

Chapter 334

(Senate Bill 930)

AN ACT concerning

**Maryland Automobile Insurance Fund Property and Casualty Insurance –
Premium Payments – Acceptance of Premiums on Installment Payment Basis
and Premium Finance Agreements**

FOR the purpose of authorizing the Maryland Automobile Insurance Fund to accept premiums on an installment payment basis under certain circumstances; requiring the Maryland Insurance Commissioner to ensure certain provisions of an installment payment plan; prohibiting the Fund from discriminating among insureds in a certain manner; prohibiting the Fund from ~~paying a higher commission to certain fund producers~~ considering, in determining certain commissions, whether a fund producer placed an insured in an installment payment plan; requiring certain written and electronic communications to include a certain statement under certain circumstances; ~~requiring the Executive Director of the Fund, in consultation with the Commissioner and certain State agencies, to develop certain criteria for evaluating the impact and effectiveness of the Fund's installment payment plan~~; requiring the Fund to submit a certain report each year to the Commissioner; ~~requiring the Commissioner to make a certain determination~~; requiring the Commissioner to submit a certain report each year to certain committees of the General Assembly; requiring a premium finance agreement to contain a certain statement; authorizing a premium finance agreement to include certain provisions with respect to certain commercial insurance; authorizing a premium finance agreement to include monthly payments for the purchase price of a motor club service contract; altering the computation of a certain finance charge; requiring an insured to receive a certain refund calculated in a certain manner under certain circumstances; specifying when a finance charge is earned; prohibiting a premium finance company from retaining more of a finance charge than is earned; authorizing, with respect to certain commercial insurance, the imposition of a finance charge on any unpaid principal balance of a certain loan; prohibiting a premium finance company from using a certain rule in computing a certain finance charge; altering the calculation of a certain cancellation fee; authorizing a premium finance company to require the payment of a certain reinstatement charge under certain circumstances; specifying when a premium finance company may impose a certain cancellation charge; altering the delivery method for certain notices; authorizing a premium finance company to send certain notices by electronic means under certain circumstances; altering the period of time within which certain gross unearned premiums must be returned; prohibiting a premium finance company from imposing certain charges on certain payments for the purchase price of a motor

club service contract; prohibiting a premium finance company from canceling an insurance contract under certain circumstances; requiring an independent insurance producer to provide a certain disclosure; authorizing, with respect to certain personal insurance, a premium finance company to assign certain rights and obligations under certain circumstances; authorizing, with respect to certain commercial insurance, a premium finance company to assign certain rights and obligations under certain circumstances; requiring certain notices to be given to certain insureds under certain circumstances; requiring the Executive Director of the Fund, in consultation with the Commissioner and certain State agencies, to develop certain criteria for evaluating the effectiveness and impact of the Fund's installment payment plan; requiring the Fund to submit a certain report to the Commissioner on or before a certain date; requiring the Commissioner to make a certain determination and submit a certain report to certain committees of the General Assembly on or before a certain date; defining certain terms; altering certain definitions; providing for the termination of certain provisions of this Act; providing for the application of this Act; and generally relating to accepting premiums on an installment payment basis on policies issued by the Maryland Automobile Insurance Fund and premium finance agreements.

BY repealing and reenacting, without amendments,

Article – Insurance

Section 20–101(a) and (g)

Annotated Code of Maryland

(2011 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,

Article – Insurance

Section 20–504, 20–507, 23–101, 23–301, 23–304, 23–307, 23–307.1, 23–401.1, 23–405, and 23–505.2

Annotated Code of Maryland

(2011 Replacement Volume and 2012 Supplement)

BY adding to

Article – Insurance

Section 23–301.2 and 23–501.1

Annotated Code of Maryland

(2011 Replacement Volume and 2012 Supplement)

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

Article – Insurance

20–101.

- (a) In this title the following words have the meanings indicated.
- (g) "Fund" means the Maryland Automobile Insurance Fund.

20-504.

(a) (1) In this section, "add-on coverage" means coverages or services sold in connection with a policy issued by the Fund, other than coverages authorized to be offered by the Fund under this subtitle.

(2) "Add-on coverage" includes:

- (i) rental reimbursement coverage;
- (ii) personal effects theft coverage;
- (iii) collision and comprehensive deductible waiver coverage, other than collision and comprehensive coverages provided by the Fund or other authorized insurers;
- (iv) supplemental hospital benefit coverage;
- (v) emergency living expense coverage;
- (vi) vehicle towing coverage; [and]
- (vii) emergency vehicle repair service coverage; AND

(VIII) MOTOR CLUB SERVICES.

(3) "Add-on coverage" does not include fire, life, and health insurance coverages that are not directly related to the underlying motor vehicle insurance coverage and are written by an authorized insurer.

