

HOUSE BILL 1356

Unofficial Copy
C4

1998 Regular Session
(8lr2673)

ENROLLED BILL
-- Economic Matters/Finance --

Introduced by ~~Delegate Love~~ **Delegates Love, Busch, and Kach**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Homeowner's Insurance and Private Passenger Motor Vehicle Insurance -**
3 **Standards for Cancellation, Underwriting, and Nonrenewal**

4 FOR the purpose of prohibiting insurers from using certain standards for purposes of
5 canceling or refusing to renew ~~or underwrite~~ homeowner's and private passenger
6 ~~automobile motor vehicle~~ insurance under certain circumstances; requiring the
7 ~~Insurance Commissioner to adopt certain regulations; authorizing insurers to~~
8 ~~consider certain factors for purposes of canceling or refusing to renew or~~
9 ~~underwrite~~ homeowner's and private passenger ~~automobile motor vehicle~~
10 insurance under certain circumstances; specifying that certain standards that
11 relate to a certain purpose do not require certain statistical validation under
12 certain circumstances; requiring insurers to disclose certain information to
13 applicants and insureds if the insurer takes into consideration certain factors for
14 purposes of canceling or refusing to renew or underwrite a policy; providing for
15 the application of this Act; providing for the termination of this Act; and
16 generally relating to standards that insurers are prohibited from using in the
17 cancellation or refusal to renew or underwrite certain for canceling or refusing to

1 renew homeowner's insurance and private passenger motor vehicle insurance.

2 BY repealing and reenacting, with amendments,

3 Article - Insurance

4 Section 27-501

5 Annotated Code of Maryland

6 (1997 Volume)

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 27-501.

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

15 (2) ~~An~~ EXCEPT AS PROVIDED IN THIS SECTION, AN insurer, agent, or
16 broker may not cancel or refuse to underwrite or renew a particular insurance risk or
17 class of risk except by the application of standards that are reasonably related to the
18 insurer's economic and business purposes.

19 (3) ~~THE FOLLOWING STANDARDS ARE NOT REASONABLY RELATED TO~~
20 ~~AN INSURER'S ECONOMIC AND BUSINESS PURPOSES UNDER THIS SUBSECTION:~~

21 ~~(I) FOR HOMEOWNER'S INSURANCE, THE CANCELLATION OR THE~~
22 ~~REFUSAL TO UNDERWRITE OR RENEW BECAUSE OF TWO OR FEWER CLAIMS MADE BY~~
23 ~~THE INSURED OR APPLICANT WITHIN A 3-YEAR PERIOD FOR LOSSES RESULTING~~
24 ~~FROM WEATHER-RELATED EVENTS; AND~~

25 ~~(II) FOR PRIVATE-PASSENGER-AUTOMOBILE-INSURANCE, THE~~
26 ~~CANCELLATION OR REFUSAL TO UNDERWRITE OR RENEW DUE TO TWO OR FEWER~~
27 ~~CLAIMS MADE BY THE INSURED OR APPLICANT WITHIN A 3-YEAR PERIOD FOR~~
28 ~~LOSSES WHERE THE INSURED OR APPLICANT IS DETERMINED TO NOT BE AT FAULT~~
29 ~~FOR THE LOSS.~~

30 ~~(4) (I) THE COMMISSIONER SHALL ADOPT REGULATIONS TO~~
31 ~~IMPLEMENT THE PROVISIONS OF THIS SUBSECTION.~~

32 ~~(II) THE REGULATIONS ADOPTED UNDER THIS SUBSECTION SHALL~~
33 ~~IDENTIFY THOSE STANDARDS THAT ARE REASONABLY RELATED TO AN INSURER'S~~
34 ~~ECONOMIC AND BUSINESS PURPOSES FOR WHICH STATISTICAL VALIDATION IS NOT~~
35 ~~REQUIRED.~~

36 (b) (1) An insurer may not require special conditions, facts, or situations as
37 a condition to its acceptance or renewal of a particular insurance risk or class of risks

