
By: **Delegates Barve and Frank**
Introduced and read first time: February 23, 1998
Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Regulation of Insurance Professions - Advisers - Exemptions**

3 FOR the purpose of exempting from regulation as an adviser by the Maryland
4 Insurance Commissioner an individual who is employed by a certain investment
5 adviser, whose only clients in the State each meet certain requirements, and
6 whose business activities in the State are limited in a certain manner under
7 certain circumstances; providing that the provisions of this Act may not be
8 construed in a certain manner; defining certain terms; and generally relating to
9 exemptions from the regulation of advisers by the Maryland Insurance
10 Commissioner.

11 BY repealing and reenacting, without amendments,
12 Article - Insurance
13 Section 10-201
14 Annotated Code of Maryland
15 (1997 Volume)

16 BY repealing and reenacting, with amendments,
17 Article - Insurance
18 Section 10-202
19 Annotated Code of Maryland
20 (1997 Volume)

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

23 **Article - Insurance**

24 10-201.

25 (a) In this subtitle the following words have the meanings indicated.

26 (b) "Adviser" means a person that, for compensation:

1 (1) examines or offers to examine a policy, annuity contract, or pure
2 endowment contract for the purpose of giving, or gives or offers to give, advice or
3 information about:

4 (i) the terms, conditions, benefits, coverage, or premium of a policy,
5 annuity contract, or pure endowment contract; or

6 (ii) the advisability of changing, exchanging, converting, replacing,
7 surrendering, continuing, or rejecting a policy, annuity contract, or pure endowment
8 contract or of accepting or procuring a policy, annuity contract, or pure endowment
9 contract from an insurer; or

10 (2) represents to the public that the person gives or is engaged in the
11 business of giving advice or information to holders of policies or annuity contracts by
12 use of the title "insurance adviser", "insurance specialist", "insurance counselor",
13 "insurance analyst", "policyholders' adviser", "policyholders' counselor", "refund
14 company", or other similar title:

15 (i) in or on advertisements, cards, signs, circulars, letterheads, or
16 elsewhere; or

17 (ii) in any other manner in which public announcements are made.

18 (c) "License" means a license issued by the Commissioner to act as an adviser.
19 10-202.

20 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
21 INDICATED.

22 (2) "GUARANTEED INVESTMENT CONTRACT" MEANS AN AGREEMENT
23 BETWEEN AN INSURER AND AN ENTITY LISTED IN SUBSECTION (B)(5)(II)2 OF THIS
24 SECTION THAT:

25 (I) PERMITS WITHDRAWALS BY THE PURCHASER FOR SPECIFIED
26 PURPOSES; AND

27 (II) CONTAINS A GENERAL OBLIGATION OF THE INSURER TO REPAY
28 A DEPOSIT PLUS INTEREST.

29 (3) "SYNTHETIC INVESTMENT CONTRACT" MEANS AN AGREEMENT
30 BETWEEN AN INSURER OR FINANCIAL INSTITUTION AND AN ENTITY LISTED IN
31 SUBSECTION (B)(5)(II)2 OF THIS SECTION THAT:

32 (I) PERMITS WITHDRAWALS BY THE PURCHASER FOR SPECIFIED
33 PURPOSES; AND

34 (II) CONTAINS A LIMITED OBLIGATION OF THE INSURER OR
35 FINANCIAL INSTITUTION TO REPAY A DEPOSIT PLUS INTEREST THAT IS SUPPORTED

1 BY A PORTFOLIO OF FIXED INCOME SECURITIES IDENTIFIED IN THE AGREEMENT
2 AND OWNED BY THE PURCHASER.

3 (B) This subtitle does not apply to:

4 (1) an officer, employee, agent, or other representative of an authorized
5 insurer while acting for the authorized insurer;

6 (2) a broker that holds a certificate of qualification while acting as a
7 broker for a client;

8 (3) an attorney at law of the State while acting within the scope of the
9 legal profession; [and]

10 (4) a licensed public adjuster while acting within the scope of the public
11 adjuster's license; AND

12 (5) AN INDIVIDUAL:

13 (I) WHO IS EMPLOYED BY AN INVESTMENT ADVISER REGISTERED
14 WITH THE SECURITIES AND EXCHANGE COMMISSION;

15 (II) WHOSE ONLY CLIENTS IN THE STATE EACH:

16 1. HAS ASSETS OF NOT LESS THAN \$5,000,000; AND

17 2. IS ONE OF THE FOLLOWING TYPES OF INSTITUTIONAL
18 INVESTORS, WHETHER ACTING FOR ITSELF OR AS A TRUSTEE OR FIDUCIARY WITH
19 INVESTMENT CONTROL:

20 A. AN INVESTMENT COMPANY, AS DEFINED IN THE
21 INVESTMENT COMPANY ACT OF 1940;

22 B. AN INVESTMENT ADVISER REGISTERED WITH THE
23 SECURITIES AND EXCHANGE COMMISSION;

24 C. AN ADVISER, AS DEFINED IN § 10-201 OF THIS SUBTITLE;

25 D. A FEDERAL COVERED ADVISER, AS DEFINED IN THE
26 MARYLAND SECURITIES ACT, TITLE 11 OF THE CORPORATIONS AND ASSOCIATIONS
27 ARTICLE;

28 E. A BROKER-DEALER;

29 F. A BANK, TRUST COMPANY, OR SAVINGS AND LOAN
30 ASSOCIATION;

31 G. A COLLECTIVE INVESTMENT FUND OR COMMON TRUST
32 FUND MAINTAINED BY A BANK OR TRUST COMPANY;

33 H. AN INSURER;

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- 1 I. AN EMPLOYEE BENEFIT PLAN;
- 2 J. A GOVERNMENTAL AGENCY OR INSTRUMENTALITY; OR
- 3 K. ANY OTHER TYPE OF INSTITUTIONAL INVESTOR, AS
4 DESIGNATED BY THE COMMISSIONER; AND

5 (III) WHOSE BUSINESS ACTIVITIES IN THE STATE THAT WOULD
6 OTHERWISE BE SUBJECT TO REGULATION UNDER THIS SUBTITLE ARE LIMITED TO
7 ACTING AS AN ADVISER WITH RESPECT TO GUARANTEED INVESTMENT CONTRACTS
8 OR SYNTHETIC INVESTMENT CONTRACTS.

9 (C) THIS SECTION MAY NOT BE CONSTRUED TO AFFORD COVERAGE FOR
10 GUARANTEED INVESTMENT CONTRACTS OR SYNTHETIC INVESTMENT CONTRACTS
11 UNDER THE LIFE AND HEALTH INSURANCE GUARANTY CORPORATION ACT, TITLE 9,
12 SUBTITLE 4 OF THIS ARTICLE.

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 October 1, 1998.