
By: Senator Derr

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Assigned to: Rules

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 25, 1997

CHAPTER ____

1 AN ACT concerning

2 ~~Automobile Motor Vehicle Liability and Homeowners Insurance - Misrepresentations in~~ 3 Applications - Cancellations of or Refusals to
Renew Policies Premium Increases - Notice 4
4 to Insureds

5 FOR the purpose of ~~authorizing an automobile liability insurer or a homeowners insurer~~
6 ~~to rescind a policy if the application for the policy contains a certain~~
7 ~~misrepresentation, omission, concealment of fact, or incorrect statement under~~
8 ~~certain circumstances; permitting an automobile liability insurer or a homeowners~~
9 ~~insurer to cancel or refuse to renew a policy subject only to certain prohibitions~~
10 ~~under certain circumstances; permitting an automobile liability insurer or a~~
11 ~~homeowners insurer to cancel or refuse to renew a policy at a certain rate under~~
12 ~~certain circumstances; requiring the Maryland Insurance Commissioner to adopt~~
13 ~~certain regulations concerning the rate at which an automobile liability insurer or a~~
14 ~~homeowners insurer may cancel or refuse to renew a policy under certain~~
15 ~~circumstances; and generally relating to misrepresentations in applications and~~
16 ~~cancellations of or refusals to renew policies in automobile and homeowners~~
17 altering the content of a certain notice that a motor vehicle liability insurer must
18 send to an insured regarding the right of the insured to protest certain proposed
19 actions of the insurer; and generally relating to the notice to an insured regarding a
20 premium increase in a policy of motor vehicle liability insurance.

21 ~~BY adding to~~
22 ~~Article Insurance~~
23 ~~Section 19-112~~
24 ~~Annotated Code of Maryland~~
25 ~~(1996 Volume)~~
26 ~~(As enacted by Chapter 11 of the Acts of the General Assembly of 1996)~~

1 BY repealing and reenacting, with amendments,
2 Article - Insurance
3 Section ~~27-501~~ 27-605(b)
4 Annotated Code of Maryland
5 (1995 Volume and 1996 Supplement)
6 (As enacted by Chapter _____ (H.B. 11) of the Acts of the General Assembly of 1997)

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

9 **Article - Insurance**

10 ~~49-112.~~

11 ~~(A) SUBJECT TO THE PROVISIONS OF SUBSECTION (B) OF THIS SECTION, WITH~~
12 ~~RESPECT TO A POLICY OF AUTOMOBILE LIABILITY INSURANCE OR HOMEOWNERS~~
13 ~~INSURANCE, AN INSURER MAY RESCIND THE POLICY IF THE APPLICATION FOR THE~~
14 ~~POLICY CONTAINS ANY MISREPRESENTATION, OMISSION, CONCEALMENT OF FACT,~~
15 ~~OR INCORRECT STATEMENT THAT IS MATERIAL TO THE ACCEPTANCE OF THE RISK.~~

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

18 ~~(1) THE MISREPRESENTATION, OMISSION, CONCEALMENT OF FACT, OR~~
19 ~~INCORRECT STATEMENT IS FRAUDULENT;~~

20 ~~(2) THE INSURER WOULD NOT HAVE ISSUED THE POLICY IF THE~~
21 ~~APPLICATION HAD NOT CONTAINED THE MISREPRESENTATION, OMISSION,~~
22 ~~CONCEALMENT OF FACT, OR INCORRECT STATEMENT; OR~~

23 ~~(3) THE INSURER WOULD HAVE CHARGED A HIGHER PREMIUM IF THE~~
24 ~~APPLICATION HAD NOT CONTAINED THE MISREPRESENTATION, OMISSION,~~
25 ~~CONCEALMENT OF FACT, OR INCORRECT STATEMENT.~~

26 ~~(C) RESCISSION OF A POLICY UNDER THE PROVISIONS OF THIS SECTION~~
27 ~~RENDERS THE POLICY NULL AND VOID IN ITS INCEPTION AS TO ANY CLAIMS FOR~~
28 ~~COVERAGE ASSERTED UNDER THE POLICY.~~

29 ~~27-501.~~

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

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

37 ~~(b) (1) An insurer may not require special conditions, facts, or situations as a~~
38 ~~condition to its acceptance or renewal of a particular insurance risk or class of risks in an~~
39 ~~arbitrary, capricious, unfair, or discriminatory manner based wholly or partly on race,~~

3

1 ~~creed, color, sex, religion, national origin, place of residency, blindness, or other physical~~
2 ~~handicap or disability.~~

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

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

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

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

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

13 ~~(e) An insurer may not refuse to underwrite a private passenger motor vehicle~~
14 ~~insurance risk solely because the applicant or named insured previously obtained~~
15 ~~insurance coverage from any authorized insurer or the Maryland Automobile Insurance~~
16 ~~Fund.~~

