

CF 7lr2377

By: Delegates Love, Barve, and Harrison

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Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 20, 1997

CHAPTER _____

1 AN ACT concerning

2 **Premium Finance Companies and Agreements**

3 FOR the purpose of making technical changes to certain provisions of law relating to
 4 premium finance companies and premium finance agreements; establishing a
 5 requirement for a minimum net worth or letter of credit for premium finance
 6 companies under certain circumstances; specifying certain information required of
 7 certain applicants; altering certain fees; ~~requiring certain hearings for certain~~
 8 ~~persons under certain circumstances~~ clarifying that the denial of an applicant's
 9 registration is subject to certain hearing requirements; altering certain provisions
 10 relating to record keeping and registration; altering certain requirements and
 11 contents of premium finance agreements, their terms, administration, charges,
 12 interest, assignment, and cancellation; authorizing the financing of certain
 13 additional or renewal premiums; ~~providing for the calculation and disposition of~~
 14 ~~certain return premiums under certain circumstances~~; providing for the sufficiency
 15 of certain forms of notice; altering certain time limits for certain notices and
 16 payments; altering ~~and adding~~ certain definitions; and generally relating to
 17 premium finance companies and premium finance agreements.

18 BY repealing and reenacting, with amendments,

19 Article - Insurance

20 Section 23-101, ~~23-204~~ 23-202 through ~~23-205, 23-207,~~ 23-208, 23-301, 23-302,21 ~~23-304~~ 23-305 through 23-308, 23-403, ~~and 23-405,~~ and 23-501

22 Annotated Code of Maryland

23 (1996 Volume)

24 (As enacted by Chapter 11 of the Acts of the General Assembly of 1996)

25 BY repealing and reenacting, without amendments,

26 Article - Insurance

2
1 Section 23-102, 23-103, ~~23-206, 23-201,~~ 23-209, 23-210, ~~23-302,~~ 23-303, ~~23-304,~~
2 23-309, 23-401, 23-402, 23-404, 23-406, and ~~23-501~~ 23-502 through 23-506
3 Annotated Code of Maryland
4 (1996 Volume)
5 (As enacted by Chapter 11 of the Acts of the General Assembly of 1996)

6 BY adding to
7 Article - Insurance
8 Section 23-310 and 23-401.1
9 Annotated Code of Maryland
10 (1996 Volume)
11 (As enacted by Chapter 11 of the Acts of the General Assembly of 1996)

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

14 **Article - Insurance**

15 23-101.

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

17 (b) (1) "Premium finance agreement" means an agreement:

18 (i) by which an insured or prospective insured promises to pay to [or
19 to the order of another an] A PREMIUM FINANCE COMPANY ~~OR ITS ASSIGNEE~~ THE
20 amount advanced or to be advanced under the agreement to an insurer, THE INSURER'S
21 agent, or A ~~PRODUCER OR~~ broker in payment of premiums; and

22 (ii) that contains an assignment of or is otherwise secured by the
23 unearned premium or refund obtainable from the insurer on cancellation of the insurance
24 contract, ~~TOGETHER WITH INTEREST AND A SERVICE CHARGE.~~

25 (2) "Premium finance agreement" does not include a premium financed in
26 connection with a time sale of goods or services or an extension of credit without charge
27 by an agent or broker.

28 ~~(C) "PRODUCER" MEANS AN AGENT OR BROKER AS DEFINED IN THIS~~
29 ~~ARTICLE.~~

30 ~~{(c)}~~ ~~(D)~~ "Premium finance company" means a person that engages in the
31 business of entering into or accepting premium finance agreements.

32 23-102.

33 No bank, savings bank, trust company, savings and loan association, credit union,
34 industrial finance company, small loan company, or other similar organization that is
35 regulated under the laws of the State or the United States nor any bank, savings bank,
36 trust company, savings and loan association, or credit union that is organized in another
37 state and has a branch in this State nor any authorized insurer that does not engage in the
38 insurance financing business is subject to this title.

3

1 23-103.