(b) (1) At the time coverage provided by the Fund is bound and before any add-on coverage is sold, a fund producer shall provide a clear and conspicuous written disclosure, in the form approved by the Commissioner, that:

- (i) states that the cost of add-on coverage is not part of the premium for the related policy issued by the Fund;
- (ii) includes an itemized list of any add-on coverages to be sold to the insured;
- (iii) states the nature and cost of each add-on coverage to be sold; and

(iv) states that add-on coverage is optional and is not required under § 17-103 of the Transportation Article.

(2) Before an insured may purchase add-on coverage, the insured shall expressly consent to the purchase by signing the disclosure form.

(c) On continuation of a policy that includes add-on coverage, an insured need not sign a disclosure form if:

(1) the number and type of add-on coverages under the continuation do not change from the preceding policy; and

(2) the insured has signed the original disclosure form.

(d) (1) A fund producer may not:

(i) require an insured or prospective insured to purchase an add-on coverage as a condition to purchasing the related policy issued by the Fund; or

(ii) sell add-on coverage or any combination of add-on coverages in an amount that exceeds \$200 per covered vehicle in connection with a private passenger auto insurance policy.

(2) A pattern or practice of violations of this section by a fund producer is subject to the same penalties as a violation of § 20-513 of this subtitle.

20-507.

(a) Subject to the approval of the Commissioner, the Executive Director shall determine the premiums to be charged on policies issued by the Fund.

(b) (1) Except as provided in subsection (c) of this section, the provisions of Title 11, Subtitle 2 of this article apply to the determination of premiums by the Executive Director.

(2) Notwithstanding Title 11, Subtitle 2 of this article or any other provision of this title, the Executive Director may base premiums on one or both of the following items:

(i) the number of points accumulated by an insured or applicant for insurance under the point system provided for in Title 16, Subtitle 4 of the Transportation Article; or

(ii) the prior claims experience of an insured or applicant for insurance.

(c) (1) Premiums for all commercial coverage shall be determined in accordance with this section and § 20–508 of this subtitle.

(2) Notwithstanding paragraph (1) of this subsection, the rating principles under subsection (d) of this section may not be used to determine the premium for commercial coverage.

(d) In reviewing rates filed by the Fund, the Commissioner shall consider not only the rating principles under Title 11, Subtitle 2 of this article but also the statutory purpose of the Fund under § 20–301 of this title.

(e) (1) The Motor Vehicle Administration and Executive Director may arrange for the Motor Vehicle Administration to collect premiums on policies issued by the Fund when the Motor Vehicle Administration issues a driver's license or certificate of registration.

(2) A premium collected under this subsection shall be paid to the State Treasurer for the account of the Fund.

(f) (1) The Fund may not:

(i) provide directly or indirectly for the financing of premiums;

or

(ii) **EXCEPT AS PROVIDED IN SUBSECTION (G) OF THIS SECTION**, accept premiums on an installment basis.

(2) A premium may be financed only by a premium finance company registered with the Commissioner in accordance with § 23–201 of this article.

(3) If a prospective insured's initial payment to the Fund, a fund producer, or premium finance company is not honored, a policy or endorsement issued in reliance on that payment is void.

(G) (1) (I) SUBJECT TO THE APPROVAL OF THE COMMISSIONER AND IN ACCORDANCE WITH THIS SUBSECTION, THE FUND MAY ACCEPT PREMIUMS ON AN INSTALLMENT PAYMENT BASIS ONLY ON 12-MONTH PERSONAL LINES POLICIES.

(II) IN APPROVING THE FUND'S PLAN FOR ACCEPTING PREMIUMS ON AN INSTALLMENT PAYMENT BASIS, THE COMMISSIONER SHALL ENSURE THAT THE FUND'S INSTALLMENT PAYMENT PLAN:

1. REQUIRES AN INSURED'S INITIAL PREMIUM PAYMENT TO BE NO LESS THAN:

A. FOR A TOTAL ANNUAL PREMIUM OF LESS THAN \$3,000, 25% OF THE TOTAL ANNUAL PREMIUM; AND

B. FOR A TOTAL ANNUAL PREMIUM OF \$3,000 OR MORE, 20% OF THE TOTAL ANNUAL PREMIUM;

2. ADJUSTS THE AMOUNT OF THE TOTAL ANNUAL PREMIUM USED TO DETERMINE THE INITIAL PREMIUM PAYMENT UNDER ITEM 1 OF THIS SUBPARAGRAPH ON OCTOBER 1 OF EACH YEAR USING DATA FROM THE U.S. GOVERNMENT BUREAU OF LABOR STATISTICS MOTOR VEHICLE INSURANCE EXPENDITURE CATEGORY OF THE CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS;

~~2~~ 3. IS STRUCTURED AND ADMINISTERED TO ENSURE THAT THE FUND AT NO TIME PROVIDES INSURANCE COVERAGE TO AN INSURED FOR A PERIOD DURING WHICH THE FUND HAS NOT RECEIVED THE ACTUARIALLY JUSTIFIED PREMIUM PAYMENT;

