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By: **Delegate Barve**  
Introduced and read first time: January 31, 2001  
Assigned to: Economic Matters

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Committee Report: Favorable with amendments  
House action: Adopted  
Read second time: February 27, 2001

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CHAPTER 219

1 AN ACT concerning

2 **Insurance - Premium Financing**

3 FOR the purpose of requiring that a copy of a premium finance agreement or other  
4 notice of a premium finance agreement be sent to certain surplus lines brokers  
5 under certain circumstances; authorizing a premium finance company to  
6 require a certain agent or broker to send a certain notice within a certain period  
7 of time; authorizing a premium finance company to require a certain agent or  
8 broker to provide the premium finance company with certain information within  
9 a certain period of time; requiring an agent or broker to return certain gross  
10 unearned commissions to an insurer within a reasonable period of time when an  
11 insurance contract has been canceled by a premium finance company, an  
12 insurer, or an insured; ~~specifying the time within which the gross unearned~~  
13 ~~commissions must be returned;~~ and generally relating to notice of premium  
14 financing agreements and cancellation of insurance contracts financed under  
15 premium finance agreements.

16 BY repealing and reenacting, with amendments,  
17 Article - Insurance  
18 Section 23-302 and 23-405  
19 Annotated Code of Maryland  
20 (1997 Volume and 2000 Supplement)

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

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**Article - Insurance**

2 23-302.

3 (a) A copy of each premium finance agreement or other notice of a premium  
4 finance agreement that describes the policy or policies involved shall be given to the  
5 agency issuing the policy or policies or to the insurers involved.

6 (B) (1) IF A POLICY IS PROCURED THROUGH A SURPLUS LINES BROKER  
7 LICENSED IN THE STATE, AND PAYMENT IS NOT MADE DIRECTLY TO THE SURPLUS  
8 LINES BROKER OR THE INSURER, A COPY OF THE PREMIUM FINANCE AGREEMENT  
9 OR OTHER NOTICE OF THE PREMIUM FINANCE AGREEMENT SHALL BE SENT TO THE  
10 SURPLUS LINES BROKER BY THE AGENT, BROKER, OR PREMIUM FINANCE COMPANY.

11 (2) A PREMIUM FINANCE COMPANY MAY REQUIRE AN AGENT OR  
12 BROKER WHO PROCURES PREMIUM FINANCING TO:

13 (I) SEND TO THE SURPLUS LINES BROKER THE NOTICE REQUIRED  
14 UNDER PARAGRAPH (1) OF THIS SUBSECTION WITHIN 10 BUSINESS DAYS OF THE  
15 EXECUTION OF A PREMIUM FINANCE AGREEMENT; AND

16 (II) PROVIDE TO THE PREMIUM FINANCE COMPANY, WITHIN 10  
17 BUSINESS DAYS OF RECEIPT OF A POLICY, THE INSURER'S NAME, POLICY NUMBER,  
18 AND ANY OTHER INFORMATION NECESSARY TO COMPLETE A PREMIUM FINANCE  
19 AGREEMENT.

20 [(b)] (C) When a premium finance agreement is signed, the premium finance  
21 company, or the agent or broker, if applicable, shall provide the insured with, or cause  
22 the insured to be provided with, a legible copy of the fully completed and executed  
23 premium finance agreement.

24 23-405.

25 (a) (1) Notwithstanding any other provision of this article, when an  
26 insurance contract is canceled, whether by a premium finance company, an insurer, or  
27 an insured, the insurer shall return any gross unearned premiums that are due under  
28 the insurance contract, computed pro rata, and excluding any expense constant,  
29 administrative fee, or any nonrefundable charge filed with and approved by the  
30 Commissioner, to the premium finance company for the account of the insured within  
31 a reasonable time not exceeding 45 days after:

32 (i) receipt by the insurer of a notice of cancellation from the  
33 premium finance company or the insured;

34 (ii) the date the insurer cancels the insurance contract; or

35 (iii) completion of any payroll audit necessary to determine the  
36 amount of premium earned while the insurance contract was in force.

1           (2)     An audit under paragraph (1)(iii) of this subsection shall be  
2 performed within 45 days after the insurer receives the notice of cancellation.

3       (b)     (1)     After the insurer returns to the premium finance company any gross  
4 unearned premiums that are due under the insurance contract, the premium finance  
5 company shall refund to the insured the amount of unearned premium that exceeds  
6 any amount due under the premium finance agreement.

7           (2)     A premium finance company need not make a refund to the insured if  
8 the amount of the refund would be less than \$5.

9       (c)     Whenever an insurer, after receiving notice of the existence of a premium  
10 finance agreement, returns any unearned premiums to a person other than the  
11 premium finance company named in the premium finance agreement, the insurer  
12 shall be directly responsible to the premium finance company for all unearned  
13 premiums arising from the cancellation of the premium finance agreement.

14       (d)     (1)     An insurer that fails to return any premium required under this  
15 section shall pay interest of 1% per month on the unearned premium that has not  
16 been returned until the unearned premium is returned.

17           (2)     Any payment under this subsection to the premium finance company  
18 shall be credited to the account of the insured.

19       (e)     An insurer may not deduct from any return premium any amount owed to  
20 the insurer by the insured under any other insurance contract.

21       (F)     AN AGENT OR BROKER SHALL RETURN ANY GROSS UNEARNED  
22 COMMISSIONS, CALCULATED AS PROVIDED IN SUBSECTION (A)(1) OF THIS SECTION,  
23 TO AN INSURER WITHIN A REASONABLE ~~TIME NOT EXCEEDING 45 DAYS AFTER THE~~  
24 ~~WRITTEN REQUEST OF THE INSURER~~ PERIOD OF TIME AS REQUIRED BY THE  
25 INSURER.

26       SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
27 October 1, 2001.