
By: Delegate Donoghue

Introduced and read first time: February 16, 1996

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Title Insurance - Rates and Premiums**

3 FOR the purpose of prohibiting agents of certain insurers from deviating from rates or
4 premiums approved by the Insurance Commissioner for title insurance;prohibiting
5 certain insurers and agents from making certain payments for the referral or
6 procurement of certain title insurance business; providing certain exceptions; and
7 generally relating to rates and premiums for title insurance.

8 BY repealing and reenacting, with amendments,
9 Article 27 - Crimes and Punishments
10 Section 465A
11 Annotated Code of Maryland
12 (1992 Replacement Volume and 1995 Supplement)

13 BY repealing and reenacting, with amendments,
14 Article 48A - Insurance Code
15 Section 242A
16 Annotated Code of Maryland
17 (1994 Replacement Volume and 1995 Supplement)

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

20 **Article 27 - Crimes and Punishments**

21 465A.

22 No person, firm, or corporation having any connection whatsoever with the
23 settlement of real estate transactions involving land situated and lying in this State shall,
24 for the purpose of soliciting, obtaining, retaining, or arranging any real estate settlement
25 or real estate settlement business, pay to or receive from, any other person, firm, or
26 corporation any fee, compensation, gift (except promotional or advertising materials for
27 general distribution), thing of value, rebate, or other consideration, including loans and
28 advancements of commissions or deposit moneys. Any person, firm, or corporation
29 violating the terms of this section shall be guilty of a misdemeanor and upon conviction
30 shall be subject to a fine not to exceed \$1,000 or to imprisonment for not more than 6
31 months or both. Every violation of this section shall constitute a separate offense and

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1 shall be punishable as such. Nothing herein contained shall be construed as preventing
2 the payment of commissions to agents who have been duly licensed as such by the State
3 Insurance Department. Nothing herein shall prohibit the referral of any such business
4 from one attorney to another attorney, or prohibit any professional fee arrangement
5 between attorneys in such cases, if the referral or professional fee arrangement does not
6 violate § 17-605 of the Business Occupations and Professions Article OR ARTICLE 48A, §
7 242A(C)(7) OF THE CODE.

8 **Article 48A - Insurance Code**

9 242A.

10 (a) This section applies to all kinds and classes of insurance which insure or
11 guarantee titles to real or leasehold property or any estate therein, or against loss by
12 reason of defects, encumbrances, liens or charges on real or leasehold property or any
13 estate therein; or which insure or guarantee the validity, priority and status of real and
14 leasehold property liens and estates; or which insure or guarantee the correctness and
15 sufficiency of searches for instruments, liens, charges or other matters affecting the title
16 to real or leasehold property or any estate therein. Any person making such guarantees or
17 issuing such insurance shall be deemed to be engaged in the business of title insurance
18 and is hereinafter referred to as "insurer".

19 (b) All rates will be made in accordance with the following provisions:

20 (1) Rates shall be reasonable and adequate for the class of risks to which
21 they apply.

22 (2) Rates shall not discriminate unfairly between risks involving essentially
23 the same hazards and expense elements.

24 (3) Due consideration will be given to past and prospective loss experience
25 within and outside the State, reasonable margin for profit and contingencies, cost of
26 participating insurance, percentage to be allocated to reserve, operating expense and all
27 other relevant factors fairly attributable to the business of title insurance.

28 (4) Guarantees may be grouped by classification for the establishment of
29 rates and minimum premiums. A special or unusual guarantee, more hazardous to the
30 insurer than ordinary title guarantees because of an alleged irregularity or a difference in
31 interpretation or application of law which might affect marketability of title, may be
32 classified individually and separately according to the circumstances peculiar to each
33 case.

34 (c) (1) Every insurer must file with the Commissioner, any manual or schedule
35 of rates or premiums which it proposes to use, together with any rules or regulations
36 governing the setting or making of such rates or premiums, and indicate the character or
37 extent of coverage contemplated under such rates and premiums, except that insurers
38 need not include rates or premiums for a special or unusual guarantee as defined in
39 subsection (b)(4), and such rates or premiums may be classified individually and
40 separately according to the circumstances peculiar to each case.

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1 (2) Every insurer must file with the Commissioner, all forms of contracts,
2 policies or guarantees of insurance with any and all types of modifications thereof, except
3 as to special or unusual risks, which it proposes to use.

4 (3) No change in rates or premiums or in the forms of contracts, policies or
5 guarantees of insurance shall be permitted to any insurer, unless and until a report
6 indicating such change shall be filed and approved by the Commissioner.