~~3~~ 4. OFFERS NO MORE THAN;

A. FOR A POLICY UNDER ITEM 1A OF THIS SUBPARAGRAPH, SIX INSTALLMENT PAYMENTS ON THE 12-MONTH POLICY; AND

B. FOR A POLICY UNDER ITEM 1B OF THIS SUBPARAGRAPH, EIGHT INSTALLMENT PAYMENTS ON THE 12-MONTH POLICY;

~~4~~ 5. ALLOWS INSUREDS TO MAKE AN INITIAL PREMIUM PAYMENT AND INSTALLMENT PAYMENTS IN ANY COMMERCIALY ACCEPTABLE FORM, WHICH SHALL INCLUDE PAYMENT BY CHECK, CREDIT CARD, OR ELECTRONIC TRANSFER; AND

~~5~~ 6. ALLOWS THE FUND TO IMPOSE AN ADMINISTRATIVE PROCESSING FEE ON INSUREDS PARTICIPATING IN THE INSTALLMENT PLAN OF NO MORE THAN \$8 PER INSTALLMENT PAYMENT.

(2) THE FUND MAY NOT DISCRIMINATE AMONG INSUREDS BY CHARGING DIFFERENT ~~WRITTEN OR EARNED~~ PREMIUM BASED ON THE PAYMENT OPTION SELECTED BY AN INSURED ~~OR ON WHETHER THE FUND PRODUCER IS EMPLOYED BY A PUBLIC ENTITY OR PRIVATE ENTITY.~~

(3) ~~THE FUND MAY NOT PAY A HIGHER COMMISSION TO A FUND PRODUCER WHO PLACES AN INSURED IN AN INSTALLMENT PAYMENT PLAN~~

~~OVER ANY OTHER PAYMENT OPTION, INCLUDING A PREMIUM FINANCE AGREEMENT~~ IN DETERMINING COMMISSIONS PAID TO A FUND PRODUCER, THE FUND MAY NOT CONSIDER WHETHER THE FUND PRODUCER PLACED AN INSURED IN AN INSTALLMENT PAYMENT PLAN.

(4) (I) IN ACCORDANCE WITH THIS PARAGRAPH, WRITTEN AND ELECTRONIC COMMUNICATIONS, INCLUDING THE FUND'S WEB SITE, AFFECTING THE PLACEMENT OF COVERAGE BY THE FUND OR A FUND PRODUCER SHALL INCLUDE A STATEMENT, ON A FORM APPROVED BY THE COMMISSIONER, ADVISING AN APPLICANT OR AN INSURED OF THE PAYMENT OPTIONS AVAILABLE TO THE APPLICANT OR INSURED.

(II) THE STATEMENT SHALL STATE THAT THE APPLICANT OR INSURED HAS THE FOLLOWING PAYMENT OPTIONS:

1. THE FUND'S INSTALLMENT PAYMENT PLAN;
2. A PREMIUM FINANCE AGREEMENT; OR
3. PAYMENT OF THE POLICY IN FULL.

(III) THE STATEMENT SHALL BE INCLUDED ON WRITTEN OR ELECTRONIC COMMUNICATIONS AT THE TIME THE APPLICANT OR INSURED:

1. IS ISSUED A NEW POLICY; OR
2. IS ISSUED A REISSUANCE, REWRITE, OR RENEWAL OF AN EXISTING POLICY; ~~OR~~
- ~~3. INCURS ADDITIONAL PREMIUMS UNDER AN EXISTING POLICY.~~

(IV) THE STATEMENT SHALL STATE THAT THE APPLICANT OR INSURED SHOULD CONSULT A FUND PRODUCER WHO WILL FULLY DESCRIBE THE TERMS OF EACH PAYMENT OPTION.

~~(5) (I) THE EXECUTIVE DIRECTOR, IN CONSULTATION WITH THE COMMISSIONER AND STATE AGENCIES AS APPROPRIATE, SHALL DEVELOP CRITERIA FOR EVALUATING THE IMPACT AND EFFECTIVENESS OF THE FUND'S INSTALLMENT PAYMENT PLAN.~~

~~(II) THE EVALUATION SHALL INCLUDE THE IMPACT OF THE FUND'S INSTALLMENT PAYMENT PLAN ON:~~

- ~~1. THE COST OF AUTOMOBILE INSURANCE FOR FUND INSUREDS;~~
- ~~2. THE NUMBER OF INSURED AND UNINSURED MOTORISTS IN THE STATE;~~
- ~~3. THE NUMBER OF FUND POLICIES IN FORCE BY GEOGRAPHIC AREA;~~
- ~~4. THE DURATION OF FUND POLICIES IN FORCE; AND~~
- ~~5. THE FREQUENCY OF PAYMENT METHODS USED BY FUND INSUREDS, INCLUDING THE FUND'S INSTALLMENT PAYMENT PLAN, PREMIUM FINANCE AGREEMENTS, AND CASH AND CREDIT CARD PAYMENTS.~~

