
By: **Delegate Barve**

Introduced and read first time: January 31, 2001

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Insurance - Premium Financing**

3 FOR the purpose of requiring that a copy of a premium finance agreement or other
4 notice of a premium finance agreement be sent to certain surplus lines brokers
5 under certain circumstances; requiring an agent or broker to return certain
6 gross unearned commissions to an insurer when an insurance contract has been
7 canceled by a premium finance company, an insurer, or an insured; specifying
8 the time within which the gross unearned commissions must be returned; and
9 generally relating to notice of premium financing agreements and cancellation
10 of insurance contracts financed under premium finance agreements.

11 BY repealing and reenacting, with amendments,
12 Article - Insurance
13 Section 23-302 and 23-405
14 Annotated Code of Maryland
15 (1997 Volume and 2000 Supplement)

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

18 **Article - Insurance**

19 23-302.

20 (a) A copy of each premium finance agreement or other notice of a premium
21 finance agreement that describes the policy or policies involved shall be given to the
22 agency issuing the policy or policies or to the insurers involved.

23 (B) IF A POLICY IS PROCURED THROUGH A SURPLUS LINES BROKER
24 LICENSED IN THE STATE, AND PAYMENT IS NOT MADE DIRECTLY TO THE SURPLUS
25 LINES BROKER OR THE INSURER, A COPY OF THE PREMIUM FINANCE AGREEMENT
26 OR OTHER NOTICE OF THE PREMIUM FINANCE AGREEMENT SHALL BE SENT TO THE
27 SURPLUS LINES BROKER.

1 [(b)] (C) When a premium finance agreement is signed, the premium finance
2 company, or the agent or broker, if applicable, shall provide the insured with, or cause
3 the insured to be provided with, a legible copy of the fully completed and executed
4 premium finance agreement.

5 23-405.

6 (a) (1) Notwithstanding any other provision of this article, when an
7 insurance contract is canceled, whether by a premium finance company, an insurer, or
8 an insured, the insurer shall return any gross unearned premiums that are due under
9 the insurance contract, computed pro rata, and excluding any expense constant,
10 administrative fee, or any nonrefundable charge filed with and approved by the
11 Commissioner, to the premium finance company for the account of the insured within
12 a reasonable time not exceeding 45 days after:

13 (i) receipt by the insurer of a notice of cancellation from the
14 premium finance company or the insured;

15 (ii) the date the insurer cancels the insurance contract; or

16 (iii) completion of any payroll audit necessary to determine the
17 amount of premium earned while the insurance contract was in force.

18 (2) An audit under paragraph (1)(iii) of this subsection shall be
19 performed within 45 days after the insurer receives the notice of cancellation.

20 (b) (1) After the insurer returns to the premium finance company any gross
21 unearned premiums that are due under the insurance contract, the premium finance
22 company shall refund to the insured the amount of unearned premium that exceeds
23 any amount due under the premium finance agreement.

24 (2) A premium finance company need not make a refund to the insured if
25 the amount of the refund would be less than \$5.

26 (c) Whenever an insurer, after receiving notice of the existence of a premium
27 finance agreement, returns any unearned premiums to a person other than the
28 premium finance company named in the premium finance agreement, the insurer
29 shall be directly responsible to the premium finance company for all unearned
30 premiums arising from the cancellation of the premium finance agreement.

31 (d) (1) An insurer that fails to return any premium required under this
32 section shall pay interest of 1% per month on the unearned premium that has not
33 been returned until the unearned premium is returned.

34 (2) Any payment under this subsection to the premium finance company
35 shall be credited to the account of the insured.

36 (e) An insurer may not deduct from any return premium any amount owed to
37 the insurer by the insured under any other insurance contract.

1 (F) AN AGENT OR BROKER SHALL RETURN ANY GROSS UNEARNED
2 COMMISSIONS, CALCULATED AS PROVIDED IN SUBSECTION (A)(1) OF THIS SECTION,
3 TO AN INSURER WITHIN A REASONABLE TIME NOT EXCEEDING 45 DAYS AFTER THE
4 WRITTEN REQUEST OF THE INSURER.

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 2001.