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By: **Delegates Love and Kirk**

Introduced and read first time: February 2, 2001

Assigned to: Economic Matters

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A BILL ENTITLED

1 AN ACT concerning

2 **Premiums and Charges for Insurance - Placement Fees**

3 FOR the purpose of authorizing an agent or broker to charge and collect a placement  
4 fee for insurance in a certain amount under certain circumstances; repealing  
5 provisions that authorize an agent or broker to charge and collect, in placing  
6 automobile insurance through the Maryland Automobile Insurance Fund, a  
7 certain charge for a driving record and a certain amount for an accident history  
8 report; and generally relating to premiums and charges for insurance.

9 BY repealing and reenacting, with amendments,

10 Article - Insurance

11 Section 27-216

12 Annotated Code of Maryland

13 (1997 Volume and 2000 Supplement)

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

16 **Article - Insurance**

17 27-216.

18 (a) A person may not willfully collect a premium or charge for insurance if the  
19 insurance is not then provided, or is not in due course to be provided subject to  
20 acceptance of the risk by the insurer, in a policy issued by an insurer as authorized by  
21 this article.

22 (b) (1) A person may not willfully collect a premium or charge for insurance  
23 that:

24 (i) exceeds or is less than the premium or charge applicable to that  
25 insurance under the applicable classifications and rates as filed with and approved by  
26 the Commissioner; or

1 (ii) if classifications, premiums, or rates are not required by this  
2 article to be filed with and approved by the Commissioner, exceeds or is less than the  
3 premium or charge specified in the policy and set by the insurer.

4 (2) Paragraph (1) of this subsection does not prohibit:

5 (i) a surplus lines broker that holds a certificate of qualification  
6 under Title 3, Subtitle 3 of this article from charging and collecting applicable State  
7 and federal taxes in addition to the required premium;

8 (ii) a life insurer from charging and collecting the amount actually  
9 expended for a medical examination of an applicant for life insurance or  
10 reinstatement of a policy of life insurance;

11 (iii) a broker from charging a fee, not exceeding 15% of the  
12 premium, for services rendered in replacing insurance in an insurer if commissions  
13 are not payable by the insurer;

14 (iv) an agent or broker from charging and collecting[, as actual  
15 expenses incurred in placing automobile insurance with the Maryland Automobile  
16 Insurance Fund:

17 1. a maximum charge of \$10 plus \$1 more than the actual  
18 charge by the Motor Vehicle Administration for a driving record required to be  
19 presented with the application, unless otherwise provided by the Fund; or

20 2. the amount provided in subsection (e) of this section] A  
21 PLACEMENT FEE, NOT EXCEEDING \$40, IF THE PLACEMENT FEE:

22 1. IS FULLY DISCLOSED AND AGREED TO IN WRITING BY THE  
23 INSURED;

24 2. MAY BE WAIVED BY THE INSURED;

25 3. IS NOT PROHIBITED BY ANY CONTRACT BETWEEN THE  
26 AGENT OR BROKER AND THE INSURER; AND

27 4. IS NOT FINANCED UNDER TITLE 23 OF THIS ARTICLE; or

28 (v) an authorized insurer from charging and collecting reasonable  
29 installment fees as approved by the Commissioner.

30 (c) An insurer may not raise the policy limits of coverage, if the effect could be  
31 an increase in the premium without the prior consent of the insured.

32 (d) (1) Notwithstanding subsection (a) of this section, a surplus lines broker  
33 that holds a certificate of qualification under Title 3, Subtitle 3 of this article may  
34 charge a reasonable policy fee, not exceeding [\$75] \$40, on each policy procured by a  
35 qualified agent or qualified broker to whom the surplus lines broker pays a  
36 commission.

1           (2)     The policy fee charged in accordance with this subsection must be  
2 reasonably related to the cost of underwriting, issuing, processing, and servicing the  
3 policy by the surplus lines broker for the surplus lines insurer.

4           (3)     Notwithstanding subsection (a) of this section, a surplus lines broker  
5 that holds a certificate of qualification under Title 3, Subtitle 3 of this article may  
6 recoup from the prospective insured the actual cost of an inspection required for the  
7 placement of surplus lines insurance if:

8                   (i)     the inspection is required by the surplus lines insurer;

9                   (ii)    the cost of the inspection is actually incurred by the surplus  
10 lines broker and not retained by the surplus lines broker;

11                  (iii)   the surplus lines broker does not have a financial interest in  
12 and does not receive compensation from the person that performs the inspection; and

13                  (iv)    the cost of the inspection is documented and verifiable.

14           (4)     Regardless of the number of insurers participating on a risk:

15                   (i)     only one inspection fee may be charged to recoup the actual cost  
16 of an inspection under paragraph (3) of this subsection for each policy or certificate of  
17 coverage; and

18                   (ii)    only one policy fee may be charged under paragraph (1) of this  
19 subsection for each policy or certificate of coverage.

20           (5)     On a form approved by the Commissioner, the surplus lines broker  
21 shall make a clear and conspicuous written disclosure of:

22                   (i)     any inspection fee;

23                   (ii)    the total amount of the policy fee; and

24                   (iii)   the premium tax on the policy.

25   (e)   (1)   (i)     In this subsection, "accident history report" means a report that  
26 details an individual's accident history.

27                   (ii)    "Accident history report" includes a comprehensive loss  
28 underwriting exchange automobile report (CLUE report).

29                   (iii)   "Accident history report" does not include a report that details  
30 an individual's credit standing or history.

31           (2)   (i)     The Maryland Automobile Insurance Fund may sponsor an  
32 agent, broker, or premium finance company registered under Title 23 of this article  
33 for the purpose of obtaining accident history reports directly from a person that  
34 provides accident history reports.

1                   (ii)       When placing automobile insurance through the Fund, an  
2 agent, broker, or premium finance company sponsored by the Fund under this  
3 paragraph may obtain accident history reports directly from a person that provides  
4 accident history reports.

5                   (3)       Unless provided otherwise by the Fund, a person that provides  
6 accident history reports to an agent, broker, or premium finance company sponsored  
7 by the Fund under paragraph (2) of this subsection shall direct all billing for the  
8 reports to the agent, broker, or premium finance company.

9                   [(4)       Subsection (b)(1) of this section does not prohibit an agent, broker, or  
10 premium finance company from charging and collecting actual expenses that are  
11 imposed by a person for providing accident history reports under this subsection in  
12 connection with the placement of automobile insurance through the Fund.]

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