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By: **Chairman, Economic Matters Committee (By Request - Departmental - Insurance Administration, Maryland)**

Introduced and read first time: January 29, 2003

Assigned to: Economic Matters

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 11, 2003

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CHAPTER 35

1 AN ACT concerning

2 **Insurance - Regulation of Insurance Producers**

3 FOR the purpose of altering certain provisions regarding the reporting of  
4 appointments and terminations of insurance producers to the Maryland  
5 Insurance Administration; repealing certain fees; authorizing the Maryland  
6 Insurance Commissioner to appoint certain advisory boards; authorizing the  
7 Commissioner to review certain continuing education courses and approve or  
8 disapprove certain continuing education courses; providing that certain  
9 provisions of law do not limit the authority of the Commissioner to review,  
10 approve, or disapprove continuing education courses, examinations, and other  
11 matters relating to the education and qualification of insurance producers;  
12 requiring insurers to maintain information regarding appointments and  
13 appointment terminations of insurance producers in a certain format; providing  
14 for the effective dates of this Act; and generally relating to appointments and  
15 appointment terminations of insurance producers and other matters relating to  
16 the education and qualification of insurance producers.

17 BY repealing and reenacting, with amendments,  
18 Article - Insurance  
19 Section 2-112, 10-110(a), (b), and (c), 10-116(d), and 10-118  
20 Annotated Code of Maryland  
21 (1997 Volume and 2002 Supplement)

22 BY adding to  
23 Article - Insurance  
24 Section 10-116(f)

1 Annotated Code of Maryland  
 2 (1997 Volume and 2002 Supplement)

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

5 **Article - Insurance**

6 2-112.

7 (a) Fees for the following certificates, licenses, and services shall be collected  
 8 in advance by the Commissioner, and shall be paid by the appropriate persons to the  
 9 Commissioner:

10 (1) fees for certificates of authority:

11 (i) application fee for initial certificate of authority, including filing  
 12 the application, articles of incorporation and other charter documents, except as  
 13 provided in item (2) of this subsection, bylaws, financial statement, examination  
 14 report, power of attorney to the Commissioner, and all other documents and filings in  
 15 connection with the application ..... \$1,000

16 (ii) fee for initial certificate of authority ..... \$200

17 (iii) fee for annual renewal of certificate of authority for all  
 18 foreign insurers and for domestic insurers with their home or executive office in the  
 19 State ..... \$500

20 (iv) fee for annual renewal of certificate of authority for domestic  
 21 insurers with their home or executive office outside the State, except those domestic  
 22 insurers that had their home or executive office outside the State before January 1,  
 23 1929:

24 1. with premiums written in the most recent calendar year  
 25 not exceeding \$500,000 ..... \$2,500

26 2. with premiums written in the most recent calendar year  
 27 not exceeding \$1,000,000 ..... \$5,000

28 3. with premiums written in the most recent calendar year  
 29 not exceeding \$2,000,000 ..... \$7,000

30 4. with premiums written in the most recent calendar year  
 31 not exceeding \$5,000,000 ..... \$9,000

32 5. with premiums written in the most recent calendar year of  
 33 more than \$5,000,000 ..... \$11,000

34 (v) reinstatement of certificate of authority ..... \$500

- 1 (2) fees for articles of incorporation of a domestic insurer or foreign  
 2 insurer, exclusive of fees required to be paid to the Department of Assessments and  
 3 Taxation:
- 4 (i) fee for filing the articles of incorporation with the Commissioner  
 5 for approval ..... \$25
- 6 (ii) fee for amendment of the articles of incorporation ..... \$10
- 7 (3) fees for filing bylaws or amendments to bylaws with the  
 8 Commissioner ..... \$10
- 9 (4) fees for certificates of qualification:
- 10 (i) application fee ..... \$25
- 11 (ii) managing general agent certificate of qualification:
- 12 1.  
 13 fee for initial certificate ..... \$30
- 14 2. annual renewal fee ..... \$30
- 15 (iii) surplus lines broker certificate of qualification:
- 16 1. fee for initial certificate within 1 year of renewal ..... \$100
- 17 2. fee for initial certificate over 1 year from renewal ..... \$100
- 18 3. biennial renewal fee ..... \$200
- 19 (5) fee for temporary insurance producer licenses and  
 20 appointments ..... \$27
- 21 (6) [fee for approval by the Commissioner of continuing education  
 22 courses ..... \$50
- 23 (7)] fees for licenses:
- 24 (i) public adjuster license:
- 25 1. fee for initial license within 1 year of renewal ..... \$25
- 26 2. fee for initial license over 1 year from renewal ..... \$50
- 27 3. biennial renewal fee ..... \$50
- 28 (ii) adviser license:
- 29 1. fee for initial license within 1 year of renewal ..... \$100



1 (c) (1) [The] IF THE COMMISSIONER APPOINTS A PROPERTY AND  
2 CASUALTY INSURANCE ADVISORY BOARD, THE Property and Casualty Insurance  
3 Advisory Board [consists] SHALL CONSIST of at least eight members [appointed by  
4 the Commissioner].

