
By: **Chairman, Economic Matters Committee (By Request - Departmental - Insurance Administration, Maryland)**

Introduced and read first time: January 29, 2003

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Insurance - Regulation of Insurance Producers**

3 FOR the purpose of altering certain provisions regarding the reporting of
4 appointments and terminations of insurance producers to the Maryland
5 Insurance Administration; repealing certain fees; authorizing the Maryland
6 Insurance Commissioner to appoint certain advisory boards; authorizing the
7 Commissioner to review certain continuing education courses and approve or
8 disapprove certain continuing education courses; requiring insurers to maintain
9 information regarding appointments and appointment terminations of
10 insurance producers in a certain format; providing for the effective dates of this
11 Act; and generally relating to appointments and appointment terminations of
12 insurance producers and other matters relating to the education and
13 qualification of insurance producers.

14 BY repealing and reenacting, with amendments,
15 Article - Insurance
16 Section 2-112, 10-110(a), (b), and (c), 10-116(d), and 10-118
17 Annotated Code of Maryland
18 (1997 Volume and 2002 Supplement)

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

21 **Article - Insurance**

22 2-112.

23 (a) Fees for the following certificates, licenses, and services shall be collected
24 in advance by the Commissioner, and shall be paid by the appropriate persons to the
25 Commissioner:

26 (1) fees for certificates of authority:

1 (i) application fee for initial certificate of authority, including filing
2 the application, articles of incorporation and other charter documents, except as
3 provided in item (2) of this subsection, bylaws, financial statement, examination
4 report, power of attorney to the Commissioner, and all other documents and filings in
5 connection with the application \$1,000

6 (ii) fee for initial certificate of authority \$200

7 (iii) fee for annual renewal of certificate of authority for all
8 foreign insurers and for domestic insurers with their home or executive office in the
9 State \$500

10 (iv) fee for annual renewal of certificate of authority for domestic
11 insurers with their home or executive office outside the State, except those domestic
12 insurers that had their home or executive office outside the State before January 1,
13 1929:

14 1. with premiums written in the most recent calendar year
15 not exceeding \$500,000 \$2,500

16 2. with premiums written in the most recent calendar year
17 not exceeding \$1,000,000 \$5,000

18 3. with premiums written in the most recent calendar year
19 not exceeding \$2,000,000 \$7,000

20 4. with premiums written in the most recent calendar year
21 not exceeding \$5,000,000 \$9,000

22 5. with premiums written in the most recent calendar year of
23 more than \$5,000,000 \$11,000

24 (v) reinstatement of certificate of authority \$500

25 (2) fees for articles of incorporation of a domestic insurer or foreign
26 insurer, exclusive of fees required to be paid to the Department of Assessments and
27 Taxation:

28 (i) fee for filing the articles of incorporation with the Commissioner
29 for approval \$25

30 (ii) fee for amendment of the articles of incorporation \$10

31 (3) fees for filing bylaws or amendments to bylaws with the
32 Commissioner \$10

33 (4) fees for certificates of qualification:

34 (i) application fee \$25

35 (ii) managing general agent certificate of qualification:

1 [(10)] (9) fees for form and rate filings under Title 11, Subtitles 2 and 4
2 and §§ 12-203, 13-110, and 14-126 of this article \$125

3 [(11)] (10) service of legal process fee under §§ 3-318(b), 3-319(d), and
4 4-107 of this article \$15

5 (b) A court may award reimbursement of a service of process fee imposed
6 under subsection [(a)(11)] (A)(10) of this section to a prevailing plaintiff in any
7 proceeding against an insurer or surplus lines broker.

8 10-110.

9 (a) The Commissioner [shall] MAY appoint an advisory board for life and
10 health insurance and an advisory board for property and casualty insurance to assist
11 the Commissioner in reviewing continuing education courses, examinations, and
12 other matters relating to the education and qualification of insurance producers.

13 (b) (1) [The] IF THE COMMISSIONER APPOINTS A LIFE AND HEALTH
14 INSURANCE ADVISORY BOARD, THE Life and Health Insurance Advisory Board
15 [consists] SHALL CONSIST of at least eight members [appointed by the
16 Commissioner].

17 (2) Each member of the Advisory Board shall be experienced in the
18 business of life insurance or health insurance.

19 (3) The Advisory Board:

20 (i) may include insurance producers and employees or officers of
21 insurers; and

22 (ii) shall include at least two members who are insurance producers
23 with valid licenses issued in the State in that kind of insurance.

24 (c) (1) [The] IF THE COMMISSIONER APPOINTS A PROPERTY AND
25 CASUALTY INSURANCE ADVISORY BOARD, THE Property and Casualty Insurance
26 Advisory Board [consists] SHALL CONSIST of at least eight members [appointed by
27 the Commissioner].