7 (4) Any filing made pursuant to this section shall be approved by the
8 Commissioner, unless he finds that such filing does not meet the requirements of this
9 subtitle or shall otherwise be contrary to law. As soon as reasonably possible after the
10 filing has been made, the Commissioner shall, in writing, approve or disapprove the same;
11 provided, however, that, if such filing has not been disapproved by the Commissioner
12 within fifteen days from the date of filing, or within thirty days if such period be extended
13 in writing by the Commissioner during the first fifteen days, it shall be deemed approved,
14 and the rates, contracts or other subject matter of such filing may be put into effect by the
15 insurer at the expiration of such waiting period. In the event the Commissioner
16 disapproves any filing, he shall specify in what respect he finds that such filing does not
17 meet the requirements of this subtitle or is otherwise contrary to law.

18 (5) If at any time after the approval of a filing, the Commissioner should
19 find that the filing does not meet the requirements of this section or is otherwise contrary
20 to law, or if any party having an interest in such filing should make complaint in writing,
21 setting forth specific and reasonable causes for complaint to the Commissioner, or if any
22 insurer, upon notice of disapproval by the Commissioner of a filing pursuant to this
23 section, should so request, the Commissioner shall hold a hearing within 30 days and shall
24 give notice of the hearing in writing to all parties in interest. The Commissioner may
25 confirm, modify, change or rescind any previous action, if warranted by the facts shown at
26 the hearing.

27 (6) No insurer shall make or issue any contract, policy or guarantee of
28 insurance except in accordance with filings approved as provided in this section, except as
29 to special or unusual risks for which no filing has been hereinbefore provided.

30 (7) Every insurer AND AGENT OF THE INSURER must hold to the rates or
31 premiums as approved by the Commissioner and may not deviate therefrom nor allow to
32 or for the account of any insured [a rebate or discount on the rates or premiums
33 payable] OR REPRESENTATIVE OF THE INSURED ANY COMMISSION, REBATE,
34 DISCOUNT, PART OF TITLE INSURANCE PREMIUM, OR OTHER THING OF VALUE,
35 DIRECTLY OR INDIRECTLY, FOR THE REFERRAL OR PROCUREMENT OF BUSINESS.
36 As compensation for [procuring business] ISSUING COMMITMENTS OF TITLE
37 INSURANCE OR POLICIES OF TITLE INSURANCE OR BOTH, an insurer may pay or allow
38 a commission to any licensed agent of the insurer.

39 (8) In order to further more equitable establishment and adjustment of
40 rates and premiums and forms of contracts, policies or guarantees of insurance, the
41 Commissioner and every insurer may exchange information and experience data with
42 each other, and with the insurance supervisory officials and insurers in other states and
43 with national organizations and associations and may consult and cooperate with them in
44 respect to rate and premium making and forms of contracts, policies and guarantees of
45 insurance.

1 (9) The Commissioner shall require that by September 1, 1980, all title
2 insurance companies subject to the provisions of this section provide on a uniform basis
3 whatever financial data including rates, taxes, general expenses, allocated and
4 unallocated loss adjustment expenses, licenses, and fees, and all other expenses relating
5 to the procurement of business not specifically listed as commissions such as dividends,
6 retainers, stock, office space, or any other valuable consideration and any other
7 information the Commissioner requires in the regulation of rates. This information shall
8 be supplied on forms provided by the Commissioner. The Commissioner, in cooperation
9 with the Secretary of Labor, Licensing, and Regulation, shall conduct a study based on
10 this information and shall recommend to the 1981 session of the General Assembly
11 changes in the law, if any, he deems necessary to regulate title insurance companies.

12 (d) No person or organization shall knowingly give false or misleading information
13 to the Commissioner, to any insurer or to any other person which will in any manner
14 affect the proper determination of rates or premiums, or the proper issuance of a
15 contract, policy or guarantee of insurance.

16 (e) (1) The Commissioner may, if he finds that any person or organization has
17 violated any provision of this subtitle, impose a penalty of not more than \$250.00 for each
18 such violation, but, if he finds such violation to be wilful, he may impose a penalty of not
19 more than \$1,000.00 for each such violation. Such penalties may be in addition to any
20 other penalty provided by law.

21 (2) The Commissioner may suspend the license of any insurer who fails to
22 comply with any lawful order of the Commissioner within the time limited by such order,
23 or any extension thereof which the Commissioner may grant. The Commissioner shall not
24 suspend the license of any insurer for failure to comply with an order until the time
25 prescribed for an appeal therefrom has expired or, if any appeal has been taken, until
26 such order has been affirmed. The Commissioner may determine when a suspension of
27 license shall become effective, and it shall remain in effect for a period fixed by him,
28 unless he modifies or rescinds such suspension, or until the order upon which such
29 suspension is based is modified, rescinded or reversed.

30 (3) No penalty shall be imposed and no license shall be suspended except
31 upon written order of the Commissioner, stating his findings, made after a hearing held
32 upon not less than ten days' written notice to such person or insurer and specifying the
33 alleged violation.

34 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
35 October 1, 1996.