

SENATE BILL 605

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2002 Regular Session  
2lr2467  
CF 2lr1737

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By: **Senator Kelley**  
Introduced and read first time: February 1, 2002  
Assigned to: Finance

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A BILL ENTITLED

1 AN ACT concerning

2                                   **Motor Vehicle Liability Insurance - Premium Increases - Consumer**  
3                                   **Information**

4 FOR the purpose of requiring an insurer that provides a private passenger  
5 automobile insurance policy to provide certain information about policy  
6 premiums to a policyholder at certain times; requiring an insurer that markets  
7 private passenger automobile insurance through independent insurance  
8 producers to make a copy of a certain statement available to its producers;  
9 repealing certain provisions of law relating to increases in premiums for motor  
10 vehicle liability insurance; establishing that certain errors or the inclusion of  
11 certain information in certain notices does not invalidate the notices under  
12 certain circumstances; prohibiting certain insurers from increasing a renewal  
13 policy premium with respect to motor vehicle liability insurance by a certain  
14 percentage unless a certain notice is sent to the insured at a certain time;  
15 specifying the form and contents of the notice; specifying the manner of sending  
16 the notice; establishing procedures for protesting a renewal policy premium  
17 increase; requiring the Maryland Insurance Commissioner to take certain  
18 actions on receipt of a protest; authorizing the Commissioner to adopt certain  
19 regulations; prohibiting certain insurers from increasing a renewal policy  
20 premium with respect to motor vehicle liability insurance by less than a certain  
21 percentage unless a certain notice is sent to the insured; requiring an insurer to  
22 return certain disallowed premiums and certain interest on the premiums to an  
23 insured under certain circumstances; establishing a certain administrative  
24 penalty; providing for the application of this Act; providing for a delayed  
25 effective date for certain provisions of this Act; and generally relating to  
26 premiums for motor vehicle liability insurance.

27 BY repealing and reenacting, with amendments,  
28 Article - Insurance  
29 Section 11-317  
30 Annotated Code of Maryland  
31 (1997 Volume and 2001 Supplement)

32 BY adding to  
33 Article - Insurance

1 Section 27-605(b)(5) and 27-605.1  
2 Annotated Code of Maryland  
3 (1997 Volume and 2001 Supplement)

4 BY repealing and reenacting, with amendments,  
5 Article - Insurance  
6 Section 27-605  
7 Annotated Code of Maryland  
8 (1997 Replacement Volume and 2001 Supplement)  
9 (As enacted by Section 1 of this Act)

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

12 **Article - Insurance**

13 11-317.

14 (a) Each insurer that provides a private passenger automobile insurance  
15 policy shall provide to the policyholder at the time of issuance or renewal of the policy  
16 a statement that:

17 (1) defines the policyholder's rate classifications; [and]

18 (2) if the insurer is an authorized insurer includes a summary, in a form  
19 approved by the Commissioner, of the insurer's approved surcharge plan or driver  
20 record point plan for that policy; AND

21 (3) INCLUDES A SECTION THAT:

22 (I) PROVIDES A GENERAL DESCRIPTION OF THE FACTORS,  
23 INCLUDING CREDIT INFORMATION IF APPLICABLE, THAT MAY CAUSE OR  
24 CONTRIBUTE TO AN INCREASE IN A POLICY PREMIUM;

25 (II) INFORMS THE INSURED OF THE RIGHT TO AN EXPLANATION OF  
26 A PREMIUM INCREASE FROM THE INSURER;

27 (III) ADVISES THE INSURED THAT AN INSURER MAY NOT CHARGE A  
28 PREMIUM UNLESS IT COMPLIES WITH ALL APPLICABLE PROVISIONS OF THIS  
29 ARTICLE AND THE INSURER'S RATING PLAN FILED WITH THE COMMISSIONER;

30 (IV) INFORMS THE INSURED OF THE RIGHT TO FILE A PROTEST OF A  
31 PREMIUM THAT DOES NOT COMPLY WITH ALL APPLICABLE PROVISIONS OF THIS  
32 ARTICLE OR THE INSURER'S RATING PLAN FILED WITH THE COMMISSIONER, AND  
33 DESCRIBES THE PROCEDURE FOR FILING A PROTEST; AND

34 (V) ADVISES THE INSURED OF THE POTENTIAL RIGHT TO EXCLUDE  
35 AN OPERATOR FROM COVERAGE UNDER § 27-606 OF THIS ARTICLE.