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

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

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

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

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

28 ~~(2) At the request of the Commissioner, each insurer shall file with the~~
29 ~~Commissioner a copy of its underwriting standards, including any amendments or~~
30 ~~supplements.~~

31 ~~(3) The Commissioner may review and examine the underwriting standards~~
32 ~~to ensure compliance with this article.~~

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

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

37 ~~(f) (1) THE PROVISIONS OF THIS SUBSECTION APPLY TO AUTOMOBILE~~
38 ~~LIABILITY INSURANCE AND HOMEOWNERS INSURANCE.~~

1 ~~(2) SUBJECT TO THE PROVISIONS OF PARAGRAPH (4) OF THIS~~
2 ~~SUBSECTION, AN INSURER MAY CANCEL OR REFUSE TO RENEW UP TO 2% 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, SUBJECT~~
5 ~~ONLY TO THE PROHIBITIONS CONTAINED IN SUBSECTION (A) OF THIS SECTION~~
6 ~~RELATING TO THE RACE, COLOR, CREED, SEX, OR BLINDNESS OF THE~~
7 ~~POLICYHOLDER.~~

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

14 ~~(4) A CANCELLATION FOR NONPAYMENT OF PREMIUM OR EXPIRATION~~
15 ~~OF A BINDER MAY NOT BE COUNTED FOR PURPOSES OF THE LIMITATIONS IN~~
16 ~~PARAGRAPH (2) OR (3) OF THIS SUBSECTION.~~

17 ~~(5) THE COMMISSIONER SHALL BY REGULATION ESTABLISH A FAIR~~
18 ~~AND NONDISCRIMINATORY FORMULA FOR COMPUTING THE NUMBER OF POLICIES~~
19 ~~THAT MAY BE CANCELED OR NOT RENEWED UNDER PARAGRAPH (3) OF THIS~~
20 ~~SUBSECTION THAT SHALL INCLUDE THE NUMBER OF POLICIES WRITTEN LESS~~
21 ~~CANCELLATIONS INITIATED BY THE INSURER WITHIN THE FIRST 60 DAYS OF A~~
22 ~~POLICY PERIOD.~~

23 27-605.

24 (b) (1) At least 45 days before the proposed effective date of the action, an
25 insurer that intends to take an action subject to this section must send written notice of its
26 proposed action to the insured at the last known address of the insured:

27 (i) for notice of cancellation or nonrenewal, by certified mail; and

28 (ii) for all other notices of actions subject to this section, by certificate
29 of mailing.

30 (2) The notice must be in triplicate and on a form approved by the
31 Commissioner.

32 (3) The notice must state in clear and specific terms:

33 (i) the proposed action to be taken, including:

34 1. for a premium increase, the amount of the increase and the
35 type of coverage to which it is applicable; and

36 2. for a reduction in coverage, the type of coverage reduced and
37 the extent of the reduction;

38 (ii) the proposed effective date of the action;

39 (iii) subject to paragraph (4) of this subsection, the actual reason of the
40 insurer for proposing to take the action;

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1 (iv) if there is coupled with the notice an offer to continue or renew the
2 policy in accordance with § 27-606 of this subtitle:

3 1. the name of the individual or individuals to be excluded from
4 coverage; and

5 2. the premium amount if the policy is continued or renewed
6 with the named individual or individuals excluded from coverage;

7 (v) the right of the insured to replace the insurance through the
8 Maryland Automobile Insurance Fund and the current address and telephone number of
9 the Fund; AND

10 (vi) EXCEPT IN THE CASE OF A PREMIUM INCREASE THAT IS
11 CONSISTENT WITH THE INSURER'S SURCHARGE PLAN AS FILED WITH THE
12 COMMISSIONER AND AUTHORIZED UNDER THE APPLICABLE PROVISIONS OF TITLE
13 11 OF THIS ARTICLE:

14 1. the right of the insured to protest the proposed action of the
15 insurer and request a hearing before the Commissioner on the proposed action by signing
16 two copies of the notice and sending them to the Commissioner within 30 days after the
17 mailing date of the notice;

18 [(vii)] 2. that if a protest is filed by the insured, the insurer must
19 maintain the current insurance in effect until a final determination is made by the
20 Commissioner, subject to the payment of any authorized premium due or becoming due
21 before the determination; and

22 [(viii)] 3. the authority of the Commissioner to award reasonable
23 attorney fees to the insured for representation at a hearing if the Commissioner finds the
24 proposed action of the insurer to be unjustified.

25 (4) (i) The insurer's statement of actual reason for proposing to take an
26 action subject to this section must be sufficiently clear and specific so that an individual of
27 average intelligence can identify the basis for the insurer's decision without making
28 further inquiry.

29 (ii) The use of generalized terms such as "personal habits", "living
30 conditions", "poor morals", or "violation or accident record" does not meet the
31 requirements of this paragraph.

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