1 in an arbitrary, capricious, unfair, or discriminatory manner based wholly or partly on
2 race, creed, color, sex, religion, national origin, place of residency, blindness, or other
3 physical handicap or disability.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 ~~(I) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, WITH~~
4 ~~RESPECT TO HOMEOWNER'S INSURANCE, AN INSURER MAY NOT CANCEL OR REFUSE~~
5 ~~TO UNDERWRITE OR RENEW COVERAGE FOR HOMEOWNER'S INSURANCE BASED ON~~
6 ~~THE CLAIMS HISTORY OF AN APPLICANT OR INSURED WHERE TWO OR FEWER OF THE~~
7 ~~CLAIMS WITHIN THE PRECEDING 3-YEAR PERIOD WERE FOR LOSSES RESULTING~~
8 ~~FROM WEATHER-RELATED EVENTS FOR WEATHER-RELATED CLAIMS, UNLESS~~
9 ~~THERE WERE THREE OR MORE WEATHER-RELATED CLAIMS WITHIN THE PRECEDING~~
10 ~~3-YEAR PERIOD.~~

11 (2) AN INSURER MAY CONSIDER CLAIMS FOR WEATHER-RELATED
12 EVENTS FOR THE PURPOSE OF CANCELING OR REFUSING TO ~~UNDERWRITE OR~~
13 ~~RENEW COVERAGE IF:~~

14 ~~(I) THE INSURED MADE THREE OR MORE CLAIMS FOR LOSSES~~
15 ~~RESULTING FROM WEATHER-RELATED EVENTS IN THE PRECEDING 3-YEAR PERIOD;~~
16 ~~OR~~

17 ~~(II) THE INSURER PROVIDED WRITTEN NOTICE TO THE INSURED~~
18 ~~FOR REASONABLE OR CUSTOMARY REPAIRS OR REPLACEMENT SPECIFIC TO THE~~
19 ~~INSURED'S PREMISES OR DWELLING WHICH THE INSURED FAILED TO MAKE AND~~
20 ~~WHICH, IF MADE, WOULD HAVE PREVENTED THE LOSS FOR WHICH A CLAIM WAS~~
21 ~~MADE.~~

22 (J) (I) IN THE CASE OF HOMEOWNER'S INSURANCE, STANDARDS
23 REASONABLY RELATED TO AN INSURER'S ECONOMIC AND BUSINESS PURPOSE
24 UNDER SUBSECTION (A)(2) OF THIS SECTION, INCLUDE, BUT ARE NOT LIMITED TO,
25 THE FOLLOWING AND DO NOT REQUIRE STATISTICAL VALIDATION:

26 ~~(I) (I) A MATERIAL MISREPRESENTATION IN CONNECTION WITH THE~~
27 ~~APPLICATION, POLICY, OR PRESENTATION OF A CLAIM;~~

28 ~~(II) (II) NONPAYMENT OF PREMIUM;~~

29 ~~(III) (III) A CHANGE IN THE PHYSICAL CONDITION OR CONTENTS OF THE~~
30 ~~PREMISES OR DWELLING WHICH RESULTS IN AN INCREASE IN A HAZARD INSURED~~
31 ~~AGAINST AND WHICH, IF PRESENT AND KNOWN TO THE INSURER PRIOR TO THE~~
32 ~~ISSUANCE OF THE POLICY, THE INSURER WOULD NOT HAVE ISSUED THE POLICY;~~

33 ~~(IV) (IV) CONVICTION:~~

34 ~~1. WITHIN THE PRECEDING 36 MONTHS 5-YEAR PERIOD, OF~~
35 ~~ARSON; OR OTHER CRIME WHICH DIRECTLY INCREASES THE HAZARD INSURED~~
36 ~~AGAINST~~

37 ~~2. WITHIN THE PRECEDING 3-YEAR PERIOD, OF A CRIME~~
38 ~~WHICH DIRECTLY INCREASES THE HAZARD INSURED AGAINST;~~

1 ~~(5)~~ (V) SUBJECT TO SUBSECTION (I) OF THIS SECTION, THE CLAIMS
 2 HISTORY OF THE INSURED WHERE THE INSURED MAKES MORE THAN THREE CLAIMS
 3 IN THE PRECEDING 3-YEAR PERIOD; AND

4 ~~(6)~~ (VI) ANY OTHER STANDARD APPROVED BY THE COMMISSIONER
 5 THAT IS BASED ON FACTORS THAT ADVERSELY AFFECT THE LOSSES OR EXPENSES
 6 OF THE INSURER UNDER ITS APPROVED RATING PLAN AND FOR WHICH STATISTICAL
 7 VALIDATION IS UNAVAILABLE OR IS UNDULY BURDENSOME TO PRODUCE; AND

8 (VII) ANY OTHER STANDARD SET FORTH IN REGULATIONS ADOPTED
 9 BY THE COMMISSIONER THAT IS FOUND TO BE REASONABLY RELATED TO THE
 10 INSURER'S ECONOMIC AND BUSINESS PURPOSES.