28 (2) Each member of the Advisory Board shall be experienced in the
29 business of property insurance or casualty insurance.

30 (3) The Advisory Board:

31 (i) may include insurance producers and employees or officers of
32 insurers; and

33 (ii) shall include at least two members who are insurance producers
34 with valid licenses issued in the State in that kind of insurance.

1 10-116.

2 (d) The Commissioner [shall] MAY review all continuing education courses
3 submitted and approve or disapprove courses [after receiving the recommendation of
4 the appropriate advisory board appointed under § 10-110 of this subtitle].

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

7 **Article - Insurance**

8 10-118.

9 [(a) (1) When an insurer doing business in the State makes or terminates an
10 appointment, the insurer immediately shall file notice of the appointment or
11 termination and the reasons for the termination in the manner specified by this
12 section.

13 (2) The applicable fee required by § 2-112 of this article shall be:

14 (i) included with the notice of appointment or termination; or

15 (ii) collected in the manner approved by the Commissioner.]

16 (A) IN THIS SECTION, "PRODUCER REGISTER" MEANS A REGISTER OF
17 APPOINTED INSURANCE PRODUCERS WHO ARE AUTHORIZED TO SELL, SOLICIT, OR
18 NEGOTIATE CONTRACTS OF INSURANCE ON BEHALF OF AN INSURER.

19 (B) (1) AN INSURER AUTHORIZED TO TRANSACT THE BUSINESS OF
20 INSURANCE IN THE STATE SHALL MAINTAIN A PRODUCER REGISTER.

21 (2) WITHIN 30 DAYS OF THE INSURER APPOINTING AN INSURANCE
22 PRODUCER, THE INSURER SHALL INCLUDE THE FOLLOWING INFORMATION IN THE
23 INSURER'S PRODUCER REGISTER:

24 (I) THE INSURANCE PRODUCER'S NAME;

25 (II) THE LICENSE NUMBER ASSIGNED TO THE INSURANCE
26 PRODUCER BY THE COMMISSIONER;

27 (III) THE DATE THAT THE INSURER APPOINTED THE INSURANCE
28 PRODUCER; AND

29 (IV) ANY ADDITIONAL INFORMATION THAT THE COMMISSIONER
30 MAY REQUIRE.

31 (3) AN INSURER SHALL SEND WRITTEN DOCUMENTATION OF THE
32 APPOINTMENT TO THE INSURANCE PRODUCER.

33 (C) A LICENSED INSURANCE PRODUCER THAT HAS BEEN APPOINTED BY AN
34 INSURER SHALL MAINTAIN:

- 1 (1) DOCUMENTATION OF THE INSURER'S APPOINTMENT; AND
2 (2) A LIST OF THE INSURERS THAT HAVE APPOINTED THE PRODUCER.

3 [(3) If the appointment of an insurance producer is terminated because
4 the insurance producer failed to renew the insurance producer's license and the
5 license subsequently is reinstated under § 10-116.1(c)(1) of this subtitle, an insurer
6 may reappoint the insurance producer retroactively, with the reappointment effective
7 on the date that the license expired.

8 (b) Within 30 days after an insurer receives an application for life insurance,
9 health insurance, or an annuity from an insurance producer that does not have an
10 appointment from the insurer, the insurer shall:

- 11 (1) reject the application in accordance with § 27-501 of this article; or
12 (2) file with the Commissioner written notice of appointment under
13 subsection (a) of this section.

14 (c) (1) When an insurer or authorized representative of an insurer
15 terminates the appointment, employment, contract, or other similar authority of an
16 insurance producer, the insurer or authorized representative shall notify the
17 Commissioner of the termination:

- 18 (i) within 30 days after the effective date of the termination; and
19 (ii) in the format required by the Commissioner.

20 (2) The notification shall state if:

21 (i) the termination was for a reason set forth in § 10-126 of this
22 subtitle;

23 (ii) the insurer has actual knowledge that the insurance producer
24 was found by a court, governmental unit, or self-regulatory organization authorized
25 by law to have violated § 10-126 of this subtitle; or

26 (iii) the termination was for a reason not set forth in § 10-126 of this
27 subtitle.]

28 (D) (1) THE INSURER'S PRODUCER REGISTER AND THE PRODUCER'S
29 RECORD RELATING TO AN APPOINTMENT:

30 (I) SHALL BE OPEN TO INSPECTION AND EXAMINATION BY THE
31 COMMISSIONER; AND

32 (II) MAY BE MAINTAINED ELECTRONICALLY.

33 (2) AN INSURANCE PRODUCER MAY NOT ACT ON BEHALF OF AN
34 INSURER UNLESS THE INSURANCE PRODUCER IS LISTED ON THE INSURER'S
35 PRODUCER REGISTER.

