

SENATE BILL 766

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C4

1998 Regular Session
(8lr2703)

ENROLLED BILL
-- Finance/Economic Matters --

Introduced by **Senator Green**

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.

President.

CHAPTER _____

1 AN ACT concerning

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

4 FOR the purpose of ~~altering certain underwriting standards by which an insurer may~~
5 ~~not cancel or refuse to renew or underwrite risks with respect to homeowner's~~
6 ~~insurance and private passenger motor vehicle insurance under certain~~
7 ~~circumstances; requiring the Maryland Insurance Commissioner to adopt~~
8 ~~certain regulations concerning certain underwriting standards with respect to~~
9 ~~homeowner's insurance and private passenger motor vehicle insurance;~~
10 prohibiting insurers from using certain standards for purposes of canceling or
11 refusing to underwrite or renew homeowner's insurance and private passenger
12 motor vehicle insurance under certain circumstances; specifying that certain
13 standards that relate to a certain purpose do not require certain statistical
14 validation under certain circumstances; authorizing insurers to consider certain
15 factors for purposes of canceling or refusing to underwrite or renew
16 homeowner's and private passenger motor vehicle insurance under certain
17 circumstances; requiring insurers to disclose certain information to applicants

1 ~~and insureds if the insurer takes into consideration certain factors for purposes~~
 2 ~~of canceling or refusing to underwrite or renew a policy; providing for the~~
 3 ~~application of this Act; providing for the termination of this Act; and generally~~
 4 ~~relating to underwriting standards for canceling or refusing to underwrite or~~
 5 ~~renew homeowner's insurance and private passenger motor vehicle insurance.~~

6 BY repealing and reenacting, with amendments,
 7 Article - Insurance
 8 Section 27-501
 9 Annotated Code of Maryland
 10 (1997 Volume)

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

13 **Article - Insurance**

14 27-501.

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

19 (2) [An] ~~SUBJECT TO THE PROVISIONS OF SUBSECTION (1) OF EXCEPT~~
 20 ~~AS PROVIDED IN THIS SECTION~~, AN insurer, agent, or broker may not cancel or refuse
 21 to underwrite or renew a particular insurance risk or class of risk except by the
 22 application of standards that are reasonably related to the insurer's economic and
 23 business purposes.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 ~~(f) (1) SUBJECT TO THE PROVISIONS OF PARAGRAPHS (2) AND (3) OF THIS~~
29 ~~SUBSECTION, THE COMMISSIONER SHALL ADOPT REGULATIONS THAT IDENTIFY~~
30 ~~STANDARDS THAT ARE REASONABLY RELATED TO AN INSURER'S ECONOMIC AND~~
31 ~~BUSINESS PURPOSES AS PROVIDED UNDER SUBSECTION (A)(2) OF THIS SECTION,~~
32 ~~INCLUDING STANDARDS FOR WHICH STATISTICAL VALIDATION IS NOT REQUIRED.~~

33 ~~(2) WITH RESPECT TO HOMEOWNER'S INSURANCE, AN INSURER MAY~~
34 ~~NOT:~~

35 ~~(f) CANCEL, REFUSE TO RENEW, OR OTHERWISE TERMINATE~~
36 ~~COVERAGE FOR A HOMEOWNER'S INSURANCE RISK BECAUSE THE INSURED MADE~~

1 ~~TWO OR FEWER CLAIMS WITHIN A 3 YEAR PERIOD FOR LOSSES RESULTING FROM~~
 2 ~~WEATHER RELATED EVENTS; OR~~

3 ~~(H) REFUSE TO UNDERWRITE A HOMEOWNER'S RISK BECAUSE THE~~
 4 ~~APPLICANT MADE TWO OR FEWER CLAIMS WITHIN A 3 YEAR PERIOD FOR LOSSES~~
 5 ~~RESULTING FROM WEATHER RELATED EVENTS.~~

6 ~~(3) WITH RESPECT TO PRIVATE PASSENGER MOTOR VEHICLE~~
 7 ~~INSURANCE, AN INSURER MAY NOT:~~

8 ~~(4) CANCEL, REFUSE TO RENEW, OR OTHERWISE TERMINATE~~
 9 ~~COVERAGE FOR A PRIVATE PASSENGER MOTOR VEHICLE INSURANCE RISK BECAUSE~~
 10 ~~THE INSURED MADE TWO OR FEWER CLAIMS WITHIN A 3 YEAR PERIOD FOR LOSSES~~
 11 ~~WHERE THE INSURED WAS DETERMINED NOT TO BE AT FAULT FOR THE LOSS; OR~~

12 ~~(H) REFUSE TO UNDERWRITE A PRIVATE PASSENGER MOTOR~~
 13 ~~VEHICLE RISK BECAUSE THE APPLICANT MADE TWO OR FEWER CLAIMS WITHIN A~~
 14 ~~3 YEAR PERIOD FOR LOSSES WHERE THE APPLICANT WAS DETERMINED NOT TO BE~~
 15 ~~AT FAULT FOR THE LOSS.~~

16 (I) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, WITH
 17 RESPECT TO HOMEOWNER'S INSURANCE, AN INSURER MAY NOT CANCEL OR REFUSE
 18 TO UNDERWRITE OR RENEW COVERAGE FOR HOMEOWNER'S INSURANCE BASED ON
 19 THE CLAIMS HISTORY OF AN APPLICANT OR INSURED WHERE TWO OR FEWER OF THE
 20 CLAIMS WITHIN THE PRECEDING 3 YEAR PERIOD WERE FOR LOSSES RESULTING
 21 FROM WEATHER RELATED EVENTS FOR WEATHER RELATED CLAIMS, UNLESS
 22 THERE WERE THREE OR MORE WEATHER RELATED CLAIMS WITHIN THE PRECEDING
 23 3 YEARS.