11 (2) AN INSURER IS NOT REQUIRED TO PRODUCE STATISTICAL
 12 VALIDATION THAT EXCLUDES WEATHER-RELATED CLAIMS OR THAT MAKES ANY
 13 DISTINCTION BETWEEN WEATHER-RELATED CLAIMS AND NONWEATHER-RELATED
 14 CLAIMS IN ORDER TO SUSTAIN THE INSURER'S BURDEN OF PERSUASION UNDER
 15 SUBSECTION (G) OF THIS SECTION WITH RESPECT TO A CANCELLATION OR REFUSAL
 16 TO RENEW FOR A REASON THAT IS NOT LISTED IN THIS SUBSECTION.

17 (K) WITH RESPECT TO PRIVATE PASSENGER AUTOMOBILE MOTOR VEHICLE
 18 INSURANCE, AN INSURER MAY NOT CANCEL OR REFUSE TO UNDERWRITE OR RENEW
 19 COVERAGE BASED ON THE CLAIMS HISTORY OF AN APPLICANT OR INSURED WHERE
 20 TWO OR FEWER OF THE CLAIMS WITHIN THE PRECEDING 3-YEAR PERIOD WERE FOR
 21 ACCIDENTS OR LOSSES WHERE THE INSURED WAS NOT AT FAULT FOR THE LOSS.

22 (L) (I) IN THE CASE OF PRIVATE PASSENGER AUTOMOBILE MOTOR
 23 VEHICLE INSURANCE, STANDARDS REASONABLY RELATED TO THE INSURER'S
 24 ECONOMIC AND BUSINESS PURPOSES UNDER SUBSECTION (A)(2) OF THIS SECTION
 25 INCLUDE, BUT ARE NOT LIMITED TO, THE FOLLOWING AND DO NOT REQUIRE
 26 STATISTICAL VALIDATION:

27 ~~(1)~~ (I) A MATERIAL MISREPRESENTATION IN CONNECTION WITH THE
 28 APPLICATION, POLICY, OR PRESENTATION OF A CLAIM;

29 ~~(2)~~ (II) NONPAYMENT OF PREMIUM;

30 ~~(3)~~ (III) SUBJECT TO § 27-606 OF THIS TITLE, REVOCATION OR
 31 SUSPENSION OF THE DRIVER'S LICENSE OR MOTOR VEHICLE REGISTRATION WITHIN
 32 THE PREVIOUS 2-YEARS PRECEDING 2-YEAR PERIOD:

33 ~~(4)~~ 1. OF THE NAMED INSURED OR COVERED DRIVER UNDER
 34 THE POLICY; AND

35 ~~(4)~~ 2. FOR REASONS RELATED TO THE DRIVING RECORD OF THE
 36 DRIVER;

37 ~~(4)~~ (IV) SUBJECT TO § 27-606 OF THIS TITLE, TWO OR MORE MOTOR
 38 VEHICLE ACCIDENTS OR ANY COMBINATION OF THREE OR MORE ACCIDENTS AND
 39 MOVING VIOLATIONS WITHIN THE PRECEDING 36 MONTHS IF, BASED ON AN

1 ~~INVESTIGATION OF THE CIRCUMSTANCES OF ANY ACCIDENT, THE INSURER~~
 2 ~~DETERMINES THAT 3-YEAR PERIOD FOR WHICH THE INSURED WAS THE PROXIMATE~~
 3 ~~CAUSE OF THE ACCIDENT AT FAULT FOR THE ACCIDENTS;~~

4 ~~(5)~~ (V) SUBJECT TO § 27-606 OF THIS TITLE, THREE OR MORE MOVING
 5 VIOLATIONS AGAINST THE INSURED OR A COVERED DRIVER UNDER THE POLICY
 6 WITHIN THE PRECEDING 24-MONTH 2-YEAR PERIOD;

