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**By: Senator Derr**

Introduced and read first time: February 12, 1997

Assigned to: Rules

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A BILL ENTITLED

1 AN ACT concerning

2 **Automobile Liability and Homeowners Insurance - Misrepresentations in Applications -**  
3 **Cancellations of or Refusals to Renew Policies**

4 FOR the purpose of authorizing an automobile liability insurer or a homeowners insurer  
5 to rescind a policy if the application for the policy contains a certain  
6 misrepresentation, omission, concealment of fact, or incorrect statement under  
7 certain circumstances; permitting an automobile liability insurer or a homeowners  
8 insurer to cancel or refuse to renew a policy subject only to certain prohibitions  
9 under certain circumstances; permitting an automobile liability insurer or a  
10 homeowners insurer to cancel or refuse to renew a policy at a certain rate under  
11 certain circumstances; requiring the Maryland Insurance Commissioner to adopt  
12 certain regulations concerning the rate at which an automobile liability insurer or a  
13 homeowners insurer may cancel or refuse to renew a policy under certain  
14 circumstances; and generally relating to misrepresentations in applications and  
15 cancellations of or refusals to renew policies in automobile and homeowners  
16 insurance.

17 BY adding to

18 Article - Insurance  
19 Section 19-112  
20 Annotated Code of Maryland  
21 (1996 Volume)  
22 (As enacted by Chapter 11 of the Acts of the General Assembly of 1996)

23 BY repealing and reenacting, with amendments,

24 Article - Insurance  
25 Section 27-501  
26 Annotated Code of Maryland  
27 (1995 Volume and 1996 Supplement)  
28 (As enacted by Chapter \_\_\_\_ (H.B. 11) of the Acts of the General Assembly of 1997)

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

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1                   **Article - Insurance**

2 19-112.

3                   (A) SUBJECT TO THE PROVISIONS OF SUBSECTION (B) OF THIS SECTION, WITH  
4 RESPECT TO A POLICY OF AUTOMOBILE LIABILITY INSURANCE OR HOMEOWNERS  
5 INSURANCE, AN INSURER MAY RESCIND THE POLICY IF THE APPLICATION FOR THE  
6 POLICY CONTAINS ANY MISREPRESENTATION, OMISSION, CONCEALMENT OF FACT,  
7 OR INCORRECT STATEMENT THAT IS MATERIAL TO THE ACCEPTANCE OF THE RISK.

8                   (B) A MISREPRESENTATION, OMISSION, CONCEALMENT OF FACT, OR  
9 INCORRECT STATEMENT IS MATERIAL TO THE ACCEPTANCE OF THE RISK IF:

10                   (1) THE MISREPRESENTATION, OMISSION, CONCEALMENT OF FACT, OR  
11 INCORRECT STATEMENT IS FRAUDULENT;

12                   (2) THE INSURER WOULD NOT HAVE ISSUED THE POLICY IF THE  
13 APPLICATION HAD NOT CONTAINED THE MISREPRESENTATION, OMISSION,  
14 CONCEALMENT OF FACT, OR INCORRECT STATEMENT; OR

15                   (3) THE INSURER WOULD HAVE CHARGED A HIGHER PREMIUM IF THE  
16 APPLICATION HAD NOT CONTAINED THE MISREPRESENTATION, OMISSION,  
17 CONCEALMENT OF FACT, OR INCORRECT STATEMENT.

18                   (C) RESCISSION OF A POLICY UNDER THE PROVISIONS OF THIS SECTION  
19 RENDERS THE POLICY NULL AND VOID IN ITS INCEPTION AS TO ANY CLAIMS FOR  
20 COVERAGE ASSERTED UNDER THE POLICY.

21 27-501.

22                   (a) (1) An insurer, agent, or broker may not cancel or refuse to underwrite or  
23 renew a particular insurance risk or class of risk for a reason based wholly or partly on  
24 race, color, creed, sex, or blindness of an applicant or policyholder or for any arbitrary,  
25 capricious, or unfairly discriminatory reason.

26                   (2) An insurer, agent, or broker may not cancel or refuse to underwrite or  
27 renew a particular insurance risk or class of risk except by the application of standards  
28 that are reasonably related to the insurer's economic and business purposes.

29                   (b) (1) An insurer may not require special conditions, facts, or situations as a  
30 condition to its acceptance or renewal of a particular insurance risk or class of risks in an  
31 arbitrary, capricious, unfair, or discriminatory manner based wholly or partly on race,  
32 creed, color, sex, religion, national origin, place of residency, blindness, or other physical  
33 handicap or disability.

34                   (2) Actuarial justification may be considered with respect to sex.