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

27 ~~(4) THE INSURED MADE THREE OR MORE CLAIMS FOR LOSSES~~
 28 ~~RESULTING FROM WEATHER RELATED EVENTS IN THE PRECEDING 3 YEAR PERIOD;~~
 29 ~~OR~~

30 ~~(H) THE INSURER PROVIDED WRITTEN NOTICE TO THE INSURED~~
 31 ~~FOR REASONABLE OR CUSTOMARY REPAIRS OR REPLACEMENT SPECIFIC TO THE~~
 32 ~~INSURED'S PREMISES OR DWELLING WHICH THE INSURED FAILED TO MAKE AND~~
 33 ~~WHICH, IF MADE, WOULD HAVE PREVENTED THE LOSS FOR WHICH A CLAIM WAS~~
 34 ~~MADE.~~

35 (J) (1) IN THE CASE OF HOMEOWNER'S INSURANCE, STANDARDS
 36 REASONABLY RELATED TO AN INSURER'S ECONOMIC AND BUSINESS PURPOSE
 37 UNDER SUBSECTION (A)(2) OF THIS SECTION, INCLUDE, BUT ARE NOT LIMITED TO,
 38 THE FOLLOWING AND DO NOT REQUIRE STATISTICAL VALIDATION:

39 ~~(4) (1) A MATERIAL MISREPRESENTATION IN CONNECTION WITH THE~~
 40 ~~APPLICATION, POLICY, OR PRESENTATION OF A CLAIM;~~

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

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

6 ~~(4)~~ (IV) CONVICTION:

7 1. WITHIN THE PRECEDING 3-YEAR 5-YEAR PERIOD, OF
8 ARSON; OR OTHER CRIME WHICH DIRECTLY INCREASES THE HAZARD INSURED
9 AGAINST

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

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

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

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

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

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

33 (L) (1) IN THE CASE OF PRIVATE PASSENGER MOTOR VEHICLE INSURANCE,
34 STANDARDS REASONABLY RELATED TO THE INSURER'S ECONOMIC AND BUSINESS
35 PURPOSES UNDER SUBSECTION (A)(2) OF THIS SECTION INCLUDE, BUT ARE NOT
36 LIMITED TO, THE FOLLOWING AND DO NOT REQUIRE STATISTICAL VALIDATION:

37 ~~(4)~~ (I) A MATERIAL MISREPRESENTATION IN CONNECTION WITH THE
38 APPLICATION, POLICY, OR PRESENTATION OF A CLAIM;

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

2 ~~(3)~~ (III) SUBJECT TO § 27-606 OF THIS TITLE, REVOCATION OR
 3 SUSPENSION OF THE DRIVER'S LICENSE OR MOTOR VEHICLE REGISTRATION WITHIN
 4 THE PRECEDING 2-YEAR PERIOD;

5 ~~(4)~~ (I) OF THE NAMED INSURED OR COVERED DRIVER UNDER
 6 THE POLICY; AND

7 ~~(4)~~ (2) FOR REASONS RELATED TO THE DRIVING RECORD OF THE
 8 DRIVER;

9 ~~(4)~~ (IV) SUBJECT TO § 27-606 OF THIS TITLE, TWO OR MORE MOTOR
 10 VEHICLE ACCIDENTS OR ANY COMBINATION OF THREE OR MORE ACCIDENTS AND
 11 MOVING VIOLATIONS WITHIN THE PRECEDING 3-YEAR PERIOD ~~IF, BASED ON AN~~
 12 ~~INVESTIGATION OF THE CIRCUMSTANCES OF ANY ACCIDENT, THE INSURER~~
 13 ~~DETERMINES THAT FOR WHICH THE INSURED WAS THE PROXIMATE CAUSE OF THE~~
 14 ~~ACCIDENT AT FAULT;~~

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

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

21 ~~(4)~~ (1) DRIVING WHILE INTOXICATED OR IMPAIRED BY DRUGS;

22 ~~(4)~~ (2) HOMICIDE, ASSAULT, RECKLESS ENDANGERMENT, OR
 23 CRIMINAL NEGLIGENCE ARISING OUT OF THE OPERATION OF THE MOTOR VEHICLE;
 24 OR

25 ~~(4)~~ (3) USING THE MOTOR VEHICLE TO PARTICIPATE IN A
 26 FELONY; ~~AND~~

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

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

34 (2) AN INSURER IS NOT REQUIRED TO PRODUCE STATISTICAL
 35 VALIDATION THAT EXCLUDES AT FAULT ACCIDENTS OR THAT MAKES ANY
 36 DISTINCTION BETWEEN NOT AT FAULT ACCIDENTS AND AT FAULT ACCIDENTS IN
 37 ORDER TO SUSTAIN THE INSURER'S BURDEN OF PERSUASION UNDER SUBSECTION

1 (G) OF THIS SECTION WITH RESPECT TO A CANCELLATION OR REFUSAL TO RENEW
2 FOR A REASON THAT IS NOT LISTED IN THIS SUBSECTION.

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

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

12 (I) THE SEVERITY OF THE LOSSES;

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

15 (III) LOSS MITIGATION OF PREVIOUS LOSSES; AND

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

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

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

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