2 (a) The Commissioner may conduct investigations and examine the books,
3 records, and accounts of a person under this title to the same extent as is authorized with
4 respect to insurers under this article.

5 (b) The expense of an examination shall be paid by the person examined as
6 provided in § 2-208 of this article.

7 (c) The Commissioner or an examiner shall make a complete report of each
8 investigation or examination as provided in § 2-209 of this article.

9 23-201.

10 (a) A premium finance company must register with the Commissioner before
11 engaging in business as a premium finance company in the State.

12 (b) An insurer, agent, or broker must register with the Commissioner before
13 engaging in the business of financing premiums in the State.

14 ~~(C) THE REGISTRATION REQUIREMENTS OF THIS TITLE DO NOT APPLY TO A~~
15 ~~PERSON WHO PURCHASES OR OTHERWISE ACQUIRES A PREMIUM FINANCE~~
16 ~~AGREEMENT FROM A REGISTERED PREMIUM FINANCE COMPANY IF A REGISTERED~~
17 ~~PREMIUM FINANCE COMPANY OR A PERSON LISTED IN § 23-102 OF THIS TITLE~~
18 ~~REMAINS FULLY RESPONSIBLE FOR THE PREMIUM FINANCE AGREEMENT AND ITS~~
19 ~~ADMINISTRATION.~~

20 23-202.

21 (a) To engage in business as a premium finance company in the State, each
22 premium finance company shall:

23 (1) MAINTAIN A NET WORTH OF AT LEAST \$250,000 CALCULATED UNDER
24 GENERALLY ACCEPTED ACCOUNTING PRINCIPLES;

25 (2) FILE WITH THE COMMISSIONER A AN IRREVOCABLE LETTER OF
26 CREDIT IN THE AMOUNT OF \$50,000 ISSUED BY A FINANCIAL INSTITUTION; OR

27 (3) file with the Commissioner a bond that:

28 [(1)] (I) is in favor of the State;

29 [(2)] (II) is in the penal sum of [\$25,000] \$50,000;

30 [(3)] (III) is executed by an authorized surety insurer; and

31 [(4)] (IV) is conditioned that the premium finance company will account
32 for and pay over to the person entitled to receive it all money belonging to the person that
33 comes into the possession of the premium finance company, including unearned
34 premiums due to an insured and unearned commissions due to an insurer.

35 (b) [The] A bond shall remain in force until the surety insurer is released from
36 liability by the Commissioner or until the bond is canceled by the surety insurer.

4

1 (c) The total liability of the surety insurer under [the] A bond may not exceed
2 the penal sum of the bond.

3 (d) (1) (i) The surety insurer may cancel [the] A bond after filing written
4 notice with the Commissioner at least 30 days before the effective date of the
5 cancellation.

6 (ii) A cancellation under this paragraph does not affect any liability
7 that accrued before the cancellation.

8 (2) After notification of the cancellation of the bond, the premium finance
9 company shall act promptly to replace the bond.

10 (3) If the premium finance company fails to act promptly to replace the
11 bond, the Commissioner shall deny, suspend, revoke, or refuse to renew the registration
12 of the premium finance company until the required bond is filed.

13 23-203.

14 (a) An applicant for registration shall:

15 (1) file with the Commissioner an application on the form that the
16 Commissioner requires; and

17 (2) pay to the Commissioner an application fee of [\$25] ~~\$100~~ \$50.

18 (B) THE REGISTRATION FORM SHALL INCLUDE THE FOLLOWING
19 INFORMATION:

20 (1) THE NAME, BUSINESS ADDRESS, AND TELEPHONE NUMBER OF THE
21 PREMIUM FINANCE COMPANY;

22 (2) THE NAME AND BUSINESS ADDRESS OF EACH OFFICER, DIRECTOR,
23 PRINCIPAL, AND PARTNER OF THE PREMIUM FINANCE COMPANY; AND

24 (3) ~~IN THE CASE OF A CORPORATION, A STATEMENT, PREPARED UNDER~~
25 ~~PENALTY OF PERJURY BY AN APPROPRIATE OFFICER, PRINCIPAL, OR PARTNER OF~~
26 ~~THE PREMIUM FINANCE COMPANY, STATING THAT THE PREMIUM FINANCE~~
27 ~~COMPANY IS AUTHORIZED TO CONDUCT BUSINESS IN THE STATE~~ CERTIFICATE OF
28 GOOD STANDING ISSUED BY THE STATE DEPARTMENT OF ASSESSMENTS AND
29 TAXATION.

