SENATE BILL 556

By: Senator Mathias
Introduced and read first time: February 4, 2016
Assigned to: Finance

A BILL ENTITLED

AN ACT concerning

Personal Automobile Insurance – Rescission of Policy or Binder – Misrepresentations by Applicant

FOR the purpose of authorizing an insurer to rescind a policy or binder of personal automobile insurance if an applicant makes certain misrepresentations; requiring the insurer to provide certain notice to an applicant that certain insurance coverage may be rescinded under certain circumstances; requiring an insurer to take certain actions before rescinding certain insurance coverage; requiring an insurer to send certain notice to an applicant in a certain manner under certain circumstances; providing that no coverage is in effect under a policy or binder of personal automobile insurance as of its proposed effective date under certain circumstances, with certain exceptions; requiring an insurer to send certain notice to a certain secured creditor in a certain manner under certain circumstances; requiring an insurer to provide certain coverage under a certain rescinded policy or binder to a certain secured creditor for a certain period of time; requiring an insurer to provide certain coverage under a certain rescinded policy or binder to a certain person under certain circumstances; providing for the application of this Act; and generally relating to rescission of a policy or binder of personal automobile insurance.

BY adding to
Article – Insurance
Section 12–106(k)
Annotated Code of Maryland
(2011 Replacement Volume and 2015 Supplement)

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

Article – Insurance

12–106.
(K) (1) Subject to paragraphs (2), (3), and (4) of this subsection, an insurer may rescind a policy or binder of personal automobile insurance if an applicant misrepresents that:

(i) a motor vehicle covered under the policy or binder is principally garaged in the State; or

(ii) an owner or operator of a motor vehicle covered under the policy or binder resides in the State.

(2) At the time of application for a policy of personal automobile insurance, the insurer shall provide written notice to the applicant that coverage under the policy may be rescinded if the applicant makes a misrepresentation described in paragraph (1) of this subsection.

(3) Before rescinding coverage under paragraph (1) of this subsection, an insurer shall:

(i) apply underwriting standards that clearly state the ineligibility of a risk described in paragraph (1) of this subsection; and

(ii) conduct a reasonable investigation to confirm that the applicant has made a misrepresentation described in paragraph (1) of this subsection.

(4) To rescind a policy or binder, an insurer shall send written notice to the applicant, by a first-class mail tracking method and, if available, by electronic mail or other electronic means, to the applicant’s last known address, stating that:

(i) the policy or binder is rescinded as of its proposed effective date because the applicant made a misrepresentation when applying for the policy;

(ii) no coverage is in effect under the policy or binder; and

(iii) the applicant has the right to file a complaint with the Commissioner.
(5) (I) Except as otherwise provided in subparagraphs (II) and (III) of this paragraph, if an insurer rescinds a policy or binder of personal automobile insurance under this subsection no coverage is in effect under the policy or binder as of its proposed effective date.

(II) At the time of rescission, an insurer shall send written notice to any secured creditor identified on the policy or binder, by a first-class mail tracking method or another method by which the secured creditor has agreed to receive notices under the policy or binder, to the secured creditor’s last known address, stating that:

1. A. The policy or binder is rescinded as of its proposed effective date because the applicant made a misrepresentation when applying for the policy; and

   B. No coverage is in effect under the policy or binder; but

2. The insurer shall provide coverage under the rescinded policy or binder to the secured creditor, to the full extent of the secured creditor’s interest, beginning on the proposed effective date of the policy or binder through a period ending 5 business days after the date of the notice to the secured creditor.

(III) An insurer shall provide coverage under a rescinded policy or binder to a person other than the applicant:

1. For a claim occurring in the State; and

2. If the person was not involved in making the misrepresentation that was the basis for the rescission.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all policies and binders of personal automobile insurance issued or delivered in the State on or after October 1, 2016.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2016.