1 (b) The statement must be sufficiently clear and specific so that an individual  
 2 of average intelligence can identify the classifications without making further  
 3 inquiry.

4 (C) AN INSURER THAT MARKETS PRIVATE PASSENGER AUTOMOBILE  
 5 INSURANCE THROUGH INDEPENDENT INSURANCE PRODUCERS SHALL MAKE  
 6 AVAILABLE TO ITS PRODUCERS A COPY OF THE STATEMENT REQUIRED UNDER THIS  
 7 SECTION.

8 27-605.

9 (b) (5) A NONMATERIAL, TYPOGRAPHICAL, OR GRAMMATICAL ERROR OR  
 10 THE INCLUSION OF NONMATERIAL INFORMATION IN A NOTICE, AS DETERMINED BY  
 11 THE COMMISSIONER, DOES NOT INVALIDATE THE NOTICE.

12 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland  
 13 read as follows:

14 **Article - Insurance**

15 27-605.

16 (a) (1) Except in accordance with this article, with respect to a policy of  
 17 motor vehicle liability insurance or a binder of motor vehicle liability insurance, if the  
 18 binder has been in effect for at least 45 days, issued in the State to any resident of the  
 19 household of the named insured, an insurer other than the Maryland Automobile  
 20 Insurance Fund may not:

21 (i) cancel or fail to renew the policy or binder for a reason other  
 22 than nonpayment of premium; OR

23 (ii) [increase a premium for any coverage on the policy; or

24 (iii)] reduce coverage under the policy.

25 (2) Notwithstanding paragraph (1) of this subsection, the requirements  
 26 of this section do not apply if:

27 (i) [the premium increase described in paragraph (1)(ii) of this  
 28 subsection is part of a general increase in premiums approved by the Commissioner  
 29 and does not result from a reclassification of the insured;

30 (ii)] the reduction in coverage described in paragraph [(1)(iii)] (1)(II)  
 31 of this subsection is part of a general reduction in coverage approved by the  
 32 Commissioner or satisfies the requirements of Title 19, Subtitle 5 of this article; or

33 [(iii)] (II) the failure to renew the policy takes place under a plan of  
 34 withdrawal that:

1 is approved by the Commissioner under § 27-603 of this  
2 subtitle; and

3 2. provides that each insured affected by the plan of  
4 withdrawal shall be sent by certificate of mailing at least 45 days before the  
5 nonrenewal of the policy a written notice that states the date that the policy will be  
6 nonrenewed and that the nonrenewal is the result of the withdrawal of the insurer  
7 from the market.

8 (b) (1) At least 45 days before the proposed effective date of the action, an  
9 insurer that intends to take an action subject to this section must send written notice  
10 of its proposed action to the insured at the last known address of the insured:

11 (i) for notice of cancellation or nonrenewal, by certified mail; and

12 (ii) for all other notices of actions subject to this section, by  
13 certificate of mailing.

14 (2) The notice must be in triplicate and on a form approved by the  
15 Commissioner.