~~(H) ON OR BEFORE MARCH 31 OF EACH YEAR, THE FUND SHALL SUBMIT A REPORT TO THE COMMISSIONER BASED ON THE FUND'S DETERMINATION OF THE IMPACT AND EFFECTIVENESS OF THE FUND'S INSTALLMENT PAYMENT PLAN FOR THE PRIOR YEAR BASED ON:~~

- ~~1. THE EVALUATION CRITERIA DEVELOPED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH; AND~~
- ~~2. THE LIMITATIONS OF THE TERMS OF THE INSTALLMENT PAYMENT PLAN UNDER PARAGRAPH (1)(H)1 AND 3 OF THIS SUBSECTION.~~

~~(6) (I) ON RECEIPT OF THE REPORT UNDER PARAGRAPH (5)(H) OF THIS SUBSECTION, THE COMMISSIONER SHALL MAKE A DETERMINATION OF THE IMPACT AND EFFECTIVENESS OF THE FUND'S INSTALLMENT PAYMENT PLAN, INCLUDING A REVIEW OF COMPLAINTS RECEIVED BY THE COMMISSIONER RELATING TO THE FUND'S INSTALLMENT PAYMENT PLAN AND PREMIUM FINANCE AGREEMENTS.~~

~~(H) ON OR BEFORE DECEMBER 1 OF EACH YEAR, THE COMMISSIONER SHALL SUBMIT A REPORT, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE SENATE FINANCE COMMITTEE AND THE HOUSE ECONOMIC MATTERS COMMITTEE ON THE COMMISSIONER'S DETERMINATION OF THE IMPACT AND EFFECTIVENESS OF THE FUND'S INSTALLMENT PAYMENT PLAN.~~

(a) In this title the following words have the meanings indicated.

(b) **“ACTUARIAL METHOD” HAS THE MEANING STATED IN § 12-1009 OF THE COMMERCIAL LAW ARTICLE.**

(C) (1) “Premium finance agreement” means an agreement:

(i) by which an insured or prospective insured promises to pay a premium finance company the amount advanced or to be advanced under the agreement, together with interest and a service fee, to an insurer or an insurance producer in payment of premiums; and

(ii) that contains an assignment of or is otherwise secured by the unearned premium or refund obtainable from the insurer on cancellation of the insurance contract.

(2) “Premium finance agreement” does not include a premium financed in connection with a time sale of goods or services or an extension of credit without charge by an insurance producer.

[c] (D) “Premium finance company” means a person that engages in the business of entering into or accepting premium finance agreements.

23-301.

(a) (1) A premium finance agreement shall be dated and signed by or on behalf of the insured.

(2) **[The] EXCEPT AS PROVIDED UNDER SUBSECTION (B)(5)(VIII) OF THIS SECTION, THE** printed part of the premium finance agreement shall be in approximately 8-point type and be easily readable by an average individual.

(b) A premium finance agreement shall contain:

(1) the name and place of business of the insurance producer negotiating the related insurance contract;

(2) the name and residence or place of business of the insured as specified by the insured;

(3) the name and place of business of the premium finance company to which payments may be made;

(4) an itemized list for each insurance contract or coverage financed under the premium finance agreement that includes:

- number;
- (i) the applicable application number, binder number, or policy
- (ii) the effective date of the insurance contract or coverage;
- coverage; and
- (iii) the name of the company issuing the insurance contract or
- (iv) the premium for the insurance contract or coverage; and
- (5) if applicable, the following items:
- (i) the total amount of the premiums;
- (ii) the amount of the down payment;
- (iii) the principal balance (the difference between items (i) and
(ii) of this item);
- (iv) the amount of the finance charge;
- (v) the balance payable by the insured (the sum of items (iii)
and (iv) of this item);
- (vi) the number of installments required, the amount of each
installment expressed in dollars, and the due date or period of each installment; [and]
- (vii) the electronic payment fee[.]; AND

(VIII) IN AT LEAST 12-POINT TYPE, THE FOLLOWING STATEMENT: “IF THIS AGREEMENT IS CANCELED OR THE LOAN IS PREPAID IN FULL BEFORE THE END OF ITS TERM, THE ACTUARIAL METHOD WILL BE USED TO CALCULATE THE EARNED FINANCE CHARGE. UNDER THIS METHOD, MOST OF THE FINANCE CHARGE IS EARNED IN THE EARLY MONTHS OF THE LOAN TERM RATHER THAN EQUALLY IN EACH MONTH. YOU MAY REQUEST A SAMPLE ILLUSTRATION OF HOW THE FINANCE CHARGE IS EARNED.”.

(c) (1) The items set out in subsection (b)(5) of this section need not be stated in the sequence in which they appear.

(2) Additional items may be included to explain the computations made in determining the amount to be paid by the insured.