5 (2) Each member of the Advisory Board shall be experienced in the  
6 business of property insurance or casualty insurance.

7 (3) The Advisory Board:

8 (i) may include insurance producers and employees or officers of  
9 insurers; and

10 (ii) shall include at least two members who are insurance producers  
11 with valid licenses issued in the State in that kind of insurance.

12 10-116.

13 (d) The Commissioner [shall] MAY review all continuing education courses  
14 submitted and approve or disapprove courses [after receiving the recommendation of  
15 the appropriate advisory board appointed under § 10-110 of this subtitle].

16 (F) THIS SECTION DOES NOT LIMIT THE AUTHORITY OF THE COMMISSIONER  
17 TO REVIEW, APPROVE, OR DISAPPROVE CONTINUING EDUCATION COURSES,  
18 EXAMINATIONS, AND OTHER MATTERS RELATING TO THE EDUCATION AND  
19 QUALIFICATION OF INSURANCE PRODUCERS.

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

22 **Article - Insurance**

23 10-118.

24 [(a) (1) When an insurer doing business in the State makes or terminates an  
25 appointment, the insurer immediately shall file notice of the appointment or  
26 termination and the reasons for the termination in the manner specified by this  
27 section.

28 (2) The applicable fee required by § 2-112 of this article shall be:

29 (i) included with the notice of appointment or termination; or

30 (ii) collected in the manner approved by the Commissioner.]

31 (A) IN THIS SECTION, "PRODUCER REGISTER" MEANS A REGISTER OF  
32 APPOINTED INSURANCE PRODUCERS WHO ARE AUTHORIZED TO SELL, SOLICIT, OR  
33 NEGOTIATE CONTRACTS OF INSURANCE ON BEHALF OF AN INSURER.

1 (B) (1) AN INSURER AUTHORIZED TO TRANSACT THE BUSINESS OF  
2 INSURANCE IN THE STATE SHALL MAINTAIN A PRODUCER REGISTER.

3 (2) WITHIN 30 DAYS OF THE INSURER APPOINTING AN INSURANCE  
4 PRODUCER, THE INSURER SHALL INCLUDE THE FOLLOWING INFORMATION IN THE  
5 INSURER'S PRODUCER REGISTER:

6 (I) THE INSURANCE PRODUCER'S NAME;

7 (II) THE LICENSE NUMBER ASSIGNED TO THE INSURANCE  
8 PRODUCER BY THE COMMISSIONER;

9 (III) THE DATE THAT THE INSURER APPOINTED THE INSURANCE  
10 PRODUCER; AND

11 (IV) ANY ADDITIONAL INFORMATION THAT THE COMMISSIONER  
12 MAY REQUIRE.

13 (3) AN INSURER SHALL SEND WRITTEN DOCUMENTATION OF THE  
14 APPOINTMENT TO THE INSURANCE PRODUCER.

15 (C) A LICENSED INSURANCE PRODUCER THAT HAS BEEN APPOINTED BY AN  
16 INSURER SHALL MAINTAIN:

17 (1) DOCUMENTATION OF THE INSURER'S APPOINTMENT; AND

18 (2) A LIST OF THE INSURERS THAT HAVE APPOINTED THE PRODUCER.

19 [(3) If the appointment of an insurance producer is terminated because  
20 the insurance producer failed to renew the insurance producer's license and the  
21 license subsequently is reinstated under § 10-116.1(c)(1) of this subtitle, an insurer  
22 may reappoint the insurance producer retroactively, with the reappointment effective  
23 on the date that the license expired.

24 (b) Within 30 days after an insurer receives an application for life insurance,  
25 health insurance, or an annuity from an insurance producer that does not have an  
26 appointment from the insurer, the insurer shall:

27 (1) reject the application in accordance with § 27-501 of this article; or

28 (2) file with the Commissioner written notice of appointment under  
29 subsection (a) of this section.

