
By: **Delegates Feldman and Miller**
Introduced and read first time: February 3, 2005
Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Insurance - Notice - Cancellation, Nonrenewal, and Premiums**

3 FOR the purpose of altering certain requirements relating to certain binders or
4 insurance policies; making certain binders or insurance policies subject to a
5 certain underwriting period; authorizing an insurer to cancel certain binders or
6 insurance policies under certain circumstances; altering certain requirements
7 for insurers to give notice in a certain manner of an intention to cancel or not to
8 renew; altering the time period in which an insurer is required to issue a policy
9 or provide notice of cancellation of a binder; altering certain requirements for
10 insurers to provide certain statements of the actual reasons for cancellation or
11 refusal to renew certain insurance policies; prohibiting the Maryland Insurance
12 Commissioner from disallowing certain proposed actions because of certain
13 deficiencies in a statement of reasons for cancellation or refusal to renew;
14 providing that certain information is privileged and does not constitute grounds
15 for an action against certain persons; providing that an assignment or transfer
16 of certain insurance policies is not a cancellation or nonrenewal under certain
17 circumstances; altering certain requirements for notice relating to premium
18 amounts; requiring a reasonable estimate of a renewal policy premium under
19 certain circumstances; defining certain terms; providing for the application of
20 this Act; and generally relating to certain requirements relating to notice,
21 cancellation, nonrenewal, and premiums of insurance policies and binders.

22 BY repealing and reenacting, with amendments,
23 Article - Insurance
24 Section 12-106
25 Annotated Code of Maryland
26 (2003 Replacement Volume and 2004 Supplement)

27 BY repealing and reenacting, with amendments,
28 Article - Insurance
29 Section 27-601 through 27-603 and 27-605 through 27-609
30 Annotated Code of Maryland
31 (2002 Replacement Volume and 2004 Supplement)

1 BY adding to
2 Article - Insurance
3 Section 27-603, 27-605, 27-607, and 27-608
4 Annotated Code of Maryland
5 (2002 Replacement Volume and 2004 Supplement)

6 BY repealing
7 Article - Insurance
8 Section 27-604
9 Annotated Code of Maryland
10 (2002 Replacement Volume and 2004 Supplement)

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

13 **Article - Insurance**

14 12-106.

15 [(a) This section does not apply to life insurance or health insurance.]

16 (A) (1) THIS SECTION APPLIES TO ANY BINDER OR POLICY, OTHER THAN A
17 RENEWAL POLICY, OF PERSONAL MOTOR VEHICLE, HOMEOWNERS, OR COMMERCIAL
18 PROPERTY INSURANCE OR LIABILITY INSURANCE.

19 (2) THIS SECTION DOES NOT APPLY TO LIFE INSURANCE, HEALTH
20 INSURANCE, OR WORKERS' COMPENSATION INSURANCE.

21 (B) A BINDER OR POLICY IS SUBJECT TO A 60-DAY UNDERWRITING PERIOD
22 BEGINNING ON THE EFFECTIVE DATE OF COVERAGE.

23 (C) AN INSURER MAY CANCEL A BINDER OR POLICY DURING THE
24 UNDERWRITING PERIOD IF THE RISK DOES NOT MEET THE UNDERWRITING
25 STANDARDS OF THE INSURER.

26 (D) AT THE TIME OF APPLICATION OR WHEN A BINDER OR POLICY IS
27 DELIVERED, AN INSURER SHALL PROVIDE WRITTEN NOTICE OF ITS ABILITY TO
28 CANCEL A BINDER OR POLICY DURING THE UNDERWRITING PERIOD.

29 (E) A NOTICE OF CANCELLATION UNDER THIS SECTION SHALL:

30 (1) BE IN WRITING;

31 (2) HAVE AN EFFECTIVE DATE NOT LESS THAN 15 DAYS AFTER MAILING;

32 AND

33 (3) INCLUDE THE REASONS FOR THE CANCELLATION.

34 [(b)] (F) A binder or other contract for temporary insurance:

1 (1) may be made orally or in writing; and

2 (2) except as superseded by the clear and express terms of the binder, is
3 considered to include:

4 (i) all the usual terms of the policy as to which the binder was
5 given; and

6 (ii) the applicable endorsements designated in the binder.