35                   (c) An insurer, agent, or broker may not make an inquiry about race, creed, color,  
36 or national origin in an insurance form, questionnaire, or other manner of requesting  
37 general information that relates to an application for insurance.

38                   (d) With respect to automobile liability insurance, an insurer may not:

1 (1) cancel, refuse to renew, or otherwise terminate coverage for an  
2 automobile insurance risk because of a traffic violation or accident that occurred more  
3 than 3 years before the effective date of the policy or renewal; or

4 (2) refuse to underwrite an automobile insurance risk because of a traffic  
5 violation or accident that occurred more than 3 years before the date of application.

6 (e) An insurer may not refuse to underwrite a private passenger motor vehicle  
7 insurance risk solely because the applicant or named insured previously obtained  
8 insurance coverage from any authorized insurer or the Maryland Automobile Insurance  
9 Fund.

10 (f) In the case of cancellation of or refusal to renew a policy, the policy remains  
11 in effect until a finding is issued under § 27-505 of this subtitle if:

12 (1) the insured asks the Commissioner to review the cancellation or refusal  
13 to renew before the effective date of the termination of the policy; and

14 (2) the Commissioner begins action to issue a finding under § 27-505 of this  
15 subtitle.

16 (g) At a hearing to determine whether this section has been violated, the burden  
17 of persuasion is on the insurer to show that the cancellation or refusal to underwrite or  
18 renew is justified under the underwriting standards demonstrated.

19 (h) (1) This subsection applies to insurance underwriting standards for all  
20 health, life, disability, property, and casualty coverages provided in the State.

21 (2) At the request of the Commissioner, each insurer shall file with the  
22 Commissioner a copy of its underwriting standards, including any amendments or  
23 supplements.

24 (3) The Commissioner may review and examine the underwriting standards  
25 to ensure compliance with this article.

26 (4) Each insurer may request a finding by the Commissioner that its  
27 underwriting standards filed with the Commissioner be considered confidential  
28 commercial information under § 10-617(d) of the State Government Article.

29 (5) The Commissioner shall adopt regulations to carry out this subsection.

30 (I) (1) THE PROVISIONS OF THIS SUBSECTION APPLY TO AUTOMOBILE  
31 LIABILITY INSURANCE AND HOMEOWNERS INSURANCE.

32 (2) SUBJECT TO THE PROVISIONS OF PARAGRAPH (4) OF THIS  
33 SUBSECTION, AN INSURER MAY CANCEL OR REFUSE TO RENEW UP TO 2% OF THE  
34 TOTAL NUMBER OF POLICIES OF THE INSURER IN FORCE AT LAST YEAR END IN  
35 EACH OF THE INSURER'S RATING TERRITORIES IN USE IN THE STATE, SUBJECT  
36 ONLY TO THE PROHIBITIONS CONTAINED IN SUBSECTION (A) OF THIS SECTION  
37 RELATING TO THE RACE, COLOR, CREED, SEX, OR BLINDNESS OF THE  
38 POLICYHOLDER.

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1                   (3) SUBJECT TO THE PROVISIONS OF PARAGRAPHS (4) AND (5) OF THIS  
2 SUBSECTION, AN INSURER MAY CANCEL OR REFUSE TO RENEW 2% OR MORE OF THE  
3 TOTAL NUMBER OF POLICIES OF THE INSURER IN FORCE AT LAST YEAR END IN  
4 EACH OF THE INSURER'S RATING TERRITORIES IN USE IN THE STATE, AT A RATE OF  
5 CANCELING OR REFUSING TO RENEW ONE POLICY FOR EVERY TWO NEW POLICIES  
6 THE INSURER ISSUES IN THE SAME TERRITORY.

7                   (4) A CANCELLATION FOR NONPAYMENT OF PREMIUM OR EXPIRATION  
8 OF A BINDER MAY NOT BE COUNTED FOR PURPOSES OF THE LIMITATIONS IN  
9 PARAGRAPH (2) OR (3) OF THIS SUBSECTION.

10                   (5) THE COMMISSIONER SHALL BY REGULATION ESTABLISH A FAIR  
11 AND NONDISCRIMINATORY FORMULA FOR COMPUTING THE NUMBER OF POLICIES  
12 THAT MAY BE CANCELED OR NOT RENEWED UNDER PARAGRAPH (3) OF THIS  
13 SUBSECTION THAT SHALL INCLUDE THE NUMBER OF POLICIES WRITTEN LESS  
14 CANCELLATIONS INITIATED BY THE INSURER WITHIN THE FIRST 60 DAYS OF A  
15 POLICY PERIOD.

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