

---

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

Introduced and read first time: January 20, 2005

Assigned to: Economic Matters

---

A BILL ENTITLED

1 AN ACT concerning

2 **Property and Casualty Insurance - Transfer Between Affiliates**

3 FOR the purpose of specifying that a property and casualty insurer's offer to assign,  
4 place, or transfer an insured from one affiliated company to another affiliated  
5 company within an insurance holding company system is not a cancellation or  
6 nonrenewal for purposes of certain laws that govern the cancellation or  
7 nonrenewal of insurance policies; providing that assignment, placement, or  
8 transfer of an insured from one affiliated company to another within an  
9 insurance holding company system shall be deemed an offer to renew subject to  
10 notice rights for consumers; altering the application of certain existing laws to  
11 certain transfers; defining certain terms; making stylistic changes; and  
12 generally relating to the transfer of insureds between affiliates under property  
13 and casualty insurance.

14 BY repealing and reenacting, with amendments,  
15 Article - Insurance  
16 Section 27-501  
17 Annotated Code of Maryland  
18 (2002 Replacement Volume and 2004 Supplement)  
19 (As enacted by Chapter 5 of the Acts of the General Assembly of the 2004 Special  
20 Session)

21 BY repealing and reenacting, with amendments,  
22 Article - Insurance  
23 Section 27-604, 27-605, and 27-607  
24 Annotated Code of Maryland  
25 (2002 Replacement Volume and 2004 Supplement)

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

1

**Article - Insurance**

2 27-501.

3 (a) IN THIS SECTION, "AFFILIATE" HAS THE MEANING STATED IN § 7-101 OF  
4 THIS ARTICLE.

5 (B) (1) An insurer or insurance producer may not cancel or refuse to  
6 underwrite or renew a particular insurance risk or class of risk for a reason based  
7 wholly or partly on race, color, creed, sex, or blindness of an applicant or policyholder  
8 or for any arbitrary, capricious, or unfairly discriminatory reason.

9 (2) (i) This paragraph does not apply to a medical professional liability  
10 insurer or insurance producer that issues or delivers a policy in the State to a health  
11 care provider who has been licensed for more than 3 years by the appropriate State  
12 licensing board for the health care provider.

13 (ii) Except as provided in this section, an insurer or insurance  
14 producer may not cancel or refuse to underwrite or renew a particular insurance risk  
15 or class of risk except by the application of standards that are reasonably related to  
16 the insurer's economic and business purposes.

17 (3) (I) FOR THE PURPOSE OF THIS ARTICLE AND FOR PROPERTY AND  
18 CASUALTY INSURANCE ONLY, THE ASSIGNMENT, PLACEMENT, OR TRANSFER OF A  
19 NAMED INSURED WITHIN OR AMONG AFFILIATES WITHIN AN INSURANCE HOLDING  
20 COMPANY SYSTEM MAY NOT BE DEEMED A CANCELLATION OR A REFUSAL TO  
21 UNDERWRITE OR RENEW A PARTICULAR INSURANCE RISK OR CLASS OF RISK.

22 (II) AN ASSIGNMENT, PLACEMENT, OR TRANSFER DESCRIBED IN  
23 SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE DEEMED AN OFFER TO RENEW.

24 [(b)] (C) (1) An insurer may not require special conditions, facts, or  
25 situations as a condition to its acceptance or renewal of a particular insurance risk or  
26 class of risks in an arbitrary, capricious, unfair, or discriminatory manner based  
27 wholly or partly on race, creed, color, sex, religion, national origin, place of residency,  
28 blindness, or other physical handicap or disability.

29 (2) Actuarial justification may be considered with respect to sex.

30 [(c)] (D) An insurer or insurance producer may not make an inquiry about  
31 race, creed, color, or national origin in an insurance form, questionnaire, or other  
32 manner of requesting general information that relates to an application for insurance.

33 [(d)] (E) (1) With respect to automobile liability insurance, an insurer may  
34 not:

35 (i) cancel, refuse to renew, or otherwise terminate coverage for an  
36 automobile insurance risk because of a claim, traffic violation, or traffic accident that  
37 occurred more than 3 years before the effective date of the policy or renewal; or

1 (ii) refuse to underwrite an automobile insurance risk because of a  
2 claim, traffic violation, or traffic accident that occurred more than 3 years before the  
3 date of application.