7 [(c)] (G) A binder is no longer valid after the policy as to which it was given is
8 issued.

9 [(d)] (H) (1) If a binder is given to a consumer borrower to satisfy a lender's
10 requirement that the borrower obtain property insurance or credit loss insurance as a
11 condition of making a loan secured by a first mortgage or first deed of trust on an
12 interest in owner-occupied residential real property, the insurer or its insurance
13 producer shall include in or with the binder:

14 (i) the name and address of the insured consumer borrower;

15 (ii) the name and address of the lender;

16 (iii) a description of the insured residential real property;

17 (iv) a provision that the binder may not be canceled within the term
18 of the binder unless the lender and the insured borrower receive written notice at
19 least 10 days before the cancellation;

20 (v) except in the case of the renewal of a policy after the closing of
21 a loan, a paid receipt for the full amount of the applicable premium; and

22 (vi) the amount of coverage.

23 (2) With respect to a binder given under this subsection, an insurer:

24 (i) if the binder is to be canceled, shall give the lender and the
25 insured consumer borrower at least 10 days' written notice before the cancellation;
26 and

27 (ii) within [30] 60 days after the date the binder was given, shall
28 issue a policy of insurance or provide the required notice of cancellation of the binder.
29 27-601.

30 [(a)] This section does not apply to policies of:

31 (1) life insurance;

32 (2) health insurance;

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

3 (4) surety insurance.]

4 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
5 INDICATED.

6 (B) "COMMERCIAL INSURANCE" MEANS PROPERTY INSURANCE OR CASUALTY
7 INSURANCE ISSUED TO A SOLE PROPRIETOR, PARTNERSHIP, CORPORATION, LIMITED
8 LIABILITY COMPANY, OR SIMILAR ENTITY AND INTENDED TO INSURE AGAINST LOSS
9 ARISING FROM THE BUSINESS PURSUITS OF THE INSURED ENTITY.

10 (C) (1) "PERSONAL INSURANCE" MEANS PROPERTY INSURANCE OR
11 CASUALTY INSURANCE ISSUED TO AN INDIVIDUAL, TRUST, ESTATE, OR SIMILAR
12 ENTITY THAT IS INTENDED TO INSURE AGAINST LOSS ARISING PRINCIPALLY FROM
13 THE PERSONAL, NONCOMMERCIAL ACTIVITIES OF THE INSURED.

14 (2) "PERSONAL INSURANCE" DOES NOT INCLUDE PERSONAL MOTOR
15 VEHICLE LIABILITY INSURANCE ISSUED TO A RESIDENT IN A HOUSEHOLD IN THE
16 STATE AS PROVIDED IN § 27-609 OF THIS SUBTITLE.

17 27-602.

18 (A) (1) THIS SECTION APPLIES TO POLICIES OF PERSONAL INSURANCE.

19 (2) THIS SECTION DOES NOT APPLY TO:

20 (I) POLICIES OF COMMERCIAL INSURANCE, LIFE INSURANCE,
21 HEALTH INSURANCE, PERSONAL MOTOR VEHICLE LIABILITY INSURANCE ISSUED TO
22 A RESIDENT OF A HOUSEHOLD IN THE STATE AS PROVIDED IN § 27-609 OF THIS
23 SUBTITLE, OR SURETY INSURANCE;

24 (II) BINDERS OR POLICIES IN EFFECT FOR 60 DAYS OR LESS, AS
25 PROVIDED IN § 12-106 OF THIS ARTICLE;

26 (III) POLICIES ISSUED TO EXEMPT COMMERCIAL POLICYHOLDERS
27 UNDER § 11-206 OF THIS ARTICLE, IF THE POLICIES PROVIDE FOR WRITTEN NOTICE
28 OF NOT LESS THAN 30 DAYS; OR

29 (IV) POLICIES ISSUED BY THE MARYLAND AUTOMOBILE
30 INSURANCE FUND.