16 (3) The notice must state in clear and specific terms:

17 (i) the proposed action to be taken, including, [:

18 1. for a premium increase, the amount of the increase and  
19 the type of coverage to which it is applicable; and

20 2.] for a reduction in coverage, the type of coverage reduced  
21 and the extent of the reduction;

22 (ii) the proposed effective date of the action;

23 (iii) subject to paragraph (4) of this subsection, the actual reason of  
24 the insurer for proposing to take the action;

25 (iv) if there is coupled with the notice an offer to continue or renew  
26 the policy in accordance with § 27-606 of this subtitle:

27 1. the name of the individual or individuals to be excluded  
28 from coverage; and

29 2. the premium amount if the policy is continued or renewed  
30 with the named individual or individuals excluded from coverage;

31 (v) the right of the insured to replace the insurance through the  
32 Maryland Automobile Insurance Fund and the current address and telephone number  
33 of the Fund;

34 (vi) the right of the insured to protest the proposed action of the  
35 insurer and[, except in the case of a premium increase that is consistent with the

1 insurer's surcharge plan as filed with the Commissioner and authorized under the  
2 applicable provisions of Title 11 of this article,] request a hearing before the  
3 Commissioner on the proposed action by signing two copies of the notice and sending  
4 them to the Commissioner within 30 days after the mailing date of the notice;

5 (vii) that if a protest is filed by the insured, the insurer must  
6 maintain the current insurance in effect until a final determination is made by the  
7 Commissioner, subject to the payment of any authorized premium due or becoming  
8 due before the determination; and

9 (viii) the authority of the Commissioner to award reasonable  
10 attorney fees to the insured for representation at a hearing if the Commissioner finds  
11 the proposed action of the insurer to be unjustified.

12 (4) (i) The insurer's statement of actual reason for proposing to take  
13 an action subject to this section must be sufficiently clear and specific so that an  
14 individual of average intelligence can identify the basis for the insurer's decision  
15 without making further inquiry.

16 (ii) The use of generalized terms such as "personal habits", "living  
17 conditions", "poor morals", or "violation or accident record" does not meet the  
18 requirements of this paragraph.

19 (5) A nonmaterial, typographical, or grammatical error or the inclusion  
20 of nonmaterial information in a notice, as determined by the Commissioner, does not  
21 invalidate the notice.

22 (c) At least 10 days before the date an insurer proposes to cancel a policy for  
23 nonpayment of premium, the insurer shall cause to be sent to the insured, by  
24 certificate of mailing, a written notice of intention to cancel for nonpayment of  
25 premium.

26 (d) A statement of actual reason contained in the notice given under  
27 subsection (b) of this section is privileged and does not constitute grounds for an  
28 action against the insurer, its representatives, or another person that in good faith  
29 provides to the insurer information on which the statement is based.

30 (e) (1) This subsection does not apply to an action of an insurer taken under  
31 subsection (c) of this section.

32 (2) An insured may protest a proposed action of the insurer under this  
33 section by signing two copies of the notice and sending them to the Commissioner  
34 within 30 days after the mailing date of the notice.

35 (3) On receipt of a protest, the Commissioner shall notify the insurer of  
36 the filing of the protest.

37 (4) A protest filed with the Commissioner stays the proposed action of  
38 the insurer pending a final determination by the Commissioner.

1           (5)    [(i)]    The insurer shall maintain in effect the same coverage and  
2 premium that were in effect on the day the notice of proposed action was sent to the  
3 insured until a final determination is made, subject to the payment of any authorized  
4 premium due or becoming due before the determination.

5                           [(ii)    In the case of a premium increase, a dismissal of the protest is  
6 deemed to be a final determination of the Commissioner 20 days after the mailing  
7 date of the Commissioner's notice of action.]

8    (f)    (1)    Based on the information contained in the notice, the Commissioner:

9                           (i)    shall determine whether the protest by the insured has merit;  
10 and

11                           (ii)   either shall dismiss the protest or disallow the proposed action  
12 of the insurer.

13           (2)    The Commissioner shall notify the insurer and the insured of the  
14 action of the Commissioner promptly in writing.

15           (3)    Subject to paragraph (4) of this subsection, within 30 days after the  
16 mailing date of the Commissioner's notice of action, the aggrieved party may request  
17 a hearing.