4 (2) With respect to homeowner's insurance, an insurer may not:

5 (i) cancel, refuse to renew, or otherwise terminate coverage for a  
6 homeowner's insurance risk because of a claim that occurred more than 3 years before  
7 the effective date of the policy or renewal; or

8 (ii) refuse to underwrite a homeowner's insurance risk because of a  
9 claim that occurred more than 3 years before the date of application.

10 (3) An insurer may cancel a policy of homeowner's insurance under  
11 which a onetime guaranteed fully refundable deposit is required for a stated amount  
12 of coverage, if the cancellation:

13 (i) takes effect on the anniversary date of the inception of the  
14 policy;

15 (ii) is not based on a claim that occurred more than 3 years before  
16 the anniversary date of the policy on which the proposed cancellation would take  
17 effect; and

18 (iii) is otherwise in accordance with this subtitle.

19 (4) This subsection does not apply to a claim involving conviction of the  
20 insured or applicant for fraud or arson.

21 [(e)] (F) An insurer may not refuse to underwrite a private passenger motor  
22 vehicle insurance risk solely because the applicant or named insured previously  
23 obtained insurance coverage from any authorized insurer or the Maryland  
24 Automobile Insurance Fund.

25 [(e-1)] (G) An insurer may not require a particular payment plan for an  
26 insured for coverage under a private passenger or homeowner's insurance policy  
27 based on the credit history of the insured.

28 [(e-2)] (H) (1) In this subsection, "credit history" means any written, oral, or  
29 other communication of any information by a consumer reporting agency bearing on a  
30 consumer's creditworthiness, credit standing, or credit capacity that is used or  
31 expected to be used, or collected in whole or in part, for the purpose of determining  
32 personal lines insurance premiums or eligibility for coverage.

33 (2) With respect to homeowner's insurance, an insurer may not:

34 (i) refuse to underwrite, cancel, or refuse to renew a risk based, in  
35 whole or in part, on the credit history of an applicant or insured;

1 (ii) rate a risk based, in whole or in part, on the credit history of an  
2 applicant or insured in any manner, including:

- 3 1. the provision or removal of a discount;
- 4 2. assigning the insured or applicant to a rating tier; or
- 5 3. placing an insured or applicant with an affiliated  
6 company; or

7 (iii) require a particular payment plan based, in whole or in part, on  
8 the credit history of the insured or applicant.

9 (3) (i) With respect to private passenger motor vehicle insurance, an  
10 insurer may not:

- 11 1. refuse to underwrite, cancel, refuse to renew, or increase  
12 the renewal premium based, in whole or in part, on the credit history of the insured or  
13 applicant; or
- 14 2. require a particular payment plan based, in whole or in  
15 part, on the credit history of the insured or applicant.

16 (ii) 1. An insurer may, subject to paragraphs (4) and (5) of this  
17 subsection, use the credit history of an applicant to rate a new policy of private  
18 passenger motor vehicle insurance.

- 19 2. For purposes of this subsection, rating includes:
  - 20 A. the provision or removal of a discount;
  - 21 B. assigning the applicant to a rating tier; or
  - 22 C. placing an applicant with an affiliated company.

23 (4) With respect to private passenger motor vehicle insurance, an insurer  
24 that rates a new policy based, in whole or in part, on the credit history of the  
25 applicant:

26 (i) may not use a factor on the credit history of the applicant that  
27 occurred more than 5 years prior to the issuance of the new policy;

28 (ii) 1. shall advise an applicant at the time of application that  
29 credit history is used; and

30 2. shall, on request of the applicant, provide a premium  
31 quotation that separately identifies the portion of the premium attributable to the  
32 applicant's credit history;

33 (iii) may not use the following factors in rating the policy:

1                                      1.            the absence of credit history or the inability to determine  
2 the applicant's credit history; or

3                                      2.            the number of credit inquiries about an applicant's credit  
4 history;

5                                      (iv)        1.            shall review the credit history of an insured who was  
6 adversely impacted by the use of the insured's credit history at the initial rating of the  
7 policy:

8                                      A.            every 2 years; or

9                                      B.            on request of the insured; and

10                                     2.            shall adjust the premium of an insured whose credit  
11 history was reviewed under this subparagraph to reflect any improvement in the  
12 insured's credit history; or

13                                     (v)        shall disclose to the applicant at the time of the issuance of a  
14 policy that the insurer is required to:

15                                     1.            review the credit history of an insured who was adversely  
16 impacted by the use of the insured's credit history at the initial rating or underwriting  
17 of the policy:

18                                     A.            every 2 years; or

19                                     B.            on request of the insured; and

20                                     2.            adjust the premium of an insured whose credit history was  
21 reviewed to reflect any improvement in the insured's credit history.