1 (3) AN INSURER MAY INITIALLY ACCEPT AN APPLICATION FOR LIFE
2 INSURANCE, HEALTH INSURANCE, OR AN ANNUITY FROM AN INSURANCE PRODUCER
3 WHO IS NOT APPOINTED BY THE INSURER AND IS NOT ON THE INSURER'S PRODUCER
4 REGISTER IF, WITHIN 30 DAYS OF ACCEPTING THE APPLICATION, THE INSURER:

5 (I) REJECTS THE APPLICATION IN ACCORDANCE WITH § 27-501 OF
6 THIS ARTICLE; OR

7 (II) APPOINTS THE INSURANCE PRODUCER AND ENTERS IN THE
8 INSURER'S PRODUCER REGISTER THE INFORMATION REQUIRED BY SUBSECTION (B)
9 OF THIS SECTION.

10 (E) (1) (I) WHEN THERE IS ANY TERMINATION OF THE APPOINTMENT,
11 EMPLOYMENT, CONTRACT, OR OTHER INSURANCE BUSINESS RELATIONSHIP WITH
12 AN INSURANCE PRODUCER, THE INSURER SHALL, WITHIN 30 DAYS FOLLOWING THE
13 EFFECTIVE DATE OF THE TERMINATION, UPDATE THE INSURER'S PRODUCER
14 REGISTER BY ENTERING THE EFFECTIVE DATE OF THE TERMINATION.

15 (II) AN INSURER OR AUTHORIZED REPRESENTATIVE OF AN
16 INSURER SHALL NOTIFY THE COMMISSIONER OF THE TERMINATION OF AN
17 APPOINTMENT WHEN THE TERMINATION, IN WHOLE OR IN PART, IS A RESULT OF
18 THE BELIEF THAT THE PRODUCER HAS ENGAGED OR IS ENGAGING IN ANY OF THE
19 ACTIVITIES SET FORTH IN § 10-126 OF THIS SUBTITLE, INCLUDING ANY FINDING
20 MADE BY A COURT, GOVERNMENTAL UNIT, OR SELF-REGULATORY ORGANIZATION
21 AUTHORIZED BY LAW THAT:

22 1. THE INSURANCE PRODUCER HAS VIOLATED § 10-126 OF
23 THIS SUBTITLE; OR

24 2. THE INSURANCE PRODUCER HAS ENGAGED IN ANY
25 ACTIVITIES THAT ARE SET FORTH IN § 10-126 OF THIS SUBTITLE.

26 [(3)] (III) On written request of the Commissioner, the insurer shall
27 provide additional information, documents, records, or other data pertaining to:

28 [(i)] 1. the termination; or

29 [(ii)] 2. the activities of the insurance producer if the insurance
30 producer was terminated for cause due to a reason set forth in § 10-126 of this
31 subtitle.

32 (2) IF THE APPOINTMENT OF AN INSURANCE PRODUCER IS
33 TERMINATED BECAUSE THE INSURANCE PRODUCER FAILED TO RENEW THE
34 INSURANCE PRODUCER'S LICENSE AND THE LICENSE IS REINSTATED UNDER §
35 10-116.1(C)(1) OF THIS SUBTITLE, AN INSURER MAY REAPPOINT THE INSURANCE
36 PRODUCER RETROACTIVELY, WITH THE APPOINTMENT EFFECTIVE ON THE DATE
37 THAT THE LICENSE EXPIRED.

1 [(d)] (F) An insurer or authorized representative of an insurer promptly shall
2 notify the Commissioner, in a format acceptable to the Commissioner, of any
3 additional information that:

4 (1) the insurer discovers on further review or investigation; and

5 (2) would have been reportable to the Commissioner under subsection
6 [(c)] (e) of this section if the insurer had then known of its existence.

7 [(e)] (G) (1) Within 15 days after providing notice to the Commissioner that
8 is required by subsection [(a) or (b)] (E) of this section, an insurer shall mail a copy of
9 the notice to the insurance [producer at the last known address of the insurance
10 producer.

11 (2) If an insurance producer is terminated for cause due to any reason
12 listed in § 10-126 of this subtitle, the insurer shall send a copy of the notice to the
13 insurance] producer:

14 (i) at the last known address of the insurance producer; and

15 (ii) by certified mail, return receipt requested, postage prepaid or
16 by overnight delivery using a nationally recognized carrier.

17 [(3)] (2) Within 30 days after an insurance producer receives original or
18 additional notice, the insurance producer may file with the Commissioner written
19 comments concerning the substance of the notice.

20 [(4)] (3) If an insurance producer files comments with the
21 Commissioner, the insurance producer shall, by the same means, simultaneously
22 send a copy of the comments to the reporting insurer.