30 [(b)] (C) A registration form may require the applicant to:

31 (1) file the form of the premium finance agreement to be used;

32 (2) file the service charges to be applied; and

33 (3) disclose the identity, trade names, and names of [officers,]
34 managers[, AND owners[, and directors] of the applicant.

5

1 23-204.

2 (A) WHEN AN APPLICANT FILES A REGISTRATION FORM AND PAYS THE
3 REGISTRATION FEE TO THE COMMISSIONER, THE COMMISSIONER SHALL
4 DETERMINE WHETHER THE APPLICANT MEETS THE REQUIREMENTS OF THIS TITLE.

5 (B) IF THE COMMISSIONER FINDS THAT AN APPLICANT DOES NOT MEET THE
6 REQUIREMENTS OF THIS TITLE, THE COMMISSIONER, ~~AT THE REQUEST OF THE~~
7 ~~APPLICANT, SHALL PROVIDE TO THE APPLICANT A CONTESTED CASE HEARING IN~~
8 ~~ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE~~
9 SHALL DENY REGISTRATION TO THE APPLICANT.

10 (C) The Commissioner shall register each applicant that meets the requirements
11 of this title.

12 23-205.

13 (a) A registration expires on the first July 1 after its effective date unless it is
14 renewed as provided in this section.

15 (b) Before a registration expires, the registrant may renew it for an additional
16 1-year term if the registrant:

17 (1) otherwise is entitled to be registered; and

18 (2) pays to the Commissioner a renewal fee of [\$25] ~~\$100~~ \$50.

19 (c) The Commissioner shall renew the registration of each registrant that meets
20 the requirements of this section.

21 23-206.

22 The Commissioner shall require a premium finance company to report, on forms
23 provided by the Commissioner, changes in officers, directors, owners, trade names, ~~and~~
24 PRINCIPALS, PARTNERS, business addresses, AND TELEPHONE NUMBERS.

25 23-207.

26 Each premium finance company:

27 (1) shall maintain records of its premium finance transactions for at least 3
28 years ~~AFTER MAKING THE FINAL ENTRY WITH RESPECT TO A PREMIUM FINANCE~~
29 ~~AGREEMENT;~~

30 (2) shall allow the Commissioner to examine the records; and

31 (3) may keep the records in photographic, IMAGING, MICROFILM,
32 MICROFICHE, ELECTRONIC DATA PROCESSING, COMPUTER, or facsimile form.

33 23-208.

34 (a) ~~The~~ SUBJECT TO THE HEARING PROVISIONS OF TITLE 2 OF THIS ARTICLE,
35 THE Commissioner may deny a registration to an applicant or suspend, revoke, or refuse
36 to renew the registration of a registrant if the Commissioner finds that the applicant or
37 registrant has:

6

1 (1) failed to comply with a lawful requirement of the Commissioner under
2 this title;

3 (2) violated a provision of this title;

4 (3) made a material misstatement ~~OR ENGAGED IN FRAUD~~ in the
5 application for registration;

6 (4) engaged in fraudulent or dishonest practices; or

7 (5) demonstrated incompetency or untrustworthiness to engage in the
8 business of a premium finance company.

9 (b) (1) Instead of or in addition to suspending, revoking, or refusing to renew a
10 registration, the Commissioner may:

11 (i) impose on the registrant, for a first or second offense, a penalty of
12 not less than \$25 but not exceeding \$500; or

13 (ii) require that restitution be made by a registrant that violates this
14 title to a person that has suffered financial injury as a result of a violation of this title.

15 (2) For purposes of this subsection, restitution means the sum of money
16 that, if paid to a person that suffers financial injury as a result of violation of this title, will
17 restore the person to the same financial position the person would have been in had the
18 violation not occurred.

