
By: **Delegates Miller, Bates, Boutin, Cluster, Eckardt, Elmore, Fulton,
Haddaway, Krebs, and McComas**

Introduced and read first time: February 3, 2005

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Automobile Insurance Fund - Eligibility for Coverage**

3 FOR the purpose of altering the requirement that the Maryland Automobile
4 Insurance Fund issue a certain policy to certain persons that have attempted in
5 good faith to obtain a certain policy from a minimum number of a certain class
6 of insurers and have been rejected or refused the policy by a certain number of
7 those insurers; repealing a provision of law that entitles a policyholder in the
8 Fund to continuation of coverage from the Fund at certain rates under certain
9 circumstances; requiring a fund producer to certify in a certain manner that an
10 applicant has been turned down for insurance by a certain number of a certain
11 class of insurers; requiring the adoption of certain regulations; making stylistic
12 changes; and generally relating to eligibility for coverage under the Maryland
13 Automobile Insurance Fund.

14 BY repealing and reenacting, without amendments,
15 Article - Insurance
16 Section 1-101(a) and (o)
17 Annotated Code of Maryland
18 (2003 Replacement Volume and 2004 Supplement)

19 BY repealing and reenacting, without amendments,
20 Article - Insurance
21 Section 20-101(a), (c), and (g)
22 Annotated Code of Maryland
23 (2002 Replacement Volume and 2004 Supplement)

24 BY repealing and reenacting, with amendments,
25 Article - Insurance
26 Section 20-502, 20-507(c)(1), and 20-509
27 Annotated Code of Maryland
28 (2002 Replacement Volume and 2004 Supplement)

1 BY repealing
2 Article - Insurance
3 Section 20-508
4 Annotated Code of Maryland
5 (2002 Replacement Volume and 2004 Supplement)

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

8 **Article - Insurance**

9 1-101.

10 (a) In this article the following words have the meanings indicated.

11 (o) "Fund producer" means a licensed insurance producer, including a licensed
12 independent insurance producer, that has been assigned an authorization code by the
13 Maryland Automobile Insurance Fund.

14 20-101.

15 (a) In this title the following words have the meanings indicated.

16 (c) (1) "Association member" means an insurer that is licensed to write
17 motor vehicle liability insurance or motor vehicle physical damage insurance in the
18 State.

19 (2) "Association member" does not include the Fund.

20 (g) "Fund" means the Maryland Automobile Insurance Fund.

21 20-502.

22 (a) On payment of the premium set by the Fund, the Fund is authorized to
23 and shall sell, issue, and deliver a policy that provides the security required under §
24 17-103 of the Transportation Article to a person:

25 (1) that owns a covered vehicle registered with the Motor Vehicle
26 Administration, has a license issued by the Motor Vehicle Administration to drive a
27 covered vehicle, or is a lessee under a "lease not intended as security", as defined in §
28 11-127.2(b) of the Transportation Article;

29 (2) that does not owe to the Fund:

30 (i) an unpaid premium with respect to a policy that has expired or
31 been canceled; or

32 (ii) a claim payment obtained by fraud;

33 (3) that:

1 (i) has attempted in good faith to obtain a policy that provides the
2 security required under § 17-103 of the Transportation Article from at least two
3 Association members THAT ARE SUBSTANDARD INSURERS and has been rejected or
4 refused the policy by two Association members THAT ARE SUBSTANDARD INSURERS
5 for any reason other than nonpayment of premiums; or

6 (ii) has had a policy that provides the security required under §
7 17-103 of the Transportation Article canceled or nonrenewed by an Association
8 member for any reason other than nonpayment of premiums; and

9 (4) that meets the requirements of subsection (b) of this section.

10 (b) To be eligible for a policy issued under this subtitle, a person must:

11 (1) be domiciled in the State;

12 (2) own, lease, or rent a primary place of residence in the State and,
13 regardless of the person's domicile, reside in the State for more than 1 year;

14 (3) maintain a main or branch office or warehouse facility in the State,
15 and base and operate motor vehicles intrastate in the State;

16 (4) have filed as a State resident for income tax purposes; or

17 (5) have a nonresident permit issued under § 13-402.1(e) of the
18 Transportation Article.

19 (c) (1) Except as provided in paragraph (2) of this subsection, this section
20 does not apply to a person to the extent that the person:

21 (i) leases a covered vehicle that is a private passenger vehicle to an
22 individual who does not meet the requirements of subsection (b) of this section; or

23 (ii) garages the covered vehicle principally outside of the State.

24 (2) This section applies to a person described in paragraph (1) of this
25 subsection who is:

26 (i) a member, on active duty, of the armed forces of the United
27 States or the United States Public Health Service; or

28 (ii) a student enrolled in an accredited school, college, or university
29 or serving a medical internship.

30 (d) [The] SUBJECT TO § 20-509(A)(4) OF THIS SUBTITLE, THE eligibility of an
31 applicant for insurance from the Fund shall be certified at a time and in a manner
32 approved by the Fund.

33 (e) (1) If a prospective insured fails to qualify under this section, any policy
34 issued is void and a commission may not be paid by the Fund to a fund producer.

