

SENATE BILL 598

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C4

2000 Regular Session  
(01r2390)

**ENROLLED BILL**  
-- Finance/Economic Matters --

Introduced by **Senator Dorman**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this  
\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_ M.

\_\_\_\_\_  
President.

CHAPTER 541

1 AN ACT concerning

2 **Insurance Rating Law - Exempt Commercial Policyholders**

3 FOR the purpose of exempting from certain form filing requirements under prior  
4 approval insurance rating law insurers that issue policies to certain commercial  
5 policyholders; requiring a certain commercial policyholder to certify to the  
6 insurer issuing coverage and the Insurance Commissioner that it meets certain  
7 criteria for exemption; specifying the contents of the certification; authorizing  
8 the Insurance Commissioner to require by regulation certain information about  
9 policies written for certain commercial policyholders; providing that an  
10 independent insurance professional may be compensated for certain services  
11 only by certain persons; requiring an insurer to file with the Insurance  
12 Commissioner any forms and endorsements issued to an exempt commercial  
13 policyholder under certain circumstances; providing that, except for a certain  
14 exemption, forms and endorsements issued to exempt commercial policyholders  
15 shall be subject to certain State insurance laws; providing that the Insurance  
16 Commissioner, by regulation, may authorize an exempt commercial policyholder  
17 to procure insurance from an unauthorized insurer under certain

1 circumstances; providing that a certain insurer must file certain forms and  
2 endorsements on written request of the Insurance Commissioner; clarifying that  
3 certain forms and endorsements are subject to certain provisions of law;  
4 authorizing the Insurance Commissioner to allow, by regulation, a certain  
5 exempt commercial policyholder to procure coverage from a certain unauthorized  
6 insurer; defining a certain term; and generally relating to exempting insurers  
7 issuing coverage to commercial policyholders from certain requirements under  
8 prior approval insurance rating law.

9 BY repealing and reenacting, with amendments,  
10 Article - Insurance  
11 Section 11-206  
12 Annotated Code of Maryland  
13 (1997 Volume and 1999 Supplement)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
15 MARYLAND, That the Laws of Maryland read as follows:

16 **Article - Insurance**

17 11-206.

18 (a) (1) Except as otherwise provided in this section, each insurer shall file  
19 with the Commissioner all rates, supplementary rate information, policy forms, and  
20 endorsements and all modifications of rates, supplementary rate information, policy  
21 forms, and endorsements that the insurer proposes to use.

22 (2) Each filing shall state its proposed effective date and shall indicate  
23 the character and extent of the coverage contemplated.

24 (b) (1) (i) If a filing is not accompanied by the information on which the  
25 insurer supports the filing and the Commissioner does not have sufficient  
26 information to determine whether the filing meets the requirements of this subtitle,  
27 the Commissioner shall require the insurer to provide supporting information for the  
28 filing within 60 days.

29 (ii) If the Commissioner requires the filer to provide supporting  
30 information, the waiting period under subsection (g) of this section begins on the date  
31 the supporting information is provided.

32 (2) The information provided in support of a filing may include:

33 (i) the judgment of the filer;

34 (ii) the filer's interpretation of any statistical data relied on;

35 (iii) the experience of other filers; and

36 (iv) any other relevant factors.

1 (c) Each filing shall include the experience of the filer.

2 (d) A filing and any supporting information shall be open to public inspection  
3 as soon as filed.

4 (e) An insurer may satisfy its obligation to make filings by:

5 (1) being a member of or subscriber to a licensed rating organization that  
6 makes filings; and

7 (2) authorizing the Commissioner to accept filings on its behalf from the  
8 rating organization.

9 (f) The Commissioner shall review each filing as soon as reasonably possible  
10 after it is made to determine whether it meets the requirements of this subtitle.

11 (g) (1) (i) Except as provided in subsections (h) and (i) of this section, a  
12 filing may not take effect until 30 working days after it is filed with the  
13 Commissioner.

14 (ii) By written notice to the filer during the initial 30-day waiting  
15 period that the Commissioner needs additional time for consideration of the filing, the  
16 Commissioner may extend the waiting period for an additional period not exceeding  
17 30 working days.

18 (2) On written application by the filer, the Commissioner may authorize  
19 a filing that the Commissioner has reviewed to become effective before the expiration  
20 of the waiting period or any extension of the waiting period or at a later date.

21 (3) A filing is deemed approved unless disapproved by the Commissioner  
22 during the waiting period or any extension of the waiting period.

