
By: **Senator Green**

Introduced and read first time: March 2, 1998

Assigned to: Rules

Re-referred to: Finance, March 5, 1998

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 30, 1998

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~~
18 ~~and insureds if the insurer takes into consideration certain factors for purposes~~
19 ~~of canceling or refusing to underwrite or renew a policy; providing for the~~
20 ~~termination of this Act; and generally relating to ~~underwriting~~ standards for~~
21 ~~canceling or refusing to underwrite or renew homeowner's insurance and~~
22 ~~private passenger motor vehicle insurance.~~

23 BY repealing and reenacting, with amendments,
24 Article - Insurance
25 Section 27-501
26 Annotated Code of Maryland

1 (1997 Volume)

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

4 **Article - Insurance**

5 27-501.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 (5) The Commissioner shall adopt regulations to carry out this
19 subsection.

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

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

27 ~~(i) CANCEL, REFUSE TO RENEW, OR OTHERWISE TERMINATE~~
28 ~~COVERAGE FOR A HOMEOWNER'S INSURANCE RISK BECAUSE THE INSURED MADE~~
29 ~~TWO OR FEWER CLAIMS WITHIN A 3-YEAR PERIOD FOR LOSSES RESULTING FROM~~
30 ~~WEATHER-RELATED EVENTS; OR~~

31 ~~(ii) REFUSE TO UNDERWRITE A HOMEOWNER'S RISK BECAUSE THE~~
32 ~~APPLICANT MADE TWO OR FEWER CLAIMS WITHIN A 3-YEAR PERIOD FOR LOSSES~~
33 ~~RESULTING FROM WEATHER-RELATED EVENTS.~~

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

36 ~~(i) CANCEL, REFUSE TO RENEW, OR OTHERWISE TERMINATE~~
37 ~~COVERAGE FOR A PRIVATE PASSENGER MOTOR VEHICLE INSURANCE RISK BECAUSE~~

~~1 THE INSURED MADE TWO OR FEWER CLAIMS WITHIN A 3-YEAR PERIOD FOR LOSSES
2 WHERE THE INSURED WAS DETERMINED NOT TO BE AT FAULT FOR THE LOSS; OR~~

~~3 (H) REFUSE TO UNDERWRITE A PRIVATE PASSENGER MOTOR
4 VEHICLE RISK BECAUSE THE APPLICANT MADE TWO OR FEWER CLAIMS WITHIN A
5 3-YEAR PERIOD FOR LOSSES WHERE THE APPLICANT WAS DETERMINED NOT TO BE
6 AT FAULT FOR THE LOSS.~~

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

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

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

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

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

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

30 (2) NONPAYMENT OF PREMIUM;

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

35 (4) CONVICTION WITHIN THE PRECEDING 3-YEAR PERIOD OF ARSON OR
36 OTHER CRIME WHICH DIRECTLY INCREASES THE HAZARD INSURED AGAINST;

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

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

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

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

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

16 (2) NONPAYMENT OF PREMIUM;

17 (3) SUBJECT TO § 27-606 OF THIS TITLE, REVOCATION OR SUSPENSION
18 OF THE DRIVER'S LICENSE OR MOTOR VEHICLE REGISTRATION WITHIN THE
19 PRECEDING 2-YEAR PERIOD:

20 (I) OF THE NAMED INSURED OR COVERED DRIVER UNDER THE
21 POLICY; AND

22 (II) FOR REASONS RELATED TO THE DRIVING RECORD OF THE
23 DRIVER;

24 (4) SUBJECT TO § 27-606 OF THIS TITLE, TWO OR MORE MOTOR VEHICLE
25 ACCIDENTS OR ANY COMBINATION OF THREE OR MORE ACCIDENTS AND MOVING
26 VIOLATIONS WITHIN THE PRECEDING 3-YEAR PERIOD IF, BASED ON AN
27 INVESTIGATION OF THE CIRCUMSTANCES OF ANY ACCIDENT, THE INSURER
28 DETERMINES THAT THE INSURED WAS THE PROXIMATE CAUSE OF THE ACCIDENT;

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

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

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

35 (II) HOMICIDE, ASSAULT, RECKLESS ENDANGERMENT, OR
36 CRIMINAL NEGLIGENCE ARISING OUT OF THE OPERATION OF THE MOTOR VEHICLE;
37 OR

1 (III) USING THE MOTOR VEHICLE TO PARTICIPATE IN A FELONY;
2 AND

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

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

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

16 (I) THE SEVERITY OF THE LOSSES;

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

19 (III) LOSS MITIGATION OF PREVIOUS LOSSES; AND

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

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

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