1 (2) (i) Subject to the provisions of subparagraph (ii) of this paragraph,
2 if a person fails to meet the requirements of subsection (b) of this section, the Fund
3 may charge and collect the greater of:

4 1. a policy processing fee to cover its expenses; or

5 2. the amount that the person would have received after the
6 Fund returns to a fund producer, or any other person other than the person who fails
7 to meet the requirements of subsection (b) of this section, any gross unearned
8 premiums that are due under the policy.

9 (ii) Prior to charging and collecting a policy processing fee or the
10 amount allowed under subparagraph (i) of this paragraph, the Fund shall refer to the
11 Insurance Fraud Division in the Administration for investigation and possible
12 prosecution of the person who fails to meet the requirements of subsection (b) of this
13 section.

14 20-507.

15 (c) (1) Premiums for all commercial coverage shall be determined in
16 accordance with this section [and § 20-508 of this subtitle].

17 [20-508.

18 (a) A policyholder is entitled to continuation of coverage from the Fund at
19 rates that are reasonably comparable to those charged by standard insurers and
20 approved by the Commissioner if, for 3 continuous years of coverage under a policy
21 issued by the Fund, the policyholder has not:

22 (1) been charged with a moving traffic violation;

23 (2) had a chargeable traffic accident; and

24 (3) been assessed more than one point by the Motor Vehicle
25 Administration.

26 (b) A policyholder who meets the requirements of subsection (a) of this section
27 is not entitled to a safe driver credit as defined in the rules and rate schedules of the
28 Fund filed with the Commissioner.

29 (c) In determining eligibility for rates that are reasonably comparable to those
30 charged by standard insurers, the Fund may not consider:

31 (1) a lapse in coverage of 30 days or less; and

32 (2) the addition of a driver to the policy who has certified in a manner
33 approved by the Fund for the immediately preceding 3 continuous years that the
34 driver has not had a moving traffic violation, has not been assessed more than one
35 point, and has not had a chargeable traffic accident.]

1 20-509.

2 (a) (1) Subject to this section and the regulations that relate to the binding
3 of coverage, a fund producer may bind the minimum required coverage for an
4 applicant in the Fund if the applicant submits an application to the fund producer
5 and pays the appropriate premium.

6 (2) To effect coverage, the fund producer must receive payment of the
7 appropriate premium required under the regulations that relate to the binding of
8 coverage.

9 (3) Payment of the appropriate premium does not occur so as to effect
10 coverage if payment of all or part of the premium is made by an instrument that is
11 later dishonored.

12 (4) A FUND PRODUCER THAT BINDS COVERAGE FOR AN APPLICANT IN
13 THE FUND SHALL CERTIFY THAT THE APPLICANT HAS BEEN TURNED DOWN FOR
14 INSURANCE BY TWO SUBSTANDARD INSURERS BY COMPLETING AND SIGNING THE
15 FOLLOWING STATEMENT:

16 "I CERTIFY THAT I USED MY BEST EFFORTS TO PLACE THE APPLICANT
17 WITH THE FOLLOWING TWO SUBSTANDARD INSURERS, BUT WAS UNSUCCESSFUL:

18 1. (LIST INSURER)

19 2. (LIST INSURER)".

20 (b) (1) The Board of Trustees shall adopt and make available to each fund
21 producer reasonable regulations that relate to the authority of fund producers to bind
22 coverage.

23 (2) The regulations shall include:

24 (i) the amount of premium to be collected;

25 (ii) the evidence necessary to establish the qualification of an
26 applicant to be insured by the Fund, INCLUDING THE REQUIREMENT THAT A FUND
27 PRODUCER COMPLETE AND SIGN THE STATEMENT DESCRIBED IN SUBSECTION (A)(4)
28 OF THIS SECTION THAT CERTIFIES THAT THE APPLICANT HAS BEEN TURNED DOWN
29 FOR INSURANCE BY TWO SUBSTANDARD INSURERS;

30 (iii) procedures for notifying the Fund of the binding of coverage;
31 and

32 (iv) the time within which the fund producer is to give notice.

33 (c) The Fund:

34 (1) may refuse to grant the authority of a fund producer to an insurance
35 producer that has been previously terminated as a fund producer or that has had its
36 license previously revoked or surrendered; and

1 (2) subject to the hearing provisions of § 20-514 of this subtitle, may
2 discipline a fund producer that:

3 (i) employs or otherwise retains a person described in item (1) of
4 this subsection; and

5 (ii) allows the person to become involved in the fund producer's
6 operations or management contrary to a requirement of this article or order of the
7 Administration.

8 (d) Subject to subsection (e) of this section, the Fund is liable for coverage from
9 the date that the fund producer binds coverage.

10 (e) (1) On review of an application, the Fund may cancel coverage and
11 refuse to issue a policy if the Fund finds that:

12 (i) the applicant is not qualified for insurance issued by the Fund;

13 (ii) the applicant has not paid the appropriate premium; or

14 (iii) the Fund is authorized to reject the application under § 20-516
15 of this subtitle.

16 (2) Cancellation of coverage may occur not later than 60 days after
17 coverage is effective.

18 (f) Whenever coverage is canceled:

19 (1) the Fund promptly shall notify the applicant, fund producer, and
20 Motor Vehicle Administration of the cancellation;

21 (2) the applicant has the right of appeal under § 20-517 of this subtitle;
22 and

23 (3) if the cancellation occurred because an applicant did not pay the
24 appropriate premium, the Fund shall give the applicant a reasonable opportunity to
25 pay the appropriate premium.

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