18           (4)    [Except in the case of a premium increase that is consistent with the  
19 insurer's surcharge plan as filed with the Commissioner and authorized under the  
20 applicable provisions of Title 11 of this article, the ] THE Commissioner shall:

21                           (i)    hold a hearing within a reasonable time after the request for a  
22 hearing; and

23                           (ii)   give written notice of the time and place of the hearing at least  
24 10 days before the hearing.

25           (5)    A hearing held under this subsection shall be conducted in  
26 accordance with Title 10, Subtitle 2 of the State Government Article.

27           (6)    At the hearing the insurer has the burden of proving its proposed  
28 action to be justified and, in doing so, may rely only on the reasons set forth in its  
29 notice to the insured.

30    (g)    (1)    The Commissioner shall issue an order within 30 days after the  
31 conclusion of the hearing.

32           (2)    If the Commissioner finds the proposed action of the insurer to be  
33 justified, the Commissioner shall:

34                           (i)    dismiss the protest; and

35                           (ii)   allow the proposed action to be taken on the later of:

1. its proposed effective date; and
2. 30 days after the date of the determination.

(3) If the Commissioner finds the proposed action to be unjustified, the Commissioner:

- (i) shall disallow the action; and
- (ii) may order the insurer to pay reasonable attorney fees incurred by the insured for representation at the hearing as the Commissioner considers appropriate.

(h) The Commissioner may delegate the powers and duties of the Commissioner under this section to one or more employees or hearing examiners.

(i) A party to a proceeding under this section may appeal the decision of the Commissioner in accordance with § 2-215 of this article.

27-605.1.

(A) (1) EXCEPT IN ACCORDANCE WITH THIS SUBSECTION AND EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, WITH RESPECT TO A POLICY OF MOTOR VEHICLE LIABILITY INSURANCE OR A BINDER OF MOTOR VEHICLE LIABILITY INSURANCE, IF THE BINDER HAS BEEN IN EFFECT FOR AT LEAST 45 DAYS, ISSUED IN THE STATE TO ANY RESIDENT OF THE HOUSEHOLD OF THE NAMED INSURED, AN INSURER OTHER THAN THE MARYLAND AUTOMOBILE INSURANCE FUND MAY NOT INCREASE A RENEWAL POLICY PREMIUM BY 20% OR MORE.

(2) (I) AT LEAST 45 DAYS BEFORE THE EFFECTIVE DATE OF THE PROPOSED RENEWAL POLICY PREMIUM INCREASE, THE INSURER MUST SEND BY CERTIFICATE OF MAILING WRITTEN NOTICE OF THE PROPOSED RENEWAL POLICY PREMIUM INCREASE TO THE INSURED AT THE LAST KNOWN ADDRESS OF THE INSURED.

(II) THE NOTICE MUST:

1. BE IN TRIPLICATE AND ON A FORM APPROVED BY THE COMMISSIONER;
2. STATE IN CLEAR AND SPECIFIC TERMS THE REASON FOR THE RENEWAL POLICY PREMIUM INCREASE;
3. PROVIDE A TOLL FREE TELEPHONE NUMBER FOR THE INSURED TO CONTACT A REPRESENTATIVE OF THE INSURER TO REQUEST INFORMATION ABOUT THE RENEWAL POLICY PREMIUM INCREASE;
4. ADVISE THE INSURED THAT GENERAL RATE INFORMATION REGARDING PRIVATE PASSENGER AUTOMOBILE INSURANCE IS AVAILABLE FROM THE COMMISSIONER;

1                                   5.       NOTIFY THE INSURED OF THE RIGHT TO PROTEST A  
2 RENEWAL POLICY PREMIUM INCREASE THAT THE INSURED BELIEVES IS INCORRECT,  
3 AND DESCRIBE THE PROCEDURE FOR FILING A PROTEST;

4                                   6.       REQUIRE THE INSURED TO PAY ALL PREMIUMS WHEN  
5 DUE, EXCEPT ANY RENEWAL POLICY PREMIUM INCREASE OF 20% OR MORE THAT IS  
6 THE SUBJECT OF A PROTEST UNDER THIS SECTION; AND

7                                   7.       PROVIDE THE NAME, ADDRESS, AND TELEPHONE  
8 NUMBER OF THE COMMISSIONER.