(3) WITH RESPECT TO COMMERCIAL AUTOMOBILE, FIRE, OR LIABILITY INSURANCE, A PREMIUM FINANCE AGREEMENT MAY INCLUDE

SEPARATE PROVISIONS REQUIRING REPRESENTATIONS, WARRANTIES, OR OTHER OBLIGATIONS OF THE INSURANCE PRODUCER WHO SELLS, SOLICITS, OR NEGOTIATES THE INSURANCE POLICY, THE PREMIUMS FOR WHICH ARE FINANCED UNDER THE PREMIUM FINANCE AGREEMENT.

(d) A premium finance agreement may provide for additional insurance premiums to be financed and added to the initial premium finance agreement.

(E) SUBJECT TO §§ 23-501.1 AND 23-505.2 OF THIS TITLE, A PREMIUM FINANCE AGREEMENT MAY INCLUDE MONTHLY PAYMENTS FOR THE PURCHASE PRICE OF A MOTOR CLUB SERVICE CONTRACT.

23-304.

(A) The finance charge shall be computed:

(1) on the amount of the entire premium loan advanced, including any taxes or fees that are financed under § 23-301.1 of this subtitle, after subtracting any down payment on the premium loan made by the insured;

(2) from the inception date of the insurance contract or from the due date of the premium, disregarding any grace period or credit allowed for payment of the premium, through the date when the final installment under the premium finance agreement is payable; and

(3) [at a rate] IN AN AMOUNT not exceeding THE SUM OF 1.15% for each 30 days[, charged] OF THE LOAN, COMPUTED in advance.

(B) (1) AN INSURED SHALL RECEIVE A REFUND OF A FINANCE CHARGE THAT EXCEEDS ANY AMOUNT DUE UNDER THE PREMIUM FINANCE AGREEMENT IF:

(I) THE INSURANCE CONTRACT IS CANCELED; OR

(II) THE INSURED PREPAYS THE LOAN IN FULL AT ANY TIME.

(2) THE AMOUNT OF THE REFUND UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY BE CALCULATED BY THE ACTUARIAL METHOD.

(3) (I) A FINANCE CHARGE:

1. IS EARNED IN 30-DAY INCREMENTS; AND

2. IN ACCORDANCE WITH SUBPARAGRAPH (II) OF THIS PARAGRAPH, MAY BE EARNED ON THE FIRST DAY OF EACH 30-DAY PERIOD.

(II) IF A FINANCE CHARGE IS EARNED ON THE FIRST DAY OF EACH 30-DAY PERIOD, THE PREMIUM FINANCE AGREEMENT SHALL CONTAIN A NOTIFICATION THAT THE FINANCE CHARGE IS EARNED ON THE FIRST DAY OF EACH 30-DAY PERIOD.

(4) A PREMIUM FINANCE COMPANY MAY NOT RETAIN MORE OF THE FINANCE CHARGE THAN IS EARNED UNDER THIS SECTION.

(C) WITH RESPECT TO COMMERCIAL AUTOMOBILE, FIRE, OR LIABILITY INSURANCE ONLY, A FINANCE CHARGE MAY BE IMPOSED ON ANY UNPAID PRINCIPAL BALANCE OF THE LOAN REMAINING AFTER ALL UNEARNED PREMIUMS HAVE BEEN RETURNED IF THE UNEARNED PREMIUMS ARE LESS THAN THE UNPAID PRINCIPAL BALANCE DUE TO:

(1) AN AUDIT BY THE INSURER RESULTING IN ADDITIONAL PREMIUM;

(2) THE APPLICATION OF A MINIMUM PREMIUM ON A POLICY;

(3) AN ENDORSEMENT THAT IS MADE AFTER A POLICY IS ISSUED AND RESULTS IN ADDITIONAL PREMIUM; OR

(4) A LAWFUL DELAY IN CANCELING AN INSURANCE POLICY THAT IS BEYOND THE CONTROL OF THE PREMIUM FINANCE COMPANY.

(D) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A PREMIUM FINANCE COMPANY MAY NOT USE THE RULE OF 78S IN COMPUTING A FINANCE CHARGE UNDER THIS SECTION.

23-307.

(a) [A] EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, A premium finance agreement may require the insured to pay a cancellation charge if a default in paying an installment results in the cancellation of an insurance contract listed in the premium finance agreement.

(b) A cancellation charge shall be:

(1) with respect to private passenger automobile or personal fire or liability insurance, equal to the difference between a delinquency and collection charge imposed under § 23-306 of this subtitle with respect to the installment in default and:

- YEAR 2014;
- (I) \$15 FOR A DEFAULT BEFORE OR DURING CALENDAR
- (II) \$16 FOR A DEFAULT DURING CALENDAR YEAR 2015;
- (III) \$17 FOR A DEFAULT DURING CALENDAR YEAR 2016;
- (IV) \$18 FOR A DEFAULT DURING CALENDAR YEAR 2017;
- (V) \$19 FOR A DEFAULT DURING CALENDAR YEAR 2018;
- AND
- (VI) \$20 FOR A DEFAULT DURING OR AFTER CALENDAR
YEAR 2019; and

(2) with respect to commercial automobile, fire, or liability insurance, 5% of the installment, not to exceed an amount equal to the difference between a delinquency and collection charge imposed under § 23-306 of this subtitle with respect to the installment in default and \$100.

