
By: Senators Della and Astle

Introduced and read first time: January 31, 1997

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Premium Financing - Administration, Cancellation, and Prohibitions**

3 FOR the purpose of altering certain provisions of law relating to premium finance
4 companies and premium finance agreements; altering certain requirements and
5 contents of premium finance agreements, their terms, administration, charges, and
6 cancellation; authorizing the financing of certain additional or renewal premiums
7 under certain circumstances, subject to certain conditions and limitations; requiring
8 certain notices to certain persons under certain circumstances; limiting certain
9 deductions with regard to certain policies under certain circumstances; providing
10 for certain effects of a notice of dishonor under certain circumstances; altering and
11 adding certain provisions relating to premiums and their return, including
12 calculation, responsibility, application, and interest; prohibiting certain acts by
13 certain persons, including insurers and agents, subject to certain penalties; and
14 generally relating to premium finance companies and premium finance agreements.

15 BY adding to

16 Article - Insurance
17 Section 23-302.1, 23-302.2, 23-310, 23-403.1, 23-505.1, and 23-505.2
18 Annotated Code of Maryland
19 (1996 Volume)
20 (As enacted by Chapter 11 of the Acts of the General Assembly of 1996)

21 BY repealing and reenacting, with amendments,

22 Article - Insurance
23 Section 23-405
24 Annotated Code of Maryland
25 (1996 Volume)
26 (As enacted by Chapter 11 of the Acts of the General Assembly of 1996)

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

2

1 **Article - Insurance**

2 23-302.1.

3 (A) AN ADDITIONAL OR RENEWAL PREMIUM MAY BE FINANCED IF:

4 (1) THE INSURED HAS PAID THE DOWN PAYMENT, IF ANY, REQUIRED
5 BY THE PREMIUM FINANCE COMPANY ON THE ADDITIONAL OR RENEWAL
6 PREMIUM; AND

7 (2) THE PREMIUM FINANCE COMPANY DELIVERS OR MAILES A WRITTEN
8 NOTICE TO THE INSURED AT THE LAST KNOWN ADDRESS OF THE INSURED
9 INDICATING THAT:

10 (I) THERE IS A REVISED PREMIUM FINANCE AGREEMENT; AND

11 (II) IN THE EVENT OF DEFAULT IN PAYMENT OF THE REVISED
12 PREMIUM FINANCE AGREEMENT, THE POLICY MAY BE CANCELED.

13 (B) AN INSURER MAY NOT DELAY CANCELLATION FOR THE SOLE PURPOSE
14 OF APPLYING PREMIUMS ON DEPOSIT TO ANY ADDITIONAL PREMIUM.

15 23-302.2.

16 (A) IF AN INSURER RECEIVES NOTICE OF A FINANCED INSURANCE PREMIUM,
17 THE INSURER SHALL, WITHIN 5 BUSINESS DAYS AFTER ITS CALCULATION, NOTIFY
18 THE INSURED, INSURER'S AGENT, AND PREMIUM FINANCE COMPANY OF ANY
19 ADDITIONAL PREMIUM ARISING UNDER THE FINANCED POLICY.

20 (B) IF THE INSURER FAILS TO NOTIFY THE INSURED, INSURER'S AGENT, OR
21 PREMIUM FINANCE COMPANY OF AN ADDITIONAL PREMIUM UNDER SUBSECTION
22 (A) OF THIS SECTION, THE INSURER MAY NOT DEDUCT THE ADDITIONAL PREMIUM
23 OR ANY PART OF THE ADDITIONAL PREMIUM FROM THE CALCULATION OF
24 UNEARNED PREMIUM ON CANCELLATION OF THE POLICY.

25 23-310.

26 A PRODUCER, AGENT, OR BROKER MAY ONLY BE APPOINTED AS AN AGENT OF
27 A PREMIUM FINANCE COMPANY IF THE APPOINTMENT IS IN WRITING AND IS FILED
28 WITH THE COMMISSIONER.

29 23-403.1.

30 IF AN INSURER RECEIVES NOTICE FROM AN AGENT OR PREMIUM FINANCE
31 COMPANY, WITHIN 15 BUSINESS DAYS AFTER RECEIPT OF THE INITIAL DOWN
32 PAYMENT FOR THE COVERAGE BEING FINANCED, THAT THE INITIAL DOWN
33 PAYMENT HAS BEEN DISHONORED BY A FINANCIAL INSTITUTION, THERE IS NO
34 VALID INSURANCE CONTRACT OR INSURANCE CONTRACTS, AND THE POLICY SHALL
35 BE VOIDED.

36 23-405.