22                                     (5)        With respect to private passenger motor vehicle insurance, an insurer  
23 that rates a new policy based, in whole or in part, on the credit history of the  
24 applicant may, if actuarially justified, provide a discount of up to 40% or impose a  
25 surcharge of up to 40%.

26        [(f)]        (I)        (1)        Except as provided in § 27-505(a)(2) of this subtitle, in the case  
27 of cancellation of or refusal to renew a policy, the policy remains in effect until a  
28 finding is issued under § 27-505 of this subtitle if:

29                                     [(1)]        (I)        the insured asks the Commissioner to review the cancellation or  
30 refusal to renew before the effective date of the termination of the policy; and

31                                     [(2)]        (II)        the Commissioner begins action to issue a finding under §  
32 27-505 of this subtitle.

33                                     (2)        (I)        AN INSURED UNDER A PROPERTY AND CASUALTY INSURANCE  
34 POLICY MAY PROTEST THE ASSIGNMENT, PLACEMENT, OR TRANSFER OF THE NAMED  
35 INSURED WITHIN OR AMONG AFFILIATES WITHIN AN INSURANCE HOLDING  
36 COMPANY SYSTEM IN THE SAME MANNER AND ON THE SAME GROUNDS ON WHICH A

1 NAMED INSURED MAY PROTEST THE CANCELLATION OR REFUSAL TO UNDERWRITE  
2 OR RENEW A PARTICULAR INSURANCE RISK OR CLASS OF RISK UNDER THIS  
3 SECTION.

4 (II) THE FILING OF A PROTEST MAY NOT BE DEEMED A REJECTION  
5 OF THE OFFER TO RENEW WITH AN AFFILIATE WITHIN AN INSURANCE HOLDING  
6 COMPANY SYSTEM, AND THE INSURED SHALL BE DEEMED TO BE COVERED UNDER  
7 THE TERMS AND CONDITIONS OF THE OFFER TO RENEW UNLESS THE NAMED  
8 INSURED EXPRESSLY REJECTS THE OFFER TO RENEW, OR UNLESS THE  
9 COMMISSIONER, AFTER REVIEW, DETERMINES THAT THE ASSIGNMENT, PLACEMENT,  
10 OR TRANSFER WAS IN VIOLATION OF THE INSURER'S UNDERWRITING STANDARDS  
11 FOR A PARTICULAR INSURANCE RISK OR CLASS OF RISK ESTABLISHED UNDER THIS  
12 SECTION.

13 [(g)] (J) At a hearing to determine whether this section has been violated, the  
14 burden of persuasion is on the insurer to show that the cancellation or refusal to  
15 underwrite or renew is justified under the underwriting standards demonstrated.

16 [(h)] (K) (1) This subsection applies to insurance underwriting standards for  
17 all health, life, disability, property, and casualty coverages provided in the State.

18 (2) At the request of the Commissioner, each insurer, nonprofit health  
19 service plan, and health maintenance organization shall file with the Commissioner a  
20 copy of its underwriting standards, including any amendments or supplements.

21 (3) The Commissioner may review and examine the underwriting  
22 standards to ensure compliance with this article.

23 (4) Each insurer, nonprofit health service plan, and health maintenance  
24 organization may request a finding by the Commissioner that its underwriting  
25 standards filed with the Commissioner be considered confidential commercial  
26 information under § 10-617(d) of the State Government Article.

27 (5) The Commissioner shall adopt regulations to carry out this  
28 subsection.

29 [(i)] (L) (1) Except as provided in paragraph (2) of this subsection, with  
30 respect to homeowner's insurance, an insurer may not cancel or refuse to renew  
31 coverage for homeowner's insurance based on the claims history of an insured for  
32 weather-related claims, unless there were three or more weather-related claims  
33 within the preceding 3-year period.