23 (4) A filing may be withdrawn or amended by the filer at any time before  
24 approval.

25 (5) After approval or disapproval of a filing, the withdrawal or  
26 amendment of the filing is subject to the approval of the Commissioner in accordance  
27 with this section.

28 (h) (1) Inland marine risks that by general custom of the business are not  
29 written according to manual rates or rating plans need not be filed.

30 (2) Notwithstanding paragraph (1) of this subsection, specific inland  
31 marine rates on risks specially rated by a rating organization shall be filed, become  
32 effective when filed, and remain effective until the Commissioner finds the filing does  
33 not meet the requirements of this subtitle.

34 (i) A special filing with respect to a surety or guarantee bond required by law,  
35 by court, by executive order, or by order, rule, or regulation of a public body, not  
36 covered by a previous filing shall become effective when filed and remain effective

1 until the Commissioner finds that the filing does not meet the requirements of this  
2 subtitle.

3 (J) (1) IN THIS SUBSECTION, "EXEMPT COMMERCIAL POLICYHOLDER"  
4 MEANS A PERSON THAT:

5 (I) PAYS ANNUAL AGGREGATE ~~COUNTRYWIDE~~ PROPERTY AND  
6 CASUALTY PREMIUMS FOR COMMERCIAL INSURANCE POLICIES ISSUED IN THE  
7 STATE DURING THE CURRENT OR THE IMMEDIATELY PRECEDING CALENDAR YEAR  
8 OF \$50,000 \$75,000 OR MORE; AND

9 (II) MEETS ANY TWO OF THE FOLLOWING CRITERIA:

10 1. GENERATES ANNUAL REVENUES OR SALES IN EXCESS OF  
11 \$10,000,000;

12 2. POSSESSES A NET WORTH IN EXCESS OF \$5,000,000;

13 3. EMPLOYS AT LEAST 25 FULL-TIME EMPLOYEES;

14 4. IS A NONPROFIT ORGANIZATION OR PUBLIC BODY WITH  
15 AN ANNUAL BUDGET OF AT LEAST ~~\$25,000,000~~ \$10,000,000; OR

16 5. IS A MUNICIPAL CORPORATION WITH A POPULATION OF  
17 AT LEAST 15,000; ~~OR~~

18 6. ~~RETAINS, EMPLOYS, OR UTILIZES AN INDEPENDENT~~  
19 ~~INSURANCE ADVISOR PROFESSIONAL WHO:~~

20 A. ~~IS QUALIFIED BY EXPERIENCE, EDUCATION, OR TRAINING~~  
21 ~~TO ASSESS THE INSURANCE PURCHASER'S NEEDS AND TO ANALYZE THE POLICY OF~~  
22 ~~INSURANCE ON BEHALF OF THE INSURANCE PURCHASER; AND~~

23 B. ~~MAY BE A LICENSED AGENT OR BROKER PROVIDES~~  
24 ~~SKILLED SERVICES IN LOSS PREVENTION, LOSS REDUCTION, OR RISK AND~~  
25 ~~INSURANCE COVERAGE ANALYSIS AND THE PURCHASE OF INSURANCE, AND WHO~~  
26 ~~POSSESSES AT LEAST ONE OF THE FOLLOWING CREDENTIALS:~~

27 A. ~~A BACHELOR'S OR HIGHER DEGREE IN RISK~~  
28 ~~MANAGEMENT ISSUED BY AN ACCREDITED COLLEGE OR UNIVERSITY;~~

29 B. ~~DESIGNATION AS A CHARTERED PROPERTY AND~~  
30 ~~CASUALTY UNDERWRITER (CPCU) ISSUED BY THE AMERICAN INSTITUTE FOR~~  
31 ~~CPCU/INSURANCE INSTITUTE OF AMERICA;~~

32 C. ~~DESIGNATION AS AN ASSOCIATE IN RISK MANAGEMENT~~  
33 ~~(ARM) ISSUED BY THE AMERICAN INSTITUTE FOR CPCU/INSURANCE INSTITUTE OF~~  
34 ~~AMERICA; OR~~

35 D. ~~A CERTIFICATE OF QUALIFICATION TO SERVE AS A~~  
36 ~~BROKER OR A LICENSE TO SERVE AS AN ADVISER UNDER THIS ARTICLE.~~

1 (2) THE FILING REQUIREMENTS OF THIS SECTION DO NOT APPLY TO  
2 POLICY FORMS AND ENDORSEMENTS AND TO MODIFICATIONS OF POLICY FORMS  
3 AND ENDORSEMENTS ISSUED TO AN EXEMPT COMMERCIAL POLICYHOLDER.