19 ~~(C) BEFORE THE COMMISSIONER MAY REVOKE, SUSPEND, OR REFUSE TO~~
20 ~~RENEW THE REGISTRATION OF A PREMIUM FINANCE COMPANY UNDER THIS~~
21 ~~SECTION, THE COMMISSIONER SHALL PROVIDE TO THE PREMIUM FINANCE~~
22 ~~COMPANY, WITHIN 15 BUSINESS DAYS AFTER ITS REQUEST, A CONTESTED CASE~~
23 ~~HEARING UNDER TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.~~

24 23-209.

25 (a) A registrant may surrender a registration by delivering to the Commissioner
26 written notice of the surrender.

27 (b) Surrender of a registration does not affect the registrant's civil or criminal
28 liability for acts committed before the surrender.

29 23-210.

30 Suspension, revocation, or surrender of a registration does not affect the obligation
31 of an insured under a lawful premium finance agreement previously acquired or held by
32 the registrant.

33 23-301.

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

36 (2) The printed part of the premium finance agreement shall be in ~~at least~~
37 APPROXIMATELY 8-point type AND EASILY READABLE BY AN AVERAGE
38 INDIVIDUAL.

7

1 (b) A premium finance agreement shall contain:

2 (1) the name and place of business of the agent; OR ~~BROKER, OR~~
3 ~~PRODUCER~~ negotiating the related insurance contract;

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

6 (3) the name and place of business of the premium finance company {to
7 which payments ~~are to~~ MAY be made};

8 (4) a brief description of the insurance contracts involved and the amount of
9 the premium; and

10 (5) if applicable, the following items:

11 (i) the total amount of the premiums;

12 (ii) the amount of the down payment;

13 (iii) the principal balance (the difference between subitems (i) and (ii)
14 of this item);

15 (iv) the amount of the finance charge;

16 (v) the balance payable by the insured (the sum of subitems (iii) and
17 (iv) of this item);

18 (vi) the number of installments required, the amount of each
19 installment expressed in dollars, and the due date or period of each installment; and

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

22 1. the applicable prefix and number;

23 2. the effective date of the insurance contract or coverage;

24 3. the name of the company issuing the insurance contract or
25 coverage; and

26 4. the premium for the insurance contract or coverage.

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

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

31 (D) A PREMIUM FINANCE AGREEMENT MAY PROVIDE FOR ADDITIONAL ~~OR~~
32 ~~RENEWAL~~ INSURANCE PREMIUMS TO BE FINANCED AND ADDED TO THE INITIAL
33 PREMIUM FINANCE AGREEMENT ~~FROM TIME TO TIME.~~

8

1 23-302.

2 (a) A copy of each premium finance agreement or other notice of a premium
3 finance agreement that describes the policy or policies involved shall be given to the
4 agency issuing the policy or policies or to the insurers involved.

5 (b) When a premium finance agreement is signed, the premium finance company,
6 or the agent or ~~producer~~ BROKER, if applicable, shall provide the insured with, or cause
7 the insured to be provided with, a legible copy of the fully completed and executed
8 premium finance agreement.

9 23-303.

10 (a) The maximum charges stated in §§ 23-304 and 23-305 of this subtitle shall
11 include all interest, fees, and charges incident to the premium finance agreement and the
12 resulting extension of credit.

13 (b) Notwithstanding subsection (a) of this section, delinquency, collection,
14 cancellation, and reinstatement charges may be made in accordance with the limitations
15 of §§ 23-306 and 23-307 of this subtitle.

16 23-304.

17 ~~(A)~~ The finance charge shall be computed:

18 (1) on the amount of the entire premium loan advanced, after subtracting
19 any down payment on the premium loan made by the insured;

20 ~~(2) SUBJECT TO SUBSECTION (B) OF THIS SECTION, from the EARLIER OF~~
21 ~~THE~~ inception date of the insurance contract or from the due date of the premium,
22 disregarding any grace period or credit allowed for payment of the premium, through the
23 date when the final installment under the premium finance agreement is payable; and

24 (3) at a rate not exceeding 1.15% for each 30 days, charged in advance.