34 (2) An insurer may consider claims for weather-related events for the  
35 purpose of canceling or refusing to renew coverage if the insurer provided written  
36 notice to the insured for reasonable or customary repairs or replacement specific to  
37 the insured's premises or dwelling which the insured failed to make and which, if  
38 made, would have prevented the loss for which a claim was made.

39 [(j)] (M) (1) In the case of homeowner's insurance, standards reasonably  
40 related to an insurer's economic and business purpose under subsection [(a)(2)] (B)(2)

1 of this section, include, but are not limited to, the following and do not require  
2 statistical validation:

3 (i) a material misrepresentation in connection with the  
4 application, policy, or presentation of a claim;

5 (ii) nonpayment of premium;

6 (iii) a change in the physical condition or contents of the premises or  
7 dwelling which results in an increase in a hazard insured against and which, if  
8 present and known to the insurer prior to the issuance of the policy, the insurer would  
9 not have issued the policy;

10 (iv) conviction:

11 1. within the preceding 5-year period, of arson; or

12 2. within the preceding 3-year period, of a crime which  
13 directly increases the hazard insured against;

14 (v) subject to subsection [(i)] (L) of this section, the claims history  
15 of the insured where the insured makes more than three claims in the preceding  
16 3-year period;

17 (vi) any other standard approved by the Commissioner that is based  
18 on factors that adversely affect the losses or expenses of the insurer under its  
19 approved rating plan and for which statistical validation is unavailable or is unduly  
20 burdensome to produce; and

21 (vii) any other standard set forth in regulations adopted by the  
22 Commissioner that is found to be reasonably related to the insurer's economic and  
23 business purposes.

24 (2) An insurer is not required to produce statistical validation that  
25 excludes weather-related claims or that makes any distinction between  
26 weather-related claims and nonweather-related claims in order to sustain the  
27 insurer's burden of persuasion under subsection [(g)] (J) of this section with respect  
28 to a cancellation or refusal to renew for a reason that is not listed in this subsection.

29 [(k)] (N) With respect to private passenger motor vehicle insurance, an insurer  
30 may not cancel or refuse to renew coverage based on the claims history of an insured  
31 where two or fewer of the claims within the preceding 3-year period were for  
32 accidents or losses where the insured was not at fault for the loss.

33 [(l)] (O) (1) In the case of private passenger motor vehicle insurance,  
34 standards reasonably related to the insurer's economic and business purposes under  
35 subsection [(a)(2)] (B)(2) of this section include, but are not limited to, the following  
36 and do not require statistical validation:

- 1 (i) a material misrepresentation in connection with the  
2 application, policy, or presentation of a claim;
- 3 (ii) nonpayment of premium;
- 4 (iii) subject to § 27-606 of this title, revocation or suspension of the  
5 driver's license or motor vehicle registration within the preceding 2-year period:
- 6 1. of the named insured or covered driver under the policy;  
7 and
- 8 2. for reasons related to the driving record of the driver;
- 9 (iv) subject to § 27-606 of this title, two or more motor vehicle  
10 accidents or any combination of three or more accidents and moving violations within  
11 the preceding 3-year period for which the insured was at fault for the accidents;
- 12 (v) subject to § 27-606 of this title, three or more moving violations  
13 against the insured or a covered driver under the policy within the preceding 2-year  
14 period;
- 15 (vi) subject to § 27-606 of this title, conviction of the named insured  
16 or a covered driver under the policy of any of the following:
- 17 1. a violation of § 21-902(a), (c), or (d) of the Transportation  
18 Article;
- 19 2. homicide, assault, reckless endangerment, or criminal  
20 negligence arising out of the operation of the motor vehicle; or
- 21 3. using the motor vehicle to participate in a felony;
- 22 (vii) any other standard approved by the Commissioner that is based  
23 on factors that adversely affect the losses or expenses of the insurer under its  
24 approved rating plan and for which statistical validation is unavailable or is unduly  
25 burdensome to produce; and
- 26 (viii) any other standard set forth in regulations adopted by the  
27 Commissioner that is found to be reasonably related to the insurer's economic and  
28 business purposes.
- 29 (2) An insurer is not required to produce statistical validation that  
30 excludes at fault accidents or that makes any distinction between not at fault  
31 accidents and at fault accidents in order to sustain the insurer's burden of persuasion  
32 under subsection [(g)] (J) of this section with respect to a cancellation or refusal to  
33 renew for a reason that is not listed in this subsection.
- 34 [(m)] (P) In the case of commercial insurance or insurance issued or provided  
35 by nonadmitted insurers, an insurer is not required to produce statistical validation



1 of its underwriting standards in order to meet its burden of persuasion under this  
2 section.