37 (a) (1) Whenever an insurance contract is canceled in accordance with this
38 subtitle, the insurer shall return any gross unearned premiums that are due under the
39 insurance contract, [less agents' earned commissions] COMPUTED PRO RATA, AND

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1 EXCLUDING ADMINISTRATIVE FEES FILED WITH THE COMMISSIONER, to the
2 premium finance company for the account of the insured within a reasonable time not
3 exceeding [60] 45 days after:

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

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

8 (2) A RETURN PREMIUM SHALL BE SUBJECT TO ANY MINIMUM EARNED
9 PREMIUM STATED IN THE INSURANCE CONTRACT.

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

12 (b) (1) [After the insurer returns to the premium finance company any gross
13 unearned premiums that are due under the insurance contract, the premium finance
14 company shall refund to the insured the amount of unearned premium that exceeds any
15 amount due under the premium finance agreement.] IF CREDITING OF RETURN
16 PREMIUMS TO THE ACCOUNT OF THE INSURED CAUSES A SURPLUS OVER THE
17 AMOUNT DUE FROM THE INSURED, THE PREMIUM FINANCE COMPANY SHALL
18 REFUND THE SURPLUS TO THE INSURED AS SOON AS REASONABLY POSSIBLE NOT
19 EXCEEDING 15 BUSINESS DAYS AFTER THE PREMIUM FINANCE COMPANY RECEIVES
20 ALL RETURN PREMIUMS.

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

23 (C) WHENEVER AN INSURER, AFTER RECEIVING NOTICE OF THE EXISTENCE
24 OF A PREMIUM FINANCE AGREEMENT, RETURNS ANY UNEARNED PREMIUMS TO A
25 PERSON OTHER THAN THE PREMIUM FINANCE COMPANY NAMED IN THE PREMIUM
26 FINANCE AGREEMENT, THE INSURER SHALL BE DIRECTLY RESPONSIBLE TO THE
27 PREMIUM FINANCE COMPANY FOR ALL UNEARNED PREMIUMS ARISING FROM THE
28 CANCELLATION OF THE PREMIUM FINANCE AGREEMENT.

29 (D) IF THE INSURER HAS PRIOR NOTICE OF THE EXISTENCE OF A PREMIUM
30 FINANCE AGREEMENT, THE INSURER SHALL RETURN TO THE PREMIUM FINANCE
31 COMPANY ANY UNEARNED COMMISSION THAT THE AGENT DOES NOT REMIT TO
32 THE PREMIUM FINANCE COMPANY WITHIN THE APPLICABLE PERIOD SPECIFIED IN
33 SUBSECTION (A)(1) OF THIS SECTION.

34 (E) (1) AN INSURER THAT FAILS TO RETURN ANY PREMIUM REQUIRED
35 UNDER THIS SECTION SHALL PAY INTEREST OF 10% PER YEAR UNTIL THE PREMIUM
36 IS RETURNED.

37 (2) ANY PAYMENT UNDER THIS SUBSECTION TO THE PREMIUM
38 FINANCE COMPANY SHALL BE CREDITED TO THE ACCOUNT OF THE INSURED.

39 (F) AN INSURER MAY NOT DEDUCT FROM ANY RETURN PREMIUM ANY
40 AMOUNT OWED TO THE INSURER BY THE INSURED UNDER ANY OTHER INSURANCE
41 CONTRACT.

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1 (G) ANY OUTSTANDING BALANCE REMAINING AFTER A PREMIUM FINANCE
2 AGREEMENT IS CANCELED MAY EARN INTEREST AT THE RATE STATED IN THE
3 PREMIUM FINANCE AGREEMENT UNTIL THE BALANCE IS PAID IN FULL.

4 23-505.1.

5 AN INSURER, ITS AGENT, BROKER, OR PRODUCER MAY NOT:

6 (1) REFUSE TO ISSUE OR DENY THE ISSUANCE OF A POLICY FOR
7 COMMERCIAL AUTOMOBILE, FIRE, OR LIABILITY INSURANCE BECAUSE PREMIUMS
8 HAVE BEEN ADVANCED BY A REGISTERED PREMIUM FINANCE COMPANY NOT
9 AFFILIATED WITH THE INSURER; OR

10 (2) REQUIRE AN INSURED TO USE A PARTICULAR PREMIUM FINANCE
11 COMPANY OR OTHER INSTALLMENT PLAN.

12 23-505.2.

13 AN INSURER OR ITS AGENT MAY NOT DISCRIMINATE, INTIMIDATE, OR
14 RETALIATE AGAINST A PRODUCER, AGENT, BROKER, OR INSURED THAT USES
15 PREMIUM FINANCING BY DENYING THE PRODUCER, AGENT, BROKER, OR INSURED
16 THE SAME RIGHTS ACCORDED TO PRODUCERS, AGENTS, BROKERS, OR INSUREDS
17 WHO PAY PREMIUMS IN A DIFFERENT MANNER.

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