTER DISCLOSURES APPROVED BY THE COMMISSIONER THAT:

(I) SUMMARIZE, CLEARLY AND CORRECTLY, THE MATERIAL TERMS OF COVERAGE, INCLUDING LIMITATIONS OR EXCLUSIONS;

(II) IDENTIFY THE AUTHORIZED INSURER OR INSURERS;

(III) SPECIFY THAT THE POLICIES OFFERED BY THE MOTOR VEHICLE RENTAL COMPANY MAY PROVIDE A DUPLICATION OF COVERAGE ALREADY PROVIDED BY A RENTER'S PERSONAL AUTOMOBILE INSURANCE POLICY.

(Over)

HOMEOWNER'S INSURANCE POLICY, PERSONAL LIABILITY INSURANCE POLICY, OR OTHER SOURCE OF COVERAGE;

(IV) SPECIFY THAT THE PURCHASE OF THE COVERAGES OFFERED BY THE MOTOR VEHICLE RENTAL COMPANY IS NOT REQUIRED IN ORDER FOR THE RENTER TO RENT A VEHICLE;

(V) DESCRIBE THE PROCESS BY WHICH THE RENTER CAN FILE A CLAIM; AND

(VI) SPECIFY THAT ANY EXCESS LIABILITY COVERAGE PURCHASED BY THE RENTER MAY DUPLICATE COVERAGE REQUIRED TO BE PROVIDED UNDER § 18-102(A)(2) OF THE TRANSPORTATION ARTICLE; AND

(4) THE MOTOR VEHICLE RENTAL COMPANY PROVIDES A TRAINING PROGRAM, APPROVED BY THE INSURANCE COMMISSIONER, FOR ANY EMPLOYEE WHO OFFERS, SELLS, SOLICITS, OR PROCURES INSURANCE COVERAGE UNDER THIS SUBTITLE THAT INCLUDES:

(I) INSTRUCTION ABOUT THE KINDS OF INSURANCE SPECIFIED IN SUBSECTION (B) OF THIS SECTION THAT CAN BE OFFERED TO RENTERS;

(II) INSTRUCTION THAT THE TRAINEE SHALL INFORM A RENTER THAT THE PURCHASE OF ANY INSURANCE FROM THE MOTOR VEHICLE RENTAL COMPANY IS NOT REQUIRED IN ORDER FOR THE RENTER TO RENT A VEHICLE; AND

(III) INSTRUCTION THAT THE TRAINEE SHALL INFORM A RENTER THAT THE RENTER MAY HAVE INSURANCE POLICIES THAT ALREADY PROVIDE THE COVERAGE BEING OFFERED BY THE MOTOR VEHICLE RENTAL COMPANY.

(B) A SPECIAL RESTRICTED CERTIFICATE OF QUALIFICATION ISSUED UNDER THIS SUBTITLE AUTHORIZES THE MOTOR VEHICLE RENTAL COMPANY TO OFFER OR SELL INSURANCE POLICIES UNDER THIS SUBTITLE THAT ARE:

(1) IN EXCESS OF OR OPTIONAL TO THE COVERAGES REQUIRED TO BE PROVIDED BY THE MOTOR VEHICLE RENTAL COMPANY UNDER TITLE 17 OF THE TRANSPORTATION ARTICLE AND ANY RELATED REGULATIONS; AND

(2) ONE OF THE FOLLOWING KINDS OF INSURANCE:

(I) BODILY INJURY LIABILITY;

(II) PROPERTY DAMAGE LIABILITY;

(III) UNINSURED MOTORIST INSURANCE; OR

(IV) IF APPROVED BY THE COMMISSIONER, ANY OTHER INSURANCE COVERAGE THAT IS APPROPRIATE IN CONNECTION WITH THE RENTAL OF A MOTOR VEHICLE.

10-605.

(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, AN INSURANCE POLICY SOLD IN CONNECTION WITH, AND INCIDENTAL TO, THE RENTAL OF A VEHICLE UNDER THE PROVISIONS OF THIS SUBTITLE IS PRIMARY TO ANY OTHER VALID AND COLLECTIBLE COVERAGE.

(B) ANY INSURANCE SOLD TO A RENTER UNDER THE PROVISIONS OF THIS SUBTITLE IS NOT PRIMARY TO THE COVERAGES PROVIDED BY THE MOTOR VEHICLE RENTAL COMPANY ON THE RENTAL VEHICLE UNDER § 17-103(B) OF THE TRANSPORTATION ARTICLE.