25 ~~(B) IF PREMIUMS UNDER MORE THAN ONE INSURANCE CONTRACT ARE~~
26 ~~INCLUDED IN THE SAME PREMIUM FINANCE AGREEMENT, INTEREST MAY BE~~
27 ~~COMPUTED FROM THE EFFECTIVE DATE OF THE EARLIEST INSURANCE CONTRACT~~
28 ~~TO THE DATE WHEN THE FINAL INSTALLMENT IS DUE.~~

29 23-305.

30 (a) A premium finance company may charge an initial service fee FOR EACH
31 LOAN MADE, which may not exceed \$20, for actual expenses.

32 (b) The initial service fee may not be refunded on cancellation or repayment.

33 23-306.

34 (a) A premium finance agreement may require the insured to pay a delinquency
35 and collection charge on each installment that is in default for a period of not less than 5
36 days.

37 (b) A delinquency and collection charge shall be at least \$1, up to a maximum of
38 5% of the installment in default, but may not exceed:

9

1 (1) \$5, with respect to private passenger automobile or personal fire or
2 liability insurance; and

3 (2) [\$50] \$100, with respect to commercial automobile, fire, or liability
4 insurance.

5 (c) Only one delinquency and collection charge may be collected on an
6 installment, regardless of the period during which the installment remains in default.

7 23-307.

8 (a) A premium finance agreement may require the insured to pay a cancellation
9 charge if a default in paying an installment results in the cancellation of an insurance
10 contract listed in the premium finance agreement.

11 (b) A cancellation charge shall be:

12 (1) with respect to private passenger automobile or personal fire or liability
13 insurance, equal to the difference between a delinquency and collection charge imposed
14 under § 23-306 of this subtitle with respect to the installment in default and \$10; and

15 (2) with respect to commercial automobile, fire, or liability insurance, 5% of
16 the installment, not to exceed [\$50] AN AMOUNT EQUAL TO THE DIFFERENCE
17 BETWEEN A DELINQUENCY AND COLLECTION CHARGE IMPOSED UNDER § 23-306 OF
18 THIS SUBTITLE WITH RESPECT TO THE INSTALLMENT IN DEFAULT AND \$100.

19 (c) If a notice of cancellation is withdrawn before its effective date and the
20 insurance coverage is reinstated, the premium finance agreement may require the insured
21 to pay a reinstatement charge in the same amount as the cancellation charge that would
22 have been paid if the cancellation had actually taken effect.

23 ~~(D) A PREMIUM FINANCE AGREEMENT MAY PROVIDE FOR THE PAYMENT OF~~
24 ~~COLLECTION COSTS AND ATTORNEY'S FEES ON CANCELLATION EQUAL TO 20% OF~~
25 ~~THE OUTSTANDING DEBT IF THE PREMIUM FINANCE AGREEMENT IS REFERRED~~
26 ~~FOR COLLECTION TO A COLLECTION AGENCY OR ATTORNEY.~~

27 23-308.

28 A premium finance company may charge a dishonored check fee, which may not
29 exceed [\$20] \$25, for actual expenses incurred in the processing of a dishonored check.

30 23-309.

31 A premium finance company may not charge an insured or a prospective insured
32 any fee for the expense that the premium finance company incurs in obtaining a
33 comprehensive loss underwriting exchange automobile report (CLUE report) regarding
34 the insured or prospective insured if a producer already has charged the insured or
35 prospective insured for obtaining the report.

36 23-310.

37 FILING OF A PREMIUM FINANCE AGREEMENT IS NOT NEEDED TO PERFECT THE
38 VALIDITY OF THE PREMIUM FINANCE AGREEMENT AS A SECURED TRANSACTION AS
39 AGAINST CREDITORS, SUBSEQUENT PURCHASERS, PLEDGEEES, ENCUMBRANCERS,

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1 TRUSTEES IN BANKRUPTCY OR ANY OTHER INSOLVENCY PROCEEDING UNDER ANY
2 LAW, OR ANYONE HAVING THE STATUS OR POWER OF ANY OF THOSE PERSONS,
3 THEIR SUCCESSORS, OR ASSIGNS.