31 (b) (1) Whenever an insurer, as required by subsection (c) of this section,
32 gives notice of its intention to cancel or not to renew a policy subject to this section
33 issued in the State or before an insurer cancels a policy subject to this section issued
34 in the State for a reason other than nonpayment of premium, the insurer shall notify
35 the insured of the possible right of the insured to replace the insurance under the
36 Maryland Property Insurance Availability Act or through another plan for which the
37 insured may be eligible.

1 (2) The notice required by paragraph (1) of this subsection must:
2 (i) be in writing;
3 (ii) contain the current address and telephone number of the offices
4 of the appropriate plan; and
5 (iii) be sent to the insured in the same manner and at the same time
6 as the first written notice of cancellation or of intention not to renew given or required
7 by law, regulation, or contract.

8 (c) (1) At least 45 days before the date of the proposed cancellation or
9 expiration of the policy, the insurer shall [cause to be sent] SEND to the insured, by
10 certificate of mailing, a written notice of intention to cancel for a reason other than
11 nonpayment of premium or notice of intention not to renew a policy issued in the
12 State.

13 (2) Notice given to the insured by an insurance producer on behalf of the
14 insurer is deemed to have been given by the insurer for purposes of this subsection.

15 (3) Notwithstanding paragraph (2) of this subsection, no notice is
16 required under this section if the [insurance producer] INSURED has replaced the
17 insurance.

18 (d) At least 10 days before the date an insurer proposes to cancel a policy for
19 nonpayment of premium, the insurer shall [cause to be sent] SEND to the insured, by
20 certificate of mailing, a written notice of intention to cancel for nonpayment of
21 premium.

22 27-603.

23 (A) (1) THIS SECTION APPLIES TO POLICIES OF COMMERCIAL INSURANCE
24 OTHER THAN WORKERS' COMPENSATION INSURANCE.

25 (2) THIS SECTION DOES NOT APPLY TO:

26 (I) POLICIES OF PERSONAL INSURANCE, LIFE INSURANCE,
27 HEALTH INSURANCE, OR PERSONAL MOTOR VEHICLE LIABILITY INSURANCE ISSUED
28 TO A RESIDENT OF A HOUSEHOLD IN THE STATE AS PROVIDED IN § 27-609 OF THIS
29 SUBTITLE;

30 (II) POLICIES ISSUED BY THE MARYLAND AUTOMOBILE
31 INSURANCE FUND;

32 (III) POLICIES IN EFFECT FOR 60 DAYS OR LESS, AS PROVIDED IN §
33 12-106 OF THIS ARTICLE; OR

34 (IV) POLICIES ISSUED TO EXEMPT COMMERCIAL POLICYHOLDERS
35 UNDER § 11-206 OF THIS ARTICLE, IF THE POLICIES PROVIDE FOR WRITTEN NOTICE
36 OF NOT LESS THAN 30 DAYS.

1 (B) (1) WHENEVER AN INSURER GIVES NOTICE OF ITS INTENTION TO
2 CANCEL OR NOT TO RENEW A POLICY ISSUED IN THIS STATE FOR A REASON OTHER
3 THAN NONPAYMENT OF PREMIUM, THE INSURER SHALL NOTIFY THE INSURED OF
4 THE POSSIBLE RIGHT TO REPLACE THE INSURANCE UNDER THE MARYLAND
5 PROPERTY INSURANCE AVAILABILITY ACT, THROUGH THE MARYLAND AUTOMOBILE
6 INSURANCE FUND, OR THROUGH ANOTHER PLAN FOR WHICH THE INSURED MAY BE
7 ELIGIBLE.

8 (2) THE NOTICE REQUIRED BY PARAGRAPH (1) OF THIS SUBSECTION
9 SHALL:

10 (I) BE IN WRITING;

11 (II) INCLUDE THE CURRENT ADDRESS AND TELEPHONE NUMBER
12 OF THE OFFICES OF THE JOINT INSURANCE ASSOCIATION, THE MARYLAND
13 AUTOMOBILE INSURANCE FUND, OR OTHER APPROPRIATE PLAN; AND

14 (III) BE SENT TO THE INSURED IN THE SAME MANNER AND AT THE
15 SAME TIME AS THE FIRST WRITTEN NOTICE OF CANCELLATION OR OF INTENTION
16 NOT TO RENEW THAT IS GIVEN OR REQUIRED BY LAW, REGULATION, OR CONTRACT.