7 ~~(6)~~ (VI) SUBJECT TO § 27-606 OF THIS TITLE, CONVICTION OF THE
 8 NAMED INSURED OR A COVERED DRIVER UNDER THE POLICY OF ANY OF THE
 9 FOLLOWING:

10 ~~(H)~~ (I) 1. DRIVING WHILE INTOXICATED OR IMPAIRED BY DRUGS;

11 ~~(H)~~ (II) 2. HOMICIDE, ASSAULT, RECKLESS ENDANGERMENT, OR
 12 CRIMINAL NEGLIGENCE ARISING OUT OF THE OPERATION OF THE MOTOR VEHICLE;
 13 OR

14 ~~(H)~~ (III) 3. USING THE MOTOR VEHICLE TO PARTICIPATE IN A
 15 FELONY; AND

16 ~~(7)~~ (VII) ANY OTHER STANDARD APPROVED BY THE COMMISSIONER
 17 THAT IS BASED ON FACTORS THAT ADVERSELY AFFECT THE LOSSES OR EXPENSES
 18 OF THE INSURER UNDER ITS APPROVED RATING PLAN AND FOR WHICH STATISTICAL
 19 VALIDATION IS UNAVAILABLE OR IS UNDULY BURDENSOME TO PRODUCE; AND

20 (VIII) ANY OTHER STANDARD SET FORTH IN REGULATIONS ADOPTED
 21 BY THE COMMISSIONER THAT IS FOUND TO BE REASONABLY RELATED TO THE
 22 INSURER'S ECONOMIC AND BUSINESS PURPOSES.

23 (2) AN INSURER IS NOT REQUIRED TO PRODUCE STATISTICAL
 24 VALIDATION THAT EXCLUDES AT FAULT ACCIDENTS OR THAT MAKES ANY
 25 DISTINCTION BETWEEN NOT AT FAULT ACCIDENTS AND AT FAULT ACCIDENTS IN
 26 ORDER TO SUSTAIN THE INSURER'S BURDEN OF PERSUASION UNDER SUBSECTION
 27 (G) OF THIS SECTION WITH RESPECT TO A CANCELLATION OR REFUSAL TO RENEW
 28 FOR A REASON THAT IS NOT LISTED IN THIS SUBSECTION.

29 (M) IN THE CASE OF COMMERCIAL INSURANCE OR INSURANCE ISSUED OR
 30 PROVIDED BY NONADMITTED INSURERS, AN INSURER IS NOT REQUIRED TO
 31 PRODUCE STATISTICAL VALIDATION OF ITS UNDERWRITING STANDARDS IN ORDER
 32 TO MEET ITS BURDEN OF PERSUASION UNDER THIS SECTION.

33 (N) (1) SUBJECT TO THE REQUIREMENTS OF THIS ARTICLE, IF AN INSURER
 34 CONSIDERS CLAIMS HISTORY FOR THE PURPOSES OF CANCELING OR REFUSING TO
 35 UNDERWRITE OR RENEW COVERAGE, THE INSURER MAY CONSIDER THE FOLLOWING
 36 FACTORS IN MITIGATION OF THE PROPOSED DECISION WITHOUT PRODUCING
 37 STATISTICAL VALIDATION:

38 (I) THE SEVERITY OF THE LOSSES;

1 (II) THE LENGTH OF TIME THAT AN INSURED HAS BEEN A
2 POLICYHOLDER WITH THE INSURER;

3 (III) LOSS MITIGATION OF PREVIOUS LOSSES; AND

4 (IV) THE AVAILABILITY OF A HIGHER DEDUCTIBLE FOR THE
5 PARTICULAR POLICY AND TYPES OF LOSSES.

6 (2) IF AN INSURER CONSIDERS CLAIMS HISTORY FOR PURPOSES OF
7 CANCELING OR REFUSING TO UNDERWRITE OR RENEW COVERAGE, THE INSURER
8 SHALL DISCLOSE THE PRACTICE TO AN APPLICANT OR INSURED AT THE INCEPTION
9 OF THE POLICY AND AT EACH RENEWAL.

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act applies on or
11 after October 1, 1998 to claims made in connection with homeowner's insurance or
12 private passenger motor vehicle insurance regardless of the date of the claim.

13 SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take
14 effect October 1, 1998. It shall remain effective for a period of 3 years and, at the end
15 of September 30, 2001, with no further action required by the General Assembly, this
16 Act shall be abrogated and of no further force and effect.