4 23-401.

5 When in connection with a premium finance agreement a power of attorney or
6 other authority to cancel an insurance contract on behalf of an insured is given to a
7 premium finance company, the premium finance company may not cancel the insurance
8 contract except in accordance with this subtitle.

9 23-401.1.

10 (A) EXCEPT AS PROVIDED UNDER SUBSECTION (B) OF THIS SECTION, ANY
11 NOTICE TO AN INSURED SHALL BE SENT BY PERSONAL DELIVERY OR FIRST CLASS
12 MAIL.

13 ~~(A) (B) AT THE OPTION OF THE INSURED~~ WITH RESPECT TO COMMERCIAL
14 AUTOMOBILE, FIRE, OR LIABILITY INSURANCE, AND AT THE REQUEST OF THE
15 INSURED, A PREMIUM FINANCE COMPANY MAY SEND ANY NOTICE REQUIRED
16 UNDER THIS SUBTITLE TO THE INSURED BY PERSONAL DELIVERY, FIRST CLASS
17 MAIL, ELECTRONIC MAIL, OR FACSIMILE TRANSMISSION.

18 ~~(B) A NOTICE DELIVERY METHOD OTHER THAN PERSONAL DELIVERY OR~~
19 ~~FIRST CLASS MAIL MAY BE USED ONLY WITH THE CONSENT OF THE INSURED.~~

20 23-402.

21 (a) At least 10 days before canceling an insurance contract, a premium finance
22 company shall mail to the insured written notice of intent to cancel the insurance contract
23 unless the defaulted installment payment is received within the 10-day notice period.

24 (b) For an automobile liability insurance contract, the notice of intent to cancel
25 shall include a statement in clear and specific terms that if the insured fails to replace the
26 automobile liability insurance within the 10-day notice period, § 17-106 of the
27 Transportation Article provides that uninsured motorist penalties be assessed and that all
28 evidences of registration be surrendered to the Motor Vehicle Administration and that
29 failure to surrender the evidences of registration may result in suspension of current and
30 future registration privileges.

31 23-403.

32 (a) (1) After the end of the notice period under § 23-402(a) of this subtitle, the
33 premium finance company may cancel the insurance contract by submitting to the insurer
34 a notice of cancellation that specifies the effective date of the cancellation.

35 (2) ~~(I)~~ The premium finance company shall ~~DELIVER OR~~ mail a copy of
36 the notice of cancellation to the insured at the last known address of the insured.

37 (II) WITH RESPECT TO COMMERCIAL AUTOMOBILE, FIRE, OR
38 LIABILITY INSURANCE, THE PREMIUM FINANCE COMPANY SHALL DELIVER THE
39 NOTICE IN ACCORDANCE WITH THE INSURED'S REQUEST UNDER § 23-401.1(B) OF
40 THIS SUBTITLE.

11

1 (b) (1) If the insurer receives a notice of cancellation issued under subsection
2 (a) of this section within 30 days after the effective date of cancellation specified in the
3 notice, the INSURER SHALL CANCEL THE insurance contract [shall be canceled]
4 effective on the date specified in the notice, ~~AS IF THE INSURED HAD REQUESTED THE~~
5 ~~CANCELLATION, AND WITHOUT REQUIRING THE RETURN OF THE INSURANCE~~
6 ~~CONTRACT OR FURTHER NOTICE TO THE INSURED.~~

7 (2) Subject to paragraph (3) of this subsection, if the insurer receives a
8 notice of cancellation issued under subsection (a) of this section more than 30 days after
9 the effective date of cancellation specified in the notice, the insurance contract shall be
10 canceled effective on the date the insurer receives the notice.

11 (3) If a premium finance company fails to meet the 30-day notice
12 requirement under paragraph (1) of this subsection because the installment payment of
13 the insured is dishonored after the effective date specified in the notice of cancellation,
14 the dishonored payment is ineffective and the insurer may waive the 30-day notice
15 requirement.