(c) [If a notice of cancellation is withdrawn and the insurance coverage is reinstated, the premium finance agreement may require the insured to pay a reinstatement charge in the same amount as the cancellation charge that would have been paid if the cancellation had actually taken effect.] A PREMIUM FINANCE COMPANY MAY REQUIRE THE PAYMENT OF A REINSTATEMENT CHARGE THAT IS IN PLACE OF AND IN THE SAME AMOUNT AS THE CANCELLATION CHARGE IF, AFTER A CANCELLATION CHARGE IS IMPOSED IN ACCORDANCE WITH THE REQUIREMENTS OF SUBSECTION (D) OF THIS SECTION, THE INSURED PAYS THE DEFAULTED INSTALLMENT.

(D) A PREMIUM FINANCE AGREEMENT MAY IMPOSE A CANCELLATION CHARGE:

(1) ON OR AFTER THE EFFECTIVE DATE STATED IN THE NOTICE OF CANCELLATION ISSUED TO THE INSURER UNDER § 23-403 OF THIS TITLE; OR

(2) ON OR AFTER THE CANCELLATION EFFECTIVE DATE STATED IN THE NOTICE OF INTENT TO CANCEL DELIVERED OR MAILED TO THE INSURED UNDER § 23-402 OF THIS TITLE, IF:

(I) THE PREMIUM FINANCE COMPANY HAS NOTIFIED THE INSURED IN THE NOTICE OF INTENT TO CANCEL THAT A CANCELLATION FEE WILL BE IMPOSED ON THE CANCELLATION EFFECTIVE DATE STATED IN THE NOTICE OF INTENT TO CANCEL; AND

(II) THE NOTICE OF INTENT TO CANCEL INCLUDES THE FOLLOWING STATEMENT IN 12-POINT OR LARGER TYPE: “IF YOU DO NOT PAY THE DELINQUENT AMOUNT BEFORE THE CANCELLATION EFFECTIVE DATE STATED IN THIS NOTICE, AT ANY TIME WITHIN 30 DAYS OF THE CANCELLATION EFFECTIVE DATE, YOUR INSURANCE POLICY IS SUBJECT TO CANCELLATION ON THE CANCELLATION EFFECTIVE DATE. THIS MEANS THAT IF YOU HAVE A LOSS ON OR AFTER THE CANCELLATION EFFECTIVE DATE STATED IN THIS NOTICE, YOU MAY NOT HAVE COVERAGE FOR THE LOSS.”.

23-307.1.

(a) (1) In this section[,] THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) (I) “ELECTRONIC CHECK” MEANS A FORM OF PAYMENT IN WHICH A FUND TRANSFER IS MADE ELECTRONICALLY FROM A PAYER’S BANK ACCOUNT TO A PREMIUM FINANCE COMPANY’S BANK ACCOUNT.

(II) “ELECTRONIC CHECK” DOES NOT INCLUDE A WRITTEN CHECK THAT IS DELIVERED TO A PREMIUM FINANCE COMPANY OR AN AGENT BY HAND DELIVERY, REGULAR MAIL, OR OTHER FORM OF PERSONAL DELIVERY.

(3) [“electronic” “ELECTRONIC payment” includes payment by credit card [or], debit card, OR ELECTRONIC CHECK.

(b) A premium finance agreement may require the insured to pay an electronic payment fee if the insured elects to pay a premium finance company by means of an electronic payment.

(c) A premium finance company may charge an electronic payment fee, which may not exceed \$8, for actual expenses incurred by the premium finance company for the electronic payment.

23-401.1.

(a) Subject to subsection (b) of this section, at the option of the insured a premium finance company may send any notice required under this subtitle by personal delivery, first-class mail, commercial delivery service, electronic mail, or facsimile transmission.

(b) [A notice delivery method other than personal delivery, first-class mail, or commercial delivery service may be used only with the written consent of the insured] A PREMIUM FINANCE COMPANY MAY SEND ANY NOTICE REQUIRED

UNDER THIS SUBTITLE BY ELECTRONIC MEANS ONLY IF THE PREMIUM FINANCE COMPANY MEETS THE REQUIREMENTS FOR DELIVERING A NOTICE UNDER § 27-601.2 OF THIS ARTICLE.

23-405.

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

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

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

(iii) **WITH RESPECT TO COMMERCIAL AUTOMOBILE, FIRE, OR LIABILITY INSURANCE,** completion of any [payroll] audit necessary to determine the amount of premium earned while the insurance contract was in force.