30 (c) (1) When an insurer or authorized representative of an insurer  
31 terminates the appointment, employment, contract, or other similar authority of an  
32 insurance producer, the insurer or authorized representative shall notify the  
33 Commissioner of the termination:

34 (i) within 30 days after the effective date of the termination; and

35 (ii) in the format required by the Commissioner.

1 (2) The notification shall state if:

2 (i) the termination was for a reason set forth in § 10-126 of this  
3 subtitle;

4 (ii) the insurer has actual knowledge that the insurance producer  
5 was found by a court, governmental unit, or self-regulatory organization authorized  
6 by law to have violated § 10-126 of this subtitle; or

7 (iii) the termination was for a reason not set forth in § 10-126 of this  
8 subtitle.]

9 (D) (1) THE INSURER'S PRODUCER REGISTER AND THE PRODUCER'S  
10 RECORD RELATING TO AN APPOINTMENT:

11 (I) SHALL BE OPEN TO INSPECTION AND EXAMINATION BY THE  
12 COMMISSIONER; AND

13 (II) MAY BE MAINTAINED ELECTRONICALLY.

14 (2) AN INSURANCE PRODUCER MAY NOT ACT ON BEHALF OF AN  
15 INSURER UNLESS THE INSURANCE PRODUCER IS LISTED ON THE INSURER'S  
16 PRODUCER REGISTER.

17 (3) AN INSURER MAY INITIALLY ACCEPT AN APPLICATION FOR LIFE  
18 INSURANCE, HEALTH INSURANCE, OR AN ANNUITY FROM AN INSURANCE PRODUCER  
19 WHO IS NOT APPOINTED BY THE INSURER AND IS NOT ON THE INSURER'S PRODUCER  
20 REGISTER IF, WITHIN 30 DAYS OF ACCEPTING THE APPLICATION, THE INSURER:

21 (I) REJECTS THE APPLICATION IN ACCORDANCE WITH § 27-501 OF  
22 THIS ARTICLE; OR

23 (II) APPOINTS THE INSURANCE PRODUCER AND ENTERS IN THE  
24 INSURER'S PRODUCER REGISTER THE INFORMATION REQUIRED BY SUBSECTION (B)  
25 OF THIS SECTION.

26 (E) (1) (I) WHEN THERE IS ANY TERMINATION OF THE APPOINTMENT,  
27 EMPLOYMENT, CONTRACT, OR OTHER INSURANCE BUSINESS RELATIONSHIP WITH  
28 AN INSURANCE PRODUCER, THE INSURER SHALL, WITHIN 30 DAYS FOLLOWING THE  
29 EFFECTIVE DATE OF THE TERMINATION, UPDATE THE INSURER'S PRODUCER  
30 REGISTER BY ENTERING THE EFFECTIVE DATE OF THE TERMINATION.

31 (II) AN INSURER OR AUTHORIZED REPRESENTATIVE OF AN  
32 INSURER SHALL NOTIFY THE COMMISSIONER OF THE TERMINATION OF AN  
33 APPOINTMENT WHEN THE TERMINATION, IN WHOLE OR IN PART, IS A RESULT OF  
34 THE BELIEF THAT THE PRODUCER HAS ENGAGED OR IS ENGAGING IN ANY OF THE  
35 ACTIVITIES SET FORTH IN § 10-126 OF THIS SUBTITLE, INCLUDING ANY FINDING  
36 MADE BY A COURT, GOVERNMENTAL UNIT, OR SELF-REGULATORY ORGANIZATION  
37 AUTHORIZED BY LAW THAT:



1            [(4)]    (3)    If an insurance producer files comments with the  
2 Commissioner, the insurance producer shall, by the same means, simultaneously  
3 send a copy of the comments to the reporting insurer.

4            [(5)]    (4)    If the Commissioner receives comments from an insurance  
5 producer, the Commissioner shall:

6                    (i)        make the comments part of the Commissioner's file on the  
7 subject: and

8                    (ii)       include a copy of the comments with every copy of a report  
9 about the insurance producer that is distributed or disclosed for any reason permitted  
10 by subsection [(g)] (I) of this section.

11    [(f)]    (H)    (1)    This subsection applies to:

12                    (i)        an insurer;

13                    (ii)       an authorized representative of an insurer;

14                    (iii)      an insurance producer;

15                    (iv)      the Commissioner; and

16                    (v)       an organization of which the Commissioner is a member that  
17 compiles information required under this section and makes it available to other  
18 insurance commissioners or regulatory or law enforcement agencies.

