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By: **Delegate Hurson**  
Introduced and read first time: February 13, 2004  
Assigned to: Economic Matters

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A BILL ENTITLED

1 AN ACT concerning

2 **Medical Malpractice Insurance - Rates and Rate Filings**

3 FOR the purpose of requiring that, in establishing rates for medical malpractice  
4 insurance, due consideration be given to total investment income; providing  
5 that, for medical malpractice insurance, a rate is excessive if the rate does not  
6 reflect the total investment income that the insurer reasonably can be expected  
7 to earn on all its assets during the period the rate will be in effect or if for any  
8 other reason the rate is unreasonably high for the insurance coverage provided;  
9 requiring that the information provided in support of a filing for a medical  
10 malpractice insurance rate include a certain memorandum; and generally  
11 relating to rates and rate filings for medical malpractice insurance.

12 BY repealing and reenacting, without amendments,  
13 Article - Insurance  
14 Section 11-205(a)  
15 Annotated Code of Maryland  
16 (2003 Replacement Volume)

17 BY repealing and reenacting, with amendments,  
18 Article - Insurance  
19 Section 11-205(c) and (d) and 11-206(b)  
20 Annotated Code of Maryland  
21 (2003 Replacement Volume)

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

24 **Article - Insurance**

25 11-205.

26 (a) All rates shall be made in accordance with the principles set forth in this  
27 section.

28 (c) Due consideration shall be given to:

- 1 (1) past and prospective loss experience within and outside the State;
- 2 (2) conflagration and catastrophe hazards, if any;
- 3 (3) past and prospective expenses, both countrywide and those specially  
4 applicable to the State;
- 5 (4) underwriting profits;
- 6 (5) contingencies;
- 7 (6) (I) FOR INSURANCE OTHER THAN MEDICAL MALPRACTICE  
8 INSURANCE, investment income from unearned premium reserve and reserve for  
9 losses; AND
- 10 (II) FOR MEDICAL MALPRACTICE INSURANCE, TOTAL INVESTMENT  
11 INCOME;
- 12 (7) dividends, savings, or unabsorbed premium deposits allowed or  
13 returned by insurers to policyholders; and
- 14 (8) all other relevant factors within and outside the State.
- 15 (d) (1) Rates may not be excessive, inadequate, or unfairly discriminatory.
- 16 (2) FOR MEDICAL MALPRACTICE INSURANCE, A RATE IS EXCESSIVE IF:
- 17 (I) THE RATE DOES NOT REFLECT THE TOTAL INVESTMENT  
18 INCOME THAT THE INSURER REASONABLY CAN BE EXPECTED TO EARN ON ALL ITS  
19 ASSETS DURING THE PERIOD THE RATE WILL BE IN EFFECT; OR
- 20 (II) THE RATE FOR ANY OTHER REASON IS UNREASONABLY HIGH  
21 FOR THE INSURANCE COVERAGE PROVIDED.
- 22 11-206.
- 23 (b) (1) (i) If a filing is not accompanied by the information on which the  
24 insurer supports the filing and the Commissioner does not have sufficient  
25 information to determine whether the filing meets the requirements of this subtitle,  
26 the Commissioner shall require the insurer to provide supporting information for the  
27 filing within 60 days.
- 28 (ii) If the Commissioner requires the filer to provide supporting  
29 information, the waiting period under subsection (g) of this section begins on the date  
30 the supporting information is provided.
- 31 (2) The information provided in support of a filing may include:
- 32 (i) the judgment of the filer;
- 33 (ii) the filer's interpretation of any statistical data relied on;

1 (iii) the experience of other filers; and

2 (iv) any other relevant factors.

3 (3) IN ADDITION TO ANY OTHER INFORMATION REQUIRED UNDER THIS  
4 SECTION, THE INFORMATION PROVIDED IN SUPPORT OF A FILING FOR A MEDICAL  
5 MALPRACTICE INSURANCE RATE SHALL INCLUDE A MEMORANDUM EXPLAINING  
6 THE METHODOLOGY THE FILER USED TO REFLECT THE TOTAL INVESTMENT INCOME  
7 THAT IT REASONABLY EXPECTS TO EARN ON ALL OF ITS ASSETS DURING THE PERIOD  
8 THE PROPOSED RATE WILL BE IN EFFECT.

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take  
10 effect October 1, 2004.