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

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

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

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

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

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

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

(f) An insurance producer shall return any gross unearned commissions, calculated as provided in subsection (a)(1) of this section, to an insurer within a reasonable period of time as required by the insurer.

23-501.1.

(A) A PREMIUM FINANCE COMPANY MAY NOT IMPOSE ANY FINANCE CHARGE OR OTHER CHARGE ON ANY PAYMENT FOR THE PURCHASE PRICE OF A MOTOR CLUB SERVICE CONTRACT.

(B) A PREMIUM FINANCE COMPANY MAY NOT CANCEL AN INSURANCE CONTRACT IF ANY PAYMENT UNDER THE PREMIUM FINANCE AGREEMENT:

(1) IS SUFFICIENT TO PAY THE INSTALLMENT DUE UNDER THE PREMIUM FINANCE AGREEMENT THAT IS RELATED TO THE INSURANCE CONTRACT OBLIGATION; BUT

(2) IS NOT SUFFICIENT TO COVER THE AMOUNT OF THE MONTHLY PAYMENT FOR THE MOTOR CLUB SERVICE CONTRACT.

23-505.2.

(a) An insurer that markets through independent insurance producers as defined in this article may not discriminate, intimidate, or retaliate against an insurance producer or insured that uses premium financing by denying the insurance producer or insured the same rights accorded to insurance producers or insureds who pay premiums in a different manner.

(b) ~~(1) With respect to personal lines automobile insurance OTHER THAN INSURANCE WRITTEN THROUGH THE MARYLAND AUTOMOBILE INSURANCE FUND, an independent insurance producer, who directly or indirectly has an ownership interest in a premium finance company, shall provide a disclosure to be signed by the insured comparing the costs and terms of premium financing with the insurer's alternative payment plan.~~

~~(2) WITH RESPECT TO PERSONAL LINES AUTOMOBILE INSURANCE WRITTEN THROUGH THE MARYLAND AUTOMOBILE INSURANCE FUND, AN INDEPENDENT INSURANCE PRODUCER SHALL PROVIDE A DISCLOSURE TO BE SIGNED BY THE INSURED COMPARING THE COSTS AND~~

~~TERMS OF PREMIUM FINANCING WITH THE FUND'S ALTERNATIVE PAYMENT PLAN.~~

(c) The disclosure required by subsection (b) of this section shall:

(1) state the total amount to be paid by the insured under the premium finance agreement during the policy term, including premium, any down payment, and all interest, fees, and charges incident to the premium finance agreement and resulting extension of credit; and

(2) state the total amount to be paid by the insured under the insurer's alternative payment plan during the policy term, including premium, any down payment, and all fees and charges incident to the alternative payment plan.

(D) AN INSURANCE PRODUCER, OR AN EMPLOYEE OR AGENT OF THE INSURANCE PRODUCER, WHO DIRECTLY OR INDIRECTLY HAS AN OWNERSHIP INTEREST IN A MOTOR CLUB SHALL PROVIDE A DISCLOSURE TO BE SIGNED BY THE INSURED INFORMING THE INSURED OF THE INSURANCE PRODUCER'S OR THE INSURANCE PRODUCER'S EMPLOYEE'S OR AGENT'S INTEREST IN THE MOTOR CLUB.

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

Article – Insurance

23-301.2.

(A) (1) WITH RESPECT TO PRIVATE PASSENGER MOTOR VEHICLE INSURANCE AND PERSONAL INSURANCE, A PREMIUM FINANCE COMPANY MAY:

(I) ASSIGN ALL RIGHTS AND OBLIGATIONS UNDER A PREMIUM FINANCE AGREEMENT TO ANOTHER PREMIUM FINANCE COMPANY THAT IS REGISTERED IN THE STATE UNDER THIS TITLE; OR

(II) PLEDGE A PREMIUM FINANCE AGREEMENT AS COLLATERAL FOR A LOAN.

(2) IF A PREMIUM FINANCE COMPANY ASSIGNS THE OBLIGATION TO SERVICE A PREMIUM FINANCE AGREEMENT TO ANOTHER PREMIUM FINANCE COMPANY UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION, THE ASSIGNING PREMIUM FINANCE COMPANY SHALL NOTIFY THE INSURED IN ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION:

(I) THAT THE OBLIGATION TO SERVICE THE PREMIUM FINANCE AGREEMENT HAS BEEN ASSIGNED TO ANOTHER PREMIUM FINANCE COMPANY THAT IS REGISTERED IN THE STATE UNDER THIS TITLE; AND

(II) OF THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE PREMIUM FINANCE COMPANY TO WHICH THE OBLIGATION HAS BEEN ASSIGNED.