10-606.

(A) THE COMMISSIONER MAY SUSPEND, REVOKE, OR REFUSE TO RENEW A SPECIAL RESTRICTED CERTIFICATE OF QUALIFICATION ISSUED UNDER THIS SUBTITLE AFTER NOTICE AND OPPORTUNITY FOR A HEARING UNDER TITLE 2,

(Over)

SUBTITLE 2 OF THIS ARTICLE IF THE MOTOR VEHICLE RENTAL COMPANY OR AN EMPLOYEE OF THE MOTOR VEHICLE RENTAL COMPANY HAS:

(1) WILLFULLY VIOLATED THIS ARTICLE OR ANOTHER LAW OF THE STATE THAT RELATES TO INSURANCE;

(2) OPERATED WITHOUT A SPECIAL RESTRICTED CERTIFICATE OF QUALIFICATION AS REQUIRED UNDER THIS SUBTITLE;

(3) FAILED TO PROVIDE REQUIRED DISCLOSURES;

(4) OFFERED OR SOLD UNAPPROVED INSURANCE PRODUCTS;

(5) FAILED TO HOLD AN APPOINTMENT WITH THE INSURER;

(6) FAILED TO TRAIN EMPLOYEES OFFERING OR SELLING INSURANCE PRODUCTS ON BEHALF OF THE MOTOR VEHICLE RENTAL COMPANY; OR

(7) MISREPRESENTED PERTINENT FACTS OR POLICY PROVISIONS THAT RELATE TO THE COVERAGE OFFERED OR SOLD PURSUANT TO THIS SUBTITLE.

(B) A MOTOR VEHICLE RENTAL COMPANY AND ITS EMPLOYEES MAY NOT ADVERTISE, REPRESENT, OR OTHERWISE HOLD ITSELF OUT AS AN AUTHORIZED INSURER, OR AS AN INSURANCE AGENT OR INSURANCE BROKER, FOR ANY KIND OR SUBDIVISION OF INSURANCE.

(C) INSTEAD OF, OR IN ADDITION TO, SUSPENDING OR REVOKING THE SPECIAL RESTRICTED CERTIFICATE OF QUALIFICATION, THE COMMISSIONER MAY:

(1) IMPOSE ON THE MOTOR VEHICLE RENTAL COMPANY A PENALTY OF NOT LESS THAN \$100 BUT NOT MORE THAN \$2,500 FOR EACH VIOLATION OF THIS SUBTITLE; AND

(2) REQUIRE THAT RESTITUTION BE MADE TO ANY PERSON WHO

HAS SUFFERED FINANCIAL INJURY BECAUSE OF THE VIOLATION OF THIS ARTICLE.

10-607.

THE COMMISSIONER MAY ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SUBTITLE, INCLUDING REGULATIONS CONCERNING THE FORM AND CONTENT OF REQUIRED DISCLOSURES TO RENTERS, THE TRAINING REQUIREMENTS FOR EMPLOYEES OF MOTOR VEHICLE RENTAL COMPANIES, AND THE QUALIFICATIONS OF THE INDIVIDUALS WHO PROVIDE EMPLOYEE TRAINING.”.

AMENDMENT NO. 4

On page 3, after line 37, insert:

“SECTION 3. AND BE IT FURTHER ENACTED, That the Insurance Commissioner shall report, subject to § 2-1246 of the State Government Article, to the Senate Finance Committee and the House Economic Matters Committee on or before February 15, 2002 on the types of employee compensation and incentive packages used by motor vehicle rental companies, during the first 2 years following the enactment of this Act, when employees sell or offer policies of insurance to renters in connection with and incidental to a rental agreement as authorized under Section 2 of this Act.”.

On page 3, in line 38, strike “2.” and substitute “4.”; and in the same line, after “That” insert “; except as provided in Section 5 of this Act.”; and after line 39, insert:

“SECTION 5. AND BE IT FURTHER ENACTED, That Sections 2 and 3 of this Act shall take effect January 1, 2000, contingent on the termination of § 10-601 of the Insurance Article as enacted by Chapter 746 of the Acts of the General Assembly of 1998 and amended by Section 1 of this Act, and if that termination of §10-601 of the Insurance Article does not become effective, Sections 2 and 3 of this Act shall be null and void without the necessity of further action by the General Assembly. The provisions of Section 2 of this Act shall be applicable to insurance policies offered or sold to renters of motor vehicles, and to the acts of motor vehicle rental companies and their employees occurring on or after January 1, 2000.”.

(Over)