9                                   (III)    A NONMATERIAL, TYPOGRAPHICAL, OR GRAMMATICAL ERROR  
10 OR THE INCLUSION OF NONMATERIAL INFORMATION IN A NOTICE, AS DETERMINED  
11 BY THE COMMISSIONER, DOES NOT INVALIDATE THE NOTICE.

12                               (3)    (I)     AN INSURED MAY PROTEST THE RENEWAL POLICY PREMIUM  
13 INCREASE THAT IS THE SUBJECT OF THE NOTICE BY SENDING A WRITTEN PROTEST  
14 TO THE COMMISSIONER WITHIN 30 DAYS AFTER THE MAILING DATE OF THE NOTICE.

15                               (II)    A PROTEST SHALL BE IN WRITING, BE SIGNED BY THE INSURED,  
16 AND STATE THE REASONS WHY THE INSURED BELIEVES THE RENEWAL POLICY  
17 PREMIUM INCREASE IS INCORRECT.

18                               (III)    A PROTEST MAY BE WRITTEN ON A COPY OF THE NOTICE.

19                               (IV)    EXCEPT AS PROVIDED IN PARAGRAPH (4)(IV) OF THIS  
20 SUBSECTION, THE FILING OF A PROTEST DOES NOT RELIEVE THE INSURED OF THE  
21 OBLIGATION TO PAY ANY PREMIUM THAT IS DUE.

22                               (4)    (I)     ON RECEIPT OF A PROTEST, THE COMMISSIONER SHALL  
23 NOTIFY THE INSURER OF THE FILING OF THE PROTEST.

24                               (II)    ON NOTIFICATION OF THE FILING OF A PROTEST, THE INSURER  
25 SHALL:

26                                   1.       RECALCULATE THE RENEWAL POLICY PREMIUM; AND

27                                   2.       PROVIDE TO THE COMMISSIONER A WRITTEN DOCUMENT  
28 THAT EXPLAINS THE RECALCULATION, INCLUDING ALL FACTORS FROM THE  
29 INSURER'S RATING PLAN USED TO CALCULATE THE INCREASED RENEWAL POLICY  
30 PREMIUM.

31                               (III)    THE COMMISSIONER MAY REQUEST ANY ADDITIONAL  
32 INFORMATION FROM THE INSURED OR THE INSURER NECESSARY TO RESOLVE THE  
33 PROTEST.

34                               (IV)    A RENEWAL POLICY PREMIUM INCREASE OF 20% OR MORE  
35 THAT IS THE SUBJECT OF A PROTEST MAY NOT BE CHARGED BY THE INSURER UNTIL  
36 A FINAL DETERMINATION IS MADE BY THE COMMISSIONER.

1 (5) (I) ON RECEIPT OF ALL REQUESTED INFORMATION, THE  
2 COMMISSIONER SHALL EITHER DISMISS THE PROTEST OR DISALLOW THE RENEWAL  
3 POLICY PREMIUM INCREASE.

4 (II) DISMISSAL OF A PROTEST OR A DISALLOWANCE OF A RENEWAL  
5 POLICY PREMIUM INCREASE IS A FINAL DETERMINATION OF THE COMMISSIONER.

6 (6) THE COMMISSIONER MAY ADOPT REGULATIONS TO EXEMPT  
7 RENEWAL POLICY PREMIUM INCREASES FROM THE PROVISIONS OF THIS  
8 SUBSECTION, INCLUDING RENEWAL POLICY PREMIUM INCREASES CAUSED BY THE  
9 LOSS OF DISCOUNTS.

