
By: ~~Delegate Love~~ **Delegates Love, Busch, and Kach**

Introduced and read first time: February 26, 1998

Assigned to: Rules and Executive Nominations

Re-referred to: Economic Matters, March 2, 1998

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 28, 1998

CHAPTER _____

1 AN ACT concerning

2 **Insurance - Standards for Cancellation, Underwriting, and Nonrenewal**

3 FOR the purpose of prohibiting insurers from using certain standards for purposes of
4 canceling or refusing to renew or underwrite homeowners and private passenger
5 automobile insurance; ~~requiring the Insurance Commissioner to adopt certain~~
6 ~~regulations;~~ authorizing insurers to consider certain factors for purposes of
7 canceling or refusing to renew or underwrite homeowner's and private
8 passenger automobile insurance under certain circumstances; requiring
9 insurers to disclose certain information to applicants and insureds if the insurer
10 takes into consideration certain factors for purposes of canceling or refusing to
11 renew or underwrite a policy; providing for the termination of this Act; and
12 generally relating to standards that insurers are prohibited from using in the
13 cancellation or refusal to renew or underwrite certain insurance.

14 BY repealing and reenacting, with amendments,
15 Article - Insurance
16 Section 27-501
17 Annotated Code of Maryland
18 (1997 Volume)

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

1

Article - Insurance

2 27-501.

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

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

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

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

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

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

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

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

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

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

37 (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
9 Insurance 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
13 refusal 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
15 this subtitle.

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

31 (I) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, WITH
32 RESPECT TO HOMEOWNER'S INSURANCE, AN INSURER MAY NOT CANCEL OR REFUSE
33 TO UNDERWRITE OR RENEW COVERAGE FOR HOMEOWNER'S INSURANCE BASED ON
34 THE CLAIMS HISTORY OF AN APPLICANT OR INSURED WHERE TWO OR FEWER OF THE
35 CLAIMS WITHIN THE PRECEDING 3-YEAR PERIOD WERE FOR LOSSES RESULTING
36 FROM WEATHER-RELATED EVENTS.

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

4 (I) THE INSURED MADE THREE OR MORE CLAIMS FOR LOSSES
5 RESULTING FROM WEATHER-RELATED EVENTS IN THE PRECEDING 3-YEAR PERIOD;
6 OR

7 (II) THE INSURER PROVIDED WRITTEN NOTICE TO THE INSURED
8 FOR REASONABLE OR CUSTOMARY REPAIRS OR REPLACEMENT SPECIFIC TO THE
9 INSURED'S PREMISES OR DWELLING WHICH THE INSURED FAILED TO MAKE AND
10 WHICH, IF MADE, WOULD HAVE PREVENTED THE LOSS FOR WHICH A CLAIM WAS
11 MADE.

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

16 (1) A MATERIAL MISREPRESENTATION IN CONNECTION WITH THE
17 APPLICATION, POLICY, OR PRESENTATION OF A CLAIM;

18 (2) NONPAYMENT OF PREMIUM;

19 (3) A CHANGE IN THE PHYSICAL CONDITION OR CONTENTS OF THE
20 PREMISES OR DWELLING WHICH RESULTS IN AN INCREASE IN A HAZARD INSURED
21 AGAINST AND WHICH, IF PRESENT AND KNOWN TO THE INSURER PRIOR TO THE
22 ISSUANCE OF THE POLICY, THE INSURER WOULD NOT HAVE ISSUED THE POLICY;

23 (4) CONVICTION WITHIN THE PRECEDING 36 MONTHS OF ARSON OR
24 OTHER CRIME WHICH DIRECTLY INCREASES THE HAZARD INSURED AGAINST;

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

28 (6) ANY OTHER STANDARD APPROVED BY THE COMMISSIONER THAT IS
29 BASED ON FACTORS THAT ADVERSELY AFFECT THE LOSSES OR EXPENSES OF THE
30 INSURER UNDER ITS APPROVED RATING PLAN AND FOR WHICH STATISTICAL
31 VALIDATION IS UNAVAILABLE OR IS UNDULY BURDENSOME TO PRODUCE.