3 [(n)] (Q) (1) Subject to the requirements of this article, if an insurer  
4 considers claims history for the purposes of canceling or refusing to renew coverage,  
5 the insurer may consider the following factors in mitigation of the proposed decision  
6 without producing statistical validation:

7 (i) the severity of the losses;

8 (ii) the length of time that an insured has been a policyholder with  
9 the insurer;

10 (iii) loss mitigation of previous losses; and

11 (iv) the availability of a higher deductible for the particular policy  
12 and types of losses.

13 (2) If an insurer considers claims history for purposes of canceling or  
14 refusing to renew coverage, the insurer shall disclose the practice to an insured at the  
15 inception of the policy and at each renewal.

16 27-604.

17 (a) IN THIS SECTION, "AFFILIATE" HAS THE MEANING STATED IN § 7-101 OF  
18 THIS ARTICLE.

19 (B) This section does not apply to:

20 (1) life insurance;

21 (2) health insurance;

22 (3) motor vehicle liability insurance issued to a resident of a household  
23 in the State as set forth in § 27-605 of this subtitle;

24 (4) surety insurance;

25 (5) insurance written or issued by the Maryland Automobile Insurance  
26 Fund; or

27 (6) an insurer that satisfies the Commissioner that it cannot reasonably  
28 comply with the notice requirement in connection with certain risks or lines of  
29 business.

30 [(b)] (C) Whenever an insurer intends to increase a premium for a particular  
31 policy written in the State by 20% or more, OR WHERE THE PREMIUM INCREASES BY  
32 20% OR MORE AS THE RESULT OF AN ASSIGNMENT, PLACEMENT, OR TRANSFER OF A  
33 NAMED INSURED WITHIN OR AMONG AFFILIATES WITHIN AN INSURANCE HOLDING  
34 COMPANY SYSTEM, the insurer shall notify the insured and insurance producer of the  
35 increase.

1 [(c)] (D) (1) The notice shall be sent by first-class mail to the insured and  
2 insurance producer at least 45 days before the effective date of the proposed premium  
3 increase.

4 (2) WITH RESPECT TO AN INSURED WHO HAS BEEN ASSIGNED, PLACED,  
5 OR TRANSFERRED TO AN AFFILIATE WITHIN AN INSURANCE HOLDING COMPANY  
6 SYSTEM, THE NOTICE OF PREMIUM INCREASE MUST INCLUDE A STATEMENT OF THE  
7 ACTUAL REASON FOR THE ASSIGNMENT, PLACEMENT, OR TRANSFER.

8 27-605.

9 (a) [In this section, "increase in premium" and "premium increase" include an  
10 increase in the premium for any coverage on a policy due to:

11 (1) a surcharge;

12 (2) retiering or other reclassification of an insured; or

13 (3) removal or reduction of a discount.]

14 (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
15 INDICATED.

16 (2) "AFFILIATE" HAS THE MEANING STATED IN § 7-101 OF THIS ARTICLE.

17 (3) "INCREASE IN PREMIUM" AND "PREMIUM INCREASE" INCLUDE AN  
18 INCREASE IN THE PREMIUM FOR ANY COVERAGE ON A POLICY DUE TO:

19 (I) A SURCHARGE;

20 (II) RETIERING OR OTHER RECLASSIFICATION OF AN INSURED;

21 (III) REMOVAL OR REDUCTION OF A DISCOUNT; OR

22 (IV) THE ASSIGNMENT, PLACEMENT, OR TRANSFER OF AN INSURED  
23 WITHIN OR AMONG AFFILIATES WITHIN AN INSURANCE HOLDING COMPANY  
24 SYSTEM.

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

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

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

33 (iii) reduce coverage under the policy.

