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**By: Senator Collins**

Introduced and read first time: February 2, 1996

Assigned to: Finance

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A BILL ENTITLED

1 AN ACT concerning

2 **Title Insurance Agents - Maximum Commission**

3 FOR the purpose of prohibiting an insurer from paying and a title insurance agent from  
4 receiving a certain commission in an amount greater than the amount set by the  
5 Insurance Commissioner; requiring the submission of certain data to the  
6 Commissioner to be used to set a certain commission; requiring the Commissioner  
7 to hold certain public hearings at certain times; establishing certain notice  
8 requirements for the hearings; and generally relating to certain commissions  
9 payable to title insurance agents by insurers.

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

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

17 **Article 48A - Insurance Code**

18 242A.

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

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

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

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

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

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

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

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

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

26 (4) Any filing made pursuant to this section shall be approved by the  
27 Commissioner, unless he finds that such filing does not meet the requirements of this  
28 subtitle or shall otherwise be contrary to law. As soon as reasonably possible after the  
29 filing has been made, the Commissioner shall, in writing, approve or disapprove the same;  
30 provided, however, that, if such filing has not been disapproved by the Commissioner  
31 within fifteen days from the date of filing, or within thirty days if such period be extended  
32 in writing by the Commissioner during the first fifteen days, it shall be deemed approved,  
33 and the rates, contracts or other subject matter of such filing may be put into effect by the  
34 insurer at the expiration of such waiting period. In the event the Commissioner  
35 disapproves any filing, he shall specify in what respect he finds that such filing does not  
36 meet the requirements of this subtitle or is otherwise contrary to law.

37 (5) If at any time after the approval of a filing, the Commissioner should  
38 find that the filing does not meet the requirements of this section or is otherwise contrary  
39 to law, or if any party having an interest in such filing should make complaint in writing,  
40 setting forth specific and reasonable causes for complaint to the Commissioner, or if any  
41 insurer, upon notice of disapproval by the Commissioner of a filing pursuant to this  
42 section, should so request, the Commissioner shall hold a hearing within 30 days and shall  
43 give notice of the hearing in writing to all parties in interest. The Commissioner may

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1 confirm, modify, change or rescind any previous action, if warranted by the facts shown at  
2 the hearing.

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

6 (7) (I) Every insurer must hold to the rates or premiums as approved by  
7 the Commissioner and may not deviate therefrom nor allow to or for the account of any  
8 insured a rebate or discount on the rates or premiums payable. As compensation for  
9 procuring business, an insurer may pay or allow a commission to any licensed agent of the  
10 insurer.

11 (II) 1. NOTWITHSTANDING ANY PROVISION OF EXISTING OR  
12 SUBSEQUENT AGENCY CONTRACT, COMMISSION AGREEMENT, PREMIUM  
13 AGREEMENT, OR OTHER CONTRACT THAT REQUIRES A COMMISSION OR PREMIUM  
14 SPLIT BETWEEN AN INSURER AND AGENT, AN INSURER MAY NOT PAY AND AN  
15 AGENT MAY NOT RECEIVE A COMMISSION, FEE, GIFT, OR OTHER CONSIDERATION,  
16 DIRECTLY OR INDIRECTLY, IN AN AMOUNT GREATER THAN THE MAXIMUM  
17 AMOUNT SET BY THE COMMISSIONER.

18 2. FOR THE PURPOSE OF COLLECTING DATA TO BE USED TO  
19 SET THE MAXIMUM COMMISSION PAYABLE, THE COMMISSIONER SHALL REQUIRE  
20 INSURERS AND LICENSED AGENTS DOING BUSINESS IN THE STATE TO SUBMIT, IN  
21 THE FORM THAT THE COMMISSIONER CONSIDERS APPROPRIATE, INFORMATION  
22 ABOUT LOSS EXPERIENCE, EXPENSE OF OPERATION, AND OTHER MATERIAL  
23 MATTERS FOR THE CONSIDERATION OF THE COMMISSIONER.

24 3. TO CONSIDER THE AMOUNT OF THE MAXIMUM  
25 COMMISSION PAYABLE AND OTHER MATTERS RELATED TO THE MAXIMUM  
26 COMMISSION, THE COMMISSIONER SHALL HOLD PUBLIC HEARINGS NOT EARLIER  
27 THAN SEPTEMBER 1 OR LATER THAN NOVEMBER 15 OF EACH EVEN-NUMBERED  
28 YEAR BEGINNING IN 1996.

29 4. THE COMMISSIONER MAY HOLD ADDITIONAL PUBLIC  
30 HEARINGS ON THE MAXIMUM COMMISSION PAYABLE AS THE COMMISSIONER  
31 CONSIDERS NECESSARY.

32 5. AT LEAST 4 WEEKS BEFORE THE INITIAL PUBLIC  
33 HEARING, NOTICE OF THE HEARING SHALL BE PUBLISHED IN THE MARYLAND  
34 REGISTER OR IN OTHER PUBLICATIONS AS DIRECTED BY THE COMMISSIONER AND  
35 SHALL BE SENT DIRECTLY TO ALL INSURERS AND LICENSED AGENTS DOING  
36 BUSINESS IN THE STATE.

37 6. ANY ADDITIONAL PUBLIC HEARING SHALL BE  
38 ANNOUNCED BEFORE THE ADJOURNMENT OF THE INITIAL HEARING AND NOTICE  
39 OF THE HEARING SHALL BE PUBLISHED AT LEAST 1 WEEK BEFORE THE HEARING IN  
40 THE MARYLAND REGISTER OR IN OTHER PUBLICATIONS AS DIRECTED BY THE  
41 COMMISSIONER.



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