32 (K) WITH RESPECT TO PRIVATE PASSENGER AUTOMOBILE INSURANCE, AN
33 INSURER MAY NOT CANCEL OR REFUSE TO UNDERWRITE OR RENEW COVERAGE
34 BASED ON THE CLAIMS HISTORY OF AN APPLICANT OR INSURED WHERE TWO OR
35 FEWER OF THE CLAIMS WITHIN THE PRECEDING 3-YEAR PERIOD WERE FOR
36 ACCIDENTS OR LOSSES WHERE THE INSURED WAS NOT AT FAULT FOR THE LOSS.

37 (L) IN THE CASE OF PRIVATE PASSENGER AUTOMOBILE INSURANCE,
38 STANDARDS REASONABLY RELATED TO THE INSURER'S ECONOMIC AND BUSINESS

1 PURPOSES UNDER SUBSECTION (A)(2) OF THIS SECTION INCLUDE, BUT ARE NOT
2 LIMITED TO, THE FOLLOWING AND DO NOT REQUIRE STATISTICAL VALIDATION:

3 (1) A MATERIAL MISREPRESENTATION IN CONNECTION WITH THE
4 APPLICATION, POLICY, OR PRESENTATION OF A CLAIM;

5 (2) NONPAYMENT OF PREMIUM;

6 (3) SUBJECT TO § 27-606 OF THIS TITLE, REVOCATION OR SUSPENSION
7 OF THE DRIVER'S LICENSE OR MOTOR VEHICLE REGISTRATION WITHIN THE
8 PREVIOUS 2 YEARS:

9 (I) OF THE NAMED INSURED OR COVERED DRIVER UNDER THE
10 POLICY; AND

11 (II) FOR REASONS RELATED TO THE DRIVING RECORD OF THE
12 DRIVER;

13 (4) SUBJECT TO § 27-606 OF THIS TITLE, TWO OR MORE MOTOR VEHICLE
14 ACCIDENTS OR ANY COMBINATION OF THREE OR MORE ACCIDENTS AND MOVING
15 VIOLATIONS WITHIN THE PRECEDING 36 MONTHS IF, BASED ON AN INVESTIGATION
16 OF THE CIRCUMSTANCES OF ANY ACCIDENT, THE INSURER DETERMINES THAT THE
17 INSURED WAS THE PROXIMATE CAUSE OF THE ACCIDENT;

18 (5) SUBJECT TO § 27-606 OF THIS TITLE, THREE OR MORE MOVING
19 VIOLATIONS AGAINST THE INSURED OR A COVERED DRIVER UNDER THE POLICY
20 WITHIN THE PRECEDING 24 MONTH PERIOD;

21 (6) SUBJECT TO § 27-606 OF THIS TITLE, CONVICTION OF THE NAMED
22 INSURED OR A COVERED DRIVER UNDER THE POLICY OF ANY OF THE FOLLOWING:

23 (I) DRIVING WHILE INTOXICATED OR IMPAIRED BY DRUGS;

24 (II) HOMICIDE, ASSAULT, RECKLESS ENDANGERMENT, OR
25 CRIMINAL NEGLIGENCE ARISING OUT OF THE OPERATION OF THE MOTOR VEHICLE;
26 OR

27 (III) USING THE MOTOR VEHICLE TO PARTICIPATE IN A FELONY;
28 AND

29 (7) ANY OTHER STANDARD APPROVED BY THE COMMISSIONER THAT IS
30 BASED ON FACTORS THAT ADVERSELY AFFECT THE LOSSES OR EXPENSES OF THE
31 INSURER UNDER ITS APPROVED RATING PLAN AND FOR WHICH STATISTICAL
32 VALIDATION IS UNAVAILABLE OR IS UNDULY BURDENSOME TO PRODUCE.

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

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

6 (I) THE SEVERITY OF THE LOSSES;

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

9 (III) LOSS MITIGATION OF PREVIOUS LOSSES; AND

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

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

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