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

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

6 (ii) the reduction in coverage described in paragraph (1)(iii) of this  
7 subsection is part of a general reduction in coverage approved by the Commissioner or  
8 satisfies the requirements of Title 19, Subtitle 5 of this article; or

9 (iii) the failure to renew the policy takes place under a plan of  
10 withdrawal that:

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

13 2. provides that each insured affected by the plan of  
14 withdrawal shall be sent by certificate of mailing at least 45 days before the  
15 nonrenewal of the policy a written notice that states the date that the policy will be  
16 nonrenewed and that the nonrenewal is the result of the withdrawal of the insurer  
17 from the market.

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

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

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

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

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

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

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

30 2. for a reduction in coverage, the type of coverage reduced  
31 and the extent of the reduction;

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

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

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

3 1. the name of the individual or individuals to be excluded  
4 from coverage; and

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

7 (v) the right of the insured to replace the insurance through the  
8 Maryland Automobile Insurance Fund and the current address and telephone number  
9 of the Fund;

10 (vi) the right of the insured to protest the proposed action of the  
11 insurer and, except in the case of a premium increase of 15% or less for the entire  
12 policy, request a hearing before the Commissioner on the proposed action by signing  
13 two copies of the notice and sending them to the Commissioner within 30 days after  
14 the mailing date of the notice;

15 (vii) except for a premium increase of 15% or less for the entire  
16 policy, that if a protest is filed by the insured, the insurer must maintain the current  
17 insurance in effect until a final determination is made by the Commissioner, subject  
18 to the payment of any authorized premium due or becoming due before the  
19 determination;

20 (viii) the authority of the Commissioner to award reasonable  
21 attorney fees to the insured for representation at a hearing if the Commissioner finds  
22 the proposed action of the insurer to be unjustified; and

23 (ix) if the proposed action is based wholly or partly on a credit score  
24 or information from a credit report:

25 1. the name, address, and telephone number of the consumer  
26 reporting agency that furnished the credit report to the insurer, including the  
27 toll-free telephone number established by the agency if the agency compiles and  
28 maintains files on consumers on a nationwide basis;

29 2. that the consumer reporting agency did not make the  
30 decision to take the proposed action and is unable to provide the insured the specific  
31 reasons why the action is proposed to be taken;

32 3. that the insured may obtain, under § 1681 of the federal  
33 Fair Credit Reporting Act, a free copy of the credit report of the insured from the  
34 consumer reporting agency within 60 days after receipt of the notice; and

35 4. that the insured may dispute, under § 1681i of the federal  
36 Fair Credit Reporting Act, with the consumer reporting agency the accuracy or  
37 completeness of any information in the credit report furnished by the agency.

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

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

8                   (iii)       The Commissioner may not disallow a proposed action of an  
9 insurer because the statement of actual reason contains:

10                           1.       grammatical errors, typographical errors, or other errors  
11 provided that the errors are nonmaterial and not misleading; or

12                           2.       surplus information, provided that the surplus  
13 information is nonmaterial and not misleading.

14   (d)       At least 10 days before the date an insurer proposes to cancel a policy for  
15 nonpayment of premium, the insurer shall cause to be sent to the insured, by  
16 certificate of mailing, a written notice of intention to cancel for nonpayment of  
17 premium.

18   (e)       A statement of actual reason contained in the notice given under  
19 subsection (c) of this section is privileged and does not constitute grounds for an  
20 action against the insurer, its representatives, or another person that in good faith  
21 provides to the insurer information on which the statement is based.

22   (f)       (1)       This subsection does not apply to an action of an insurer taken under  
23 subsection (d) of this section.

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

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

29                   (4)       Except for a premium increase of 15% or less for the entire policy, a  
30 protest filed with the Commissioner stays the proposed action of the insurer pending  
31 a final determination by the Commissioner.

32                   (5)       (i)       Except for a premium increase of 15% or less for the entire  
33 policy, the insurer shall maintain in effect the same coverage and premium that were  
34 in effect on the day the notice of proposed action was sent to the insured until a final  
35 determination is made, subject to the payment of any authorized premium due or  
36 becoming due before the determination.

1 (ii) In the case of a premium increase, a dismissal of the protest or  
2 disallowance of the premium increase is deemed to be a final determination of the  
3 Commissioner 20 days after the mailing date of the Commissioner's notice of action.