16 {(c) A cancellation under this section shall be made as if the notice of cancellation
17 had been submitted by the insured, but without requiring the return of the policy.}

18 23-404.

19 (a) All statutory, regulatory, and contractual restrictions that provide that the
20 insured may not cancel an insurance contract unless notice is given to a governmental
21 agency, mortgagee, or other third party shall apply to a cancellation made under this
22 subtitle.

23 (b) If an insurer is required under subsection (a) of this section to give notice on
24 behalf of itself or the insured, the insurer shall:

25 (1) give notice to the governmental agency, mortgagee, or other third party;
26 and

27 (2) compute the effective date of cancellation from the day the insurer
28 receives the notice of cancellation from the premium finance company.

29 23-405.

30 (a) (1) Whenever an insurance contract is canceled in accordance with this
31 subtitle, the insurer shall return any gross unearned premiums that are due under the
32 insurance contract, less agents' earned commissions, to the premium finance company for
33 the account of the insured within a reasonable time not exceeding [60] 45 days after:

34 (i) receipt by the insurer of [the] A ~~WRITTEN~~ notice of cancellation
35 FROM THE PREMIUM FINANCE COMPANY; or

36 (ii) completion of any payroll audit necessary to determine the amount
37 of premium earned while the insurance contract was in force.

38 (2) ~~A RETURN PREMIUM SHALL BE SUBJECT TO ANY MINIMUM EARNED~~
39 ~~PREMIUM STATED IN THE INSURANCE CONTRACT.~~

12

1 ↻ An audit under paragraph (1)(ii) of this subsection shall be performed
2 within [60] 45 days after the insurer receives the notice of cancellation.

3 (b) (1) ~~{After the insurer returns to the premium finance company any gross
4 unearned premiums that are due under the insurance contract, the premium finance
5 company shall refund to the insured the amount of unearned premium that exceeds any
6 amount due under the premium finance agreement.} IF CREDITING OF RETURN
7 PREMIUMS TO THE ACCOUNT OF THE INSURED CAUSES A SURPLUS OVER THE
8 AMOUNT DUE FROM THE INSURED, THE PREMIUM FINANCE COMPANY SHALL
9 REFUND THE SURPLUS TO THE INSURED AS SOON AS REASONABLY POSSIBLE NOT
10 EXCEEDING 15 BUSINESS DAYS AFTER THE PREMIUM FINANCE COMPANY RECEIVES
11 ALL RETURN PREMIUMS.~~

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

14 23-406.

15 Whenever an insurance contract is canceled in accordance with this subtitle, the
16 premium finance company may not collect from an insured an amount due under the
17 premium finance agreement that is less than \$5.

18 23-501.

19 A premium finance company, or an agent or ~~producer~~ BROKER, if applicable, may
20 not require an insured or prospective insured to purchase or finance add-on coverage, as
21 defined in § 20-504 of this article, as a condition of financing the premium for an
22 insurance contract issued by the Maryland Automobile Insurance Fund.

23 23-502.

24 A person may not pay any part of an initial service fee or any other fee or charge to
25 an agent, broker, employee of an agent or broker, or to any other person as an
26 inducement to financing an insurance contract with a premium finance company.

27 23-503.

28 A premium finance company may not induce an insured to enter into more than one
29 premium finance agreement in order to obtain more than one initial service fee.

30 23-504.

31 Unless otherwise authorized by law, a person may not charge, take, receive from,
32 reserve, or impose on an insured or prospective insured greater charges than those
33 allowed by this title.

34 23-505.

35 The holder of a power of attorney may not cancel an insurance contract because a
36 delinquency and collection charge under § 23-306 of this title has not been paid.

37 23-506.

38 In addition to any other applicable administrative or civil penalty, a premium
39 finance company, insurer, agent, or broker that willfully and knowingly violates any

13

1 provision of this title is guilty of a misdemeanor and on conviction is subject to a fine not
2 exceeding \$1,000 or imprisonment not exceeding 1 year or both.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 1997.