
By: **Delegate Barve**
Introduced and read first time: January 31, 2001
Assigned to: Economic Matters

Committee Report: Favorable with amendments
House action: Adopted
Read second time: February 27, 2001

CHAPTER _____

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; authorizing a premium finance company to
6 require a certain agent or broker to send a certain notice within a certain period
7 of time; authorizing a premium finance company to require a certain agent or
8 broker to provide the premium finance company with certain information within
9 a certain period of time; requiring an agent or broker to return certain gross
10 unearned commissions to an insurer within a reasonable period of time when an
11 insurance contract has been canceled by a premium finance company, an
12 insurer, or an insured; ~~specifying the time within which the gross unearned~~
13 ~~commissions must be returned;~~ and generally relating to notice of premium
14 financing agreements and cancellation of insurance contracts financed under
15 premium finance agreements.

16 BY repealing and reenacting, with amendments,
17 Article - Insurance
18 Section 23-302 and 23-405
19 Annotated Code of Maryland
20 (1997 Volume and 2000 Supplement)

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

1

Article - Insurance

2 23-302.

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

6 (B) (1) IF A POLICY IS PROCURED THROUGH A SURPLUS LINES BROKER
7 LICENSED IN THE STATE, AND PAYMENT IS NOT MADE DIRECTLY TO THE SURPLUS
8 LINES BROKER OR THE INSURER, A COPY OF THE PREMIUM FINANCE AGREEMENT
9 OR OTHER NOTICE OF THE PREMIUM FINANCE AGREEMENT SHALL BE SENT TO THE
10 SURPLUS LINES BROKER BY THE AGENT, BROKER, OR PREMIUM FINANCE COMPANY.

11 (2) A PREMIUM FINANCE COMPANY MAY REQUIRE AN AGENT OR
12 BROKER WHO PROCURES PREMIUM FINANCING TO:

13 (I) SEND TO THE SURPLUS LINES BROKER THE NOTICE REQUIRED
14 UNDER PARAGRAPH (1) OF THIS SUBSECTION WITHIN 10 BUSINESS DAYS OF THE
15 EXECUTION OF A PREMIUM FINANCE AGREEMENT; AND

16 (II) PROVIDE TO THE PREMIUM FINANCE COMPANY, WITHIN 10
17 BUSINESS DAYS OF RECEIPT OF A POLICY, THE INSURER'S NAME, POLICY NUMBER,
18 AND ANY OTHER INFORMATION NECESSARY TO COMPLETE A PREMIUM FINANCE
19 AGREEMENT.

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

24 23-405.

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

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

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

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

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

3 (b) (1) After the insurer returns to the premium finance company any gross
4 unearned premiums that are due under the insurance contract, the premium finance
5 company shall refund to the insured the amount of unearned premium that exceeds
6 any amount due under the premium finance agreement.

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

9 (c) Whenever an insurer, after receiving notice of the existence of a premium
10 finance agreement, returns any unearned premiums to a person other than the
11 premium finance company named in the premium finance agreement, the insurer
12 shall be directly responsible to the premium finance company for all unearned
13 premiums arising from the cancellation of the premium finance agreement.

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

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

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

21 (F) AN AGENT OR BROKER SHALL RETURN ANY GROSS UNEARNED
22 COMMISSIONS, CALCULATED AS PROVIDED IN SUBSECTION (A)(1) OF THIS SECTION,
23 TO AN INSURER WITHIN A REASONABLE ~~TIME NOT EXCEEDING 45 DAYS AFTER THE~~
24 ~~WRITTEN REQUEST OF THE INSURER~~ PERIOD OF TIME AS REQUIRED BY THE
25 INSURER.

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