4 (g) (1) Based on the information contained in the notice, the Commissioner:

5 (i) shall determine whether the protest by the insured has merit;  
6 and

7 (ii) either shall dismiss the protest or disallow the proposed action  
8 of the insurer.

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

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

14 (4) Except in the case of a premium increase of 15% or less for the entire  
15 policy the Commissioner shall:

16 (i) hold a hearing within a reasonable time after the request for a  
17 hearing; and

18 (ii) give written notice of the time and place of the hearing at least  
19 10 days before the hearing.

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

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

25 (h) (1) The Commissioner shall issue an order within 30 days after the  
26 conclusion of the hearing.

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

29 (i) dismiss the protest; and

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

31 1. its proposed effective date; and

32 2. 30 days after the date of the determination.

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

1 (i) shall disallow the action; and

2 (ii) may order the insurer to pay reasonable attorney fees incurred  
3 by the insured for representation at the hearing as the Commissioner considers  
4 appropriate.

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

7 (j) (1) If the Commissioner disallows a premium increase of 15% or less for  
8 the entire policy, the insurer, within 30 days after the disallowance, shall:

9 (i) return to the insured all disallowed premium received from the  
10 insured; and

11 (ii) pay to the insured interest on the disallowed premium received  
12 from the insured calculated at 10% per annum from the date the disallowed premium  
13 was received to the date the disallowed premium was returned.

14 (2) If an insurer fails to return any disallowed premium or fails to pay  
15 interest to an insured in violation of paragraph (1) of this subsection, the insurer is in  
16 violation of this article and subject to the penalties under § 4-113(d) of this article.

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

19 (l) The Commissioner may adopt regulations that exclude from the  
20 requirements of this section certain types of premium increases, except for premium  
21 increases due to:

22 (1) an accident;

23 (2) a violation of the Maryland vehicle law or the vehicle law of another  
24 state;

25 (3) the claims history of the insured;

26 (4) the credit history or the credit score of the insured;

27 (5) a retiering of the insured; or

28 (6) a surcharge.

29 27-607.

30 (a) IN THIS SECTION, "AFFILIATE" HAS THE MEANING STATED IN § 7-101 OF  
31 THIS ARTICLE.

32 (B) (1) Unless an insurer has provided notice of its intention not to renew a  
33 policy in compliance with § 27-601, § 27-603, or § 27-605 of this subtitle, the insurer  
34 must provide each policyholder, INCLUDING A POLICYHOLDER WHO HAS BEEN

1 ASSIGNED, PLACED, OR TRANSFERRED TO AN AFFILIATE WITHIN AN INSURANCE  
2 HOLDING COMPANY SYSTEM, with notice of renewal premium due at least 17 days  
3 before the due date.

4 (2) A licensed insurance producer may provide notice under paragraph  
5 (1) of this subsection on behalf of the insurer.

6 (3) The duty to provide notice under paragraph (1) of this subsection is  
7 deemed discharged if:

8 (i) the insurer shows that its established procedures would have  
9 resulted in placing the notice of renewal premium due in the United States mail; and

10 (ii) there is no showing that in fact the notice was not placed in the  
11 mail.

12 (4) WITH RESPECT TO A POLICYHOLDER WHO HAS BEEN ASSIGNED,  
13 PLACED, OR TRANSFERRED TO AN AFFILIATE WITHIN AN INSURANCE HOLDING  
14 COMPANY SYSTEM, THE NOTICE OF RENEWAL PREMIUM MUST INCLUDE A  
15 STATEMENT OF THE ACTUAL REASON FOR THE ASSIGNMENT, PLACEMENT, OR  
16 TRANSFER..

17 [(b)] (C) If an insurer fails to provide notice of renewal premium due under  
18 subsection [(a)] (B) of this section, and subsequently the policyholder fails to make  
19 timely payment of the renewal premium, the insurer must:

20 (1) provide coverage for each claim that:

21 (i) would have been covered under the policy; and

22 (ii) arises within 45 days after the date the insured discovers or  
23 should have discovered that the policy was not renewed; and

24 (2) renew the policy on tender of payment within 30 days after the  
25 policyholder discovers or should have discovered that the policy was not renewed.

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take  
27 effect October 1, 2005.