19            (2)       In the absence of actual malice, a person to whom this subsection  
20 applies and the agents and employees of the person are not subject to civil liability of  
21 any nature as a result of:

22                    (i)        any statement or information required by or provided under  
23 this section; or

24                    (ii)       any information relating to any statement that may be  
25 requested in writing by the Commissioner from an insurer or insurance producer.

26            (3)       If a party brings an action against a person that may have immunity  
27 under paragraph (2) of this subsection for making a statement required by or under  
28 this section or providing any information relating to any statement that may be  
29 requested by the Commissioner, the party bringing the action shall plead specifically  
30 in any allegation that paragraph (2) of this subsection does not apply because the  
31 person making the statement or providing the information did so with actual malice.

32            (4)       This subsection does not abrogate or modify any existing statutory or  
33 common law privileges or immunities.

34    [(g)]    (I)    (1)    This subsection applies only to any document, material, or other  
35 information in the control or possession of the Insurance Administration that is:

1 (i) furnished by an insurer or insurance producer or an employee  
2 or agent acting on behalf of the insurer or insurance producer under this section; or

3 (ii) otherwise obtained by the Insurance Commissioner in an  
4 investigation under this section.

5 (2) Any document, material, or other information that is subject to this  
6 subsection is:

7 (i) confidential and privileged;

8 (ii) not subject to Title 10, Subtitle 6 of the State Government  
9 Article;

10 (iii) not subject to subpoena; and

11 (iv) not subject to discovery or admissible in evidence in any private  
12 civil action.

13 (3) Notwithstanding paragraph (2) of this subsection, the Commissioner  
14 may use any document, material, or other information that is subject to this section to  
15 further any regulatory or legal action brought as part of the duties of the  
16 Commissioner.

17 (4) The Commissioner and any person who received any document,  
18 material, or other information to which this subsection applies while acting under the  
19 authority of the Commissioner may not be allowed or required to testify in any  
20 private civil action concerning the document, material, or information.

21 (5) (i) Provided that the recipient agrees to maintain any  
22 confidentiality and privileged status, the Commissioner may share a document,  
23 material, or other information, including a document, material, or other information  
24 that is confidential and privileged under this subsection, with:

25 1. other State, federal, or international regulatory agencies;

26 2. the National Association of Insurance Commissioners and  
27 its affiliates or subsidiaries; or

28 3. State, federal, or international law enforcement  
29 authorities.

30 (ii) If the Commissioner determines that a confidential document,  
31 material, or other information that has been shared through a database or other  
32 electronic filing system is inaccurate or incomplete in any way, the Commissioner  
33 shall update the information in the database or other electronic filing system so that  
34 the information is accurate and complete.

1           (6)    (i)    The Commissioner may receive a document, material, or  
2 information, including a document, material, or information that is otherwise  
3 confidential and privileged, from:

4                                   1.       the National Association of Insurance Commissioners or  
5 its affiliates or subsidiaries; or

6                                   2.       regulatory and law enforcement officials of other foreign  
7 or domestic jurisdictions.

8                                   (ii)   The Commissioner shall maintain as confidential and  
9 privileged any document, material, or information received under this paragraph  
10 with notice or the understanding that it is confidential or privileged under the laws of  
11 the jurisdiction that is the source of the document, material, or information.

12           (7)    The Commissioner may enter into agreements governing sharing and  
13 use of information consistent with this subsection.

14           (8)    There is no waiver of any applicable privilege or claim of  
15 confidentiality in a document, material, or information as a result of:

16                                   (i)    disclosure of the document, material, or information to the  
17 Commissioner under this section; or

18                                   (ii)   sharing of the document, material, or information by the  
19 Commissioner under paragraph (5) of this subsection.

20           (9)    This subtitle does not prohibit the Commissioner from releasing final  
21 adjudicated actions, including for-cause terminations, that are open to public  
22 inspection under Title 10, Subtitle 6 of the State Government Article, to a database or  
23 other clearinghouse service maintained by the National Association of Insurance  
24 Commissioners or its affiliates or subsidiaries.

25    (J)    THE COMMISSIONER MAY ADOPT REGULATIONS TO CARRY OUT THIS  
26 SECTION.

27    SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall  
28 take effect January 1, 2004.

29    SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in  
30 Section 3 of this Act, this Act shall take effect July 1, 2003.