4 (3) (I) AN EXEMPT COMMERCIAL POLICYHOLDER MUST CERTIFY IN  
5 WRITING, ON A FORM APPROVED BY THE COMMISSIONER, TO THE INSURER ISSUING  
6 COVERAGE AND THE COMMISSIONER THAT IT MEETS THE CRITERIA NECESSARY FOR  
7 EXEMPTION FROM FORM FILING REQUIREMENTS.

8 (II) THE CERTIFICATION MUST INCLUDE:

9 1. SPECIFIC REFERENCE TO THE OPTIONAL CRITERIA THAT  
10 THE INSURED HAS SATISFIED TO QUALIFY AS AN EXEMPT COMMERCIAL  
11 POLICYHOLDER;

12 2. INFORMATION REQUIRED BY THE COMMISSIONER FOR  
13 THE PURPOSE OF DETERMINING THE ANNUAL AGGREGATE PREMIUMS OF THE  
14 INSURED FOR PURPOSES OF PARAGRAPH (1)(I) OF THIS SUBSECTION; AND

15 3. AN ACKNOWLEDGMENT BY THE INSURED THAT THE  
16 POLICY FORM, ENDORSEMENT, OR MODIFICATION INTENDED FOR USE HAS NOT  
17 BEEN FILED WITH THE COMMISSIONER.

18 ~~(III) IF AN INSURED RETAINS, EMPLOYS, OR UTILIZES AN~~  
19 ~~INDEPENDENT INSURANCE PROFESSIONAL, AND USES THIS CRITERION TO QUALIFY~~  
20 ~~AS AN EXEMPT COMMERCIAL POLICYHOLDER, THE CERTIFICATION SHALL IDENTIFY~~  
21 ~~THE INDEPENDENT INSURANCE PROFESSIONAL BY NAME, PROFESSIONAL~~  
22 ~~DESIGNATION, BUSINESS ADDRESS, AND BUSINESS TELEPHONE NUMBER.~~

23 (4) THIS SUBSECTION DOES NOT APPLY TO THE FILING OF WORKERS'  
24 COMPENSATION INSURANCE POLICY FORMS.

25 (5) THE COMMISSIONER MAY REQUIRE, BY REGULATION, THAT  
26 INSURERS PROVIDE INFORMATION TO THE ADMINISTRATION ON THE NUMBER AND  
27 TYPES OF POLICIES WRITTEN FOR EXEMPT COMMERCIAL POLICYHOLDERS UNDER  
28 THIS SUBSECTION.

29 ~~(6) AN INDEPENDENT INSURANCE PROFESSIONAL MAY BE~~  
30 ~~COMPENSATED, FOR SERVICES RENDERED TO AN EXEMPT COMMERCIAL~~  
31 ~~POLICYHOLDER, ONLY BY THE EXEMPT COMMERCIAL POLICYHOLDER.~~

32 ~~(7) (6) ON WRITTEN REQUEST OF THE COMMISSIONER, AN INSURER~~  
33 ~~SHALL FILE WITH THE COMMISSIONER ANY FORMS AND ENDORSEMENTS A FORM OR~~  
34 ~~ENDORSEMENT ISSUED TO AN EXEMPT COMMERCIAL POLICYHOLDER.~~

35 ~~(8) (7) EXCEPT FOR THE EXEMPTION FROM FORM FILING~~  
36 ~~REQUIREMENTS UNDER THIS SECTION, FORMS AND ENDORSEMENTS A FORM OR~~  
37 ~~ENDORSEMENT ISSUED TO AN EXEMPT COMMERCIAL POLICYHOLDERS SHALL BE~~  
38 ~~POLICYHOLDER IS SUBJECT TO ALL APPLICABLE PROVISIONS OF THIS ARTICLE.~~

1     SECTION 2. AND BE IT FURTHER ENACTED, That the Insurance  
2 Commissioner, by regulation, may authorize an exempt commercial policyholder, as  
3 defined in § 11-206(j) of the Insurance Article, as enacted by Section 1 of this Act, to  
4 procure insurance coverage under this Act from an unauthorized insurer in  
5 accordance with § ~~3-306~~ 3-306.1 of the Insurance Article.

6     ~~SECTION 3.~~ AND BE IT FURTHER ENACTED, That this Act shall take  
7 effect October 1, 2000.