(B) (1) WITH RESPECT TO COMMERCIAL AUTOMOBILE, FIRE, OR LIABILITY INSURANCE, A PREMIUM FINANCE COMPANY:

(I) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, MAY ASSIGN ALL RIGHTS AND OBLIGATIONS UNDER A PREMIUM FINANCE AGREEMENT TO ANOTHER PERSON IF THE PREMIUM FINANCE AGREEMENT EXPRESSLY CONFERS THE RIGHT TO ASSIGN ALL RIGHTS AND OBLIGATIONS UNDER THE PREMIUM FINANCE AGREEMENT; OR

(II) MAY PLEDGE A PREMIUM FINANCE AGREEMENT AS COLLATERAL FOR A LOAN.

(2) A PREMIUM FINANCE COMPANY THAT ASSIGNS RIGHTS AND OBLIGATIONS UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION SHALL:

(I) RETAIN THE OBLIGATION TO SERVICE THE PREMIUM FINANCE AGREEMENT; OR

(II) ASSIGN THE OBLIGATION TO SERVICE THE PREMIUM FINANCE AGREEMENT TO ANOTHER PREMIUM FINANCE COMPANY THAT IS REGISTERED IN THE STATE UNDER THIS TITLE.

(3) IF A PREMIUM FINANCE COMPANY ASSIGNS THE OBLIGATION TO SERVICE A PREMIUM FINANCE AGREEMENT TO ANOTHER PREMIUM FINANCE COMPANY UNDER PARAGRAPH (2)(II) OF THIS SUBSECTION, THE ASSIGNING PREMIUM FINANCE COMPANY SHALL NOTIFY THE INSURED IN ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION:

(I) THAT THE OBLIGATION TO SERVICE THE PREMIUM FINANCE AGREEMENT HAS BEEN ASSIGNED TO ANOTHER PREMIUM FINANCE COMPANY THAT IS REGISTERED IN THE STATE UNDER THIS TITLE; AND

(II) OF THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE PREMIUM FINANCE COMPANY TO WHICH THE OBLIGATION HAS BEEN ASSIGNED.

(C) A NOTICE REQUIRED UNDER SUBSECTION (A)(2) OR (B)(3) OF THIS SUBSECTION SHALL BE BY:

(1) FIRST-CLASS MAIL; OR

(2) IF THE PREMIUM FINANCE COMPANY MEETS THE REQUIREMENTS FOR DELIVERING A NOTICE UNDER § 27-601.2 OF THIS ARTICLE, ELECTRONIC MEANS.

SECTION 3. AND BE IT FURTHER ENACTED, That:

(a) (1) The Executive Director of the Maryland Automobile Insurance Fund, in consultation with the Maryland Insurance Commissioner and State agencies as appropriate, shall develop criteria for evaluating the effectiveness and impact of the Fund's installment payment plan.

(2) The evaluation shall include the impact of the Fund's installment payment plan on:

(i) the cost of automobile insurance for Fund insureds;

(ii) the number of insured and uninsured motorists in the State;

(iii) the number of Fund policies in force by geographic area;

(iv) the duration of Fund policies in force; and

(v) the frequency of payment methods used by Fund insureds, including the Fund's installment payment plan, premium finance agreements, and cash and credit card payments.

(3) On or before October 1, 2015, the Fund shall submit a report to the Commissioner based on the Fund's determination of the effectiveness and impact of the Fund's installment payment plan for the prior year based on:

(i) the evaluation criteria developed under paragraph (2) of this subsection; and

(ii) the limitations of the terms of the installment payment plan under § 20-507(g)(1)(ii)1 and 4 of the Insurance Article, as enacted under Section 1 of this Act.

(b) (1) On receipt of the report under subsection (a)(3) of this section, the Commissioner shall make a determination of the effectiveness and impact of the Fund's installment payment plan, including a review of complaints received by the

Commissioner relating to the Fund's installment payment plan and premium finance agreements.

(2) On or before December 31, 2015, the Commissioner shall submit a report, in accordance with § 2-1246 of the State Government Article, to the Senate Finance Committee and the House Economic Matters Committee on the Commissioner's determination of the effectiveness of the Fund's installment payment plan and its impact on:

- (i) the Fund;
- (ii) the private passenger automobile industry;
- (iii) the premium finance company industry; and
- (iv) Maryland consumers.

SECTION 4. AND BE IT FURTHER ENACTED, That the Maryland Insurance Administration shall:

(1) keep track of complaints received from consumers who have had all rights and obligations under premium finance agreements for commercial automobile, fire, or liability insurance assigned under § 23-301.2(b) of the Insurance Article, as enacted by Section 2 of this Act; and

(2) on or before December 31, 2014, report any findings and recommendations, in accordance with § 2-1246 of the State Government Article, to the Senate Finance Committee and the House Economic Matters Committee.

~~SECTION 5.~~ SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall apply to all policies issued and ~~contracts issued by the Maryland Automobile Insurance Fund~~ premium finance agreements entered into on or after the effective date of this Act.

~~SECTION 6.~~ SECTION 6. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ July 1, 2013. Section 2 of this Act shall remain effective for a period of 2 years and, at the end of June 30, 2015, with no further action required by the General Assembly, Section 2 of this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 2, 2013.