23 [(5)] (4) If the Commissioner receives comments from an insurance
24 producer, the Commissioner shall:

25 (i) make the comments part of the Commissioner's file on the
26 subject: and

27 (ii) include a copy of the comments with every copy of a report
28 about the insurance producer that is distributed or disclosed for any reason permitted
29 by subsection [(g)] (I) of this section.

30 [(f)] (H) (1) This subsection applies to:

31 (i) an insurer;

32 (ii) an authorized representative of an insurer;

33 (iii) an insurance producer;

34 (iv) the Commissioner; and

1 (v) an organization of which the Commissioner is a member that
2 compiles information required under this section and makes it available to other
3 insurance commissioners or regulatory or law enforcement agencies.

4 (2) In the absence of actual malice, a person to whom this subsection
5 applies and the agents and employees of the person are not subject to civil liability of
6 any nature as a result of:

7 (i) any statement or information required by or provided under
8 this section; or

9 (ii) any information relating to any statement that may be
10 requested in writing by the Commissioner from an insurer or insurance producer.

11 (3) If a party brings an action against a person that may have immunity
12 under paragraph (2) of this subsection for making a statement required by or under
13 this section or providing any information relating to any statement that may be
14 requested by the Commissioner, the party bringing the action shall plead specifically
15 in any allegation that paragraph (2) of this subsection does not apply because the
16 person making the statement or providing the information did so with actual malice.

17 (4) This subsection does not abrogate or modify any existing statutory or
18 common law privileges or immunities.

19 [(g)] (I) (1) This subsection applies only to any document, material, or other
20 information in the control or possession of the Insurance Administration that is:

21 (i) furnished by an insurer or insurance producer or an employee
22 or agent acting on behalf of the insurer or insurance producer under this section; or

23 (ii) otherwise obtained by the Insurance Commissioner in an
24 investigation under this section.

25 (2) Any document, material, or other information that is subject to this
26 subsection is:

27 (i) confidential and privileged;

28 (ii) not subject to Title 10, Subtitle 6 of the State Government
29 Article;

30 (iii) not subject to subpoena; and

31 (iv) not subject to discovery or admissible in evidence in any private
32 civil action.

33 (3) Notwithstanding paragraph (2) of this subsection, the Commissioner
34 may use any document, material, or other information that is subject to this section to
35 further any regulatory or legal action brought as part of the duties of the
36 Commissioner.

1 (4) The Commissioner and any person who received any document,
2 material, or other information to which this subsection applies while acting under the
3 authority of the Commissioner may not be allowed or required to testify in any
4 private civil action concerning the document, material, or information.

5 (5) (i) Provided that the recipient agrees to maintain any
6 confidentiality and privileged status, the Commissioner may share a document,
7 material, or other information, including a document, material, or other information
8 that is confidential and privileged under this subsection, with:

- 9 1. other State, federal, or international regulatory agencies;
- 10 2. the National Association of Insurance Commissioners and
11 its affiliates or subsidiaries; or
- 12 3. State, federal, or international law enforcement
13 authorities.

14 (ii) If the Commissioner determines that a confidential document,
15 material, or other information that has been shared through a database or other
16 electronic filing system is inaccurate or incomplete in any way, the Commissioner
17 shall update the information in the database or other electronic filing system so that
18 the information is accurate and complete.

19 (6) (i) The Commissioner may receive a document, material, or
20 information, including a document, material, or information that is otherwise
21 confidential and privileged, from:

- 22 1. the National Association of Insurance Commissioners or
23 its affiliates or subsidiaries; or
- 24 2. regulatory and law enforcement officials of other foreign
25 or domestic jurisdictions.

26 (ii) The Commissioner shall maintain as confidential and
27 privileged any document, material, or information received under this paragraph
28 with notice or the understanding that it is confidential or privileged under the laws of
29 the jurisdiction that is the source of the document, material, or information.

30 (7) The Commissioner may enter into agreements governing sharing and
31 use of information consistent with this subsection.

32 (8) There is no waiver of any applicable privilege or claim of
33 confidentiality in a document, material, or information as a result of:

34 (i) disclosure of the document, material, or information to the
35 Commissioner under this section; or

36 (ii) sharing of the document, material, or information by the
37 Commissioner under paragraph (5) of this subsection.

1 (9) This subtitle does not prohibit the Commissioner from releasing final
2 adjudicated actions, including for-cause terminations, that are open to public
3 inspection under Title 10, Subtitle 6 of the State Government Article, to a database or
4 other clearinghouse service maintained by the National Association of Insurance
5 Commissioners or its affiliates or subsidiaries.

6 (J) THE COMMISSIONER MAY ADOPT REGULATIONS TO CARRY OUT THIS
7 SECTION.

8 SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall
9 take effect January 1, 2004.

10 SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in
11 Section 3 of this Act, this Act shall take effect July 1, 2003.