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**By: Delegate Donoghue**

Introduced and read first time: February 16, 1996

Assigned to: Economic Matters

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Committee Report: Favorable

House action: Adopted

Read second time: March 20, 1996

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CHAPTER \_\_\_\_

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,

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1 for the purpose of soliciting, obtaining, retaining, or arranging any real estate settlement  
2 or real estate settlement business, pay to or receive from, any other person, firm, or  
3 corporation any fee, compensation, gift (except promotional or advertising materials for  
4 general distribution), thing of value, rebate, or other consideration, including loans and  
5 advancements of commissions or deposit moneys. Any person, firm, or corporation  
6 violating the terms of this section shall be guilty of a misdemeanor and upon conviction  
7 shall be subject to a fine not to exceed \$1,000 or to imprisonment for not more than 6  
8 months or both. Every violation of this section shall constitute a separate offense and  
9 shall be punishable as such. Nothing herein contained shall be construed as preventing  
10 the payment of commissions to agents who have been duly licensed as such by the State  
11 Insurance Department. Nothing herein shall prohibit the referral of any such business  
12 from one attorney to another attorney, or prohibit any professional fee arrangement  
13 between attorneys in such cases, if the referral or professional fee arrangement does not  
14 violate § 17-605 of the Business Occupations and Professions Article OR ARTICLE 48A, §  
15 242A(C)(7) OF THE CODE.

16 **Article 48A - Insurance Code**

17 242A.

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

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

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

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

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

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

42 (c) (1) Every insurer must file with the Commissioner, any manual or schedule  
43 of rates or premiums which it proposes to use, together with any rules or regulations

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1 governing the setting or making of such rates or premiums, and indicate the character or  
2 extent of coverage contemplated under such rates and premiums, except that insurers  
3 need not include rates or premiums for a special or unusual guarantee as defined in  
4 subsection (b)(4), and such rates or premiums may be classified individually and  
5 separately according to the circumstances peculiar to each case.

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

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

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

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

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

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

1 (8) In order to further more equitable establishment and adjustment of  
2 rates and premiums and forms of contracts, policies or guarantees of insurance, the  
3 Commissioner and every insurer may exchange information and experience data with  
4 each other, and with the insurance supervisory officials and insurers in other states and  
5 with national organizations and associations and may consult and cooperate with them in  
6 respect to rate and premium making and forms of contracts, policies and guarantees of  
7 insurance.

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

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

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

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

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

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