10 (B) (1) EXCEPT IN ACCORDANCE WITH THIS SUBSECTION AND EXCEPT AS  
11 PROVIDED IN SUBSECTION (C) OF THIS SECTION, WITH RESPECT TO A POLICY OF  
12 MOTOR VEHICLE LIABILITY INSURANCE OR A BINDER OF MOTOR VEHICLE LIABILITY  
13 INSURANCE, IF THE BINDER HAS BEEN IN EFFECT FOR AT LEAST 45 DAYS, ISSUED IN  
14 THE STATE TO ANY RESIDENT OF THE HOUSEHOLD OF THE NAMED INSURED, AN  
15 INSURER OTHER THAN THE MARYLAND AUTOMOBILE INSURANCE FUND MAY NOT  
16 INCREASE A RENEWAL POLICY PREMIUM BY LESS THAN 20%.

17 (2) (I) THE INSURER SHALL SEND WRITTEN NOTICE OF THE  
18 PROPOSED RENEWAL POLICY PREMIUM INCREASE TO THE INSURED AT THE LAST  
19 KNOWN ADDRESS OF THE INSURED.

20 (II) A NOTICE OF RENEWAL PREMIUM DUE REQUIRED BY § 27-607  
21 OF THIS SUBTITLE SHALL BE DEEMED TO SATISFY THE REQUIREMENTS OF  
22 SUBPARAGRAPH (I) OF THIS PARAGRAPH.

23 (3) (I) AN INSURED MAY PROTEST THE RENEWAL POLICY PREMIUM  
24 INCREASE THAT IS THE SUBJECT OF THE NOTICE BY SENDING A WRITTEN PROTEST  
25 TO THE COMMISSIONER WITHIN 30 DAYS AFTER THE MAILING DATE OF THE NOTICE.

26 (II) A PROTEST SHALL BE IN WRITING, BE SIGNED BY THE INSURED,  
27 AND STATE THE REASONS WHY THE INSURED BELIEVES THE RENEWAL POLICY  
28 PREMIUM INCREASE IS INCORRECT.

29 (4) (I) NOT MORE THAN 30 DAYS FOLLOWING THE DISALLOWANCE OF  
30 A RENEWAL POLICY PREMIUM INCREASE BY THE COMMISSIONER, AN INSURER  
31 SHALL RETURN ALL DISALLOWED PREMIUMS RECEIVED FROM THE INSURED,  
32 TOGETHER WITH SIMPLE INTEREST ON THE DISALLOWED PREMIUMS CALCULATED  
33 AT 10% PER ANNUM.

34 (II) IF AN INSURER FAILS TO RETURN ANY DISALLOWED  
35 PREMIUMS, OR FAILS TO PAY INTEREST TO AN INSURED UNDER SUBPARAGRAPH (I)  
36 OF THIS PARAGRAPH, THE COMMISSIONER MAY IMPOSE ON THE INSURER AN  
37 ADMINISTRATIVE PENALTY OF NOT LESS THAN \$100 AND NOT MORE THAN \$500.

38 (C) THE REQUIREMENTS OF SUBSECTIONS (A) AND (B) OF THIS SECTION DO  
39 NOT APPLY TO A RENEWAL POLICY PREMIUM INCREASE THAT:

1           (1)     IS PART OF A GENERAL INCREASE IN PREMIUMS FILED WITH THE  
2 COMMISSIONER; OR

3           (2)     RESULTS FROM A CHANGE IN THE POLICY CAUSED BY THE INSURED.

4     SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall  
5 take effect October 1, 2002, and shall apply to motor vehicle liability insurance  
6 policies issued or renewed on or after that date.

7     SECTION 4. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall  
8 take effect January 1, 2003, and shall apply to motor vehicle liability insurance  
9 policies issued or renewed on or after that date.

10    SECTION 5. AND BE IT FURTHER ENACTED, That, except as provided in  
11 Section 4 of this Act, this Act shall take effect October 1, 2002.