17 (C) (1) AT LEAST 45 DAYS BEFORE THE DATE OF THE PROPOSED
18 CANCELLATION OR EXPIRATION OF THE POLICY, THE INSURER SHALL SEND TO THE
19 INSURED, BY CERTIFICATE OF MAILING, WRITTEN NOTICE OF INTENTION TO
20 CANCEL FOR A REASON OTHER THAN NONPAYMENT OF PREMIUM OR NOTICE OF
21 INTENTION NOT TO RENEW A POLICY ISSUED IN THE STATE.

22 (2) THE INSURER SHALL MAINTAIN PROOF OF MAILING IN A FORM
23 AUTHORIZED OR ACCEPTED BY THE UNITED STATES POSTAL SERVICE OR OTHER
24 COMMERCIAL MAIL DELIVERY SERVICE.

25 (3) NOTICE GIVEN TO THE INSURED BY AN INSURANCE PRODUCER ON
26 BEHALF OF THE INSURER IS DEEMED TO HAVE BEEN GIVEN BY THE INSURER FOR
27 THE PURPOSES OF THIS SUBSECTION.

28 (4) NO NOTICE IS REQUIRED UNDER THIS SUBSECTION IF THE INSURED
29 HAS REPLACED THE INSURANCE.

30 (D) AT LEAST 10 DAYS BEFORE THE DATE AN INSURER PROPOSES TO CANCEL
31 A POLICY FOR NONPAYMENT OF PREMIUM, THE INSURER SHALL SEND TO THE
32 INSURED, BY CERTIFICATE OF MAILING, A WRITTEN NOTICE OF INTENTION TO
33 CANCEL FOR NONPAYMENT OF PREMIUM.

34 (E) (1) IF AN INSURER PROVIDES A RENEWAL POLICY AND NOTICE OF
35 PREMIUM DUE TO AN INSURED AT LEAST 45 DAYS BEFORE THE RENEWAL DATE OF
36 THE POLICY AND THE INSURED FAILS TO MAKE THE REQUIRED PAYMENT BY THE
37 RENEWAL DATE, THE INSURER MAY TERMINATE THE POLICY ON THE RENEWAL
38 DATE FOR NONPAYMENT OF PREMIUM AFTER SENDING TO THE INSURED, BY
39 CERTIFICATE OF MAILING, A WRITTEN OFFER TO REINSTATE THE RENEWAL POLICY
40 WITHOUT LAPSE IN COVERAGE.

1 (2) AN OFFER TO REINSTATE UNDER THIS SUBSECTION SHALL PROVIDE
2 NOT LESS THAN 10 DAYS FOR THE INSURED TO MAKE THE REQUIRED PREMIUM
3 PAYMENT.

4 [27-602.] 27-604.

5 [(a) In this section, "applicant" means the person that seeks to purchase a
6 renewal policy or to reinstate a canceled policy.

7 (b) (1) This section applies to the Maryland Property Insurance Availability
8 Act and to any other plans that may be instituted to ensure availability of insurance,
9 unless expressly excluded.

10 (2) This section does not apply to policies of:

11 (i) life insurance;

12 (ii) health insurance;

13 (iii) motor vehicle liability insurance; or

14 (iv) surety insurance.]

15 (A) (1) THIS SECTION APPLIES TO POLICIES OF PERSONAL INSURANCE AND
16 INSURANCE ISSUED UNDER THE MARYLAND PROPERTY INSURANCE AVAILABILITY
17 ACT OR ANY SIMILAR ACT INSTITUTED TO ENSURE THE AVAILABILITY OF
18 INSURANCE.

19 (2) THIS SECTION DOES NOT APPLY TO:

20 (I) POLICIES OF COMMERCIAL INSURANCE, LIFE INSURANCE,
21 HEALTH INSURANCE, PERSONAL MOTOR VEHICLE LIABILITY INSURANCE ISSUED TO
22 A RESIDENT OF A HOUSEHOLD IN THE STATE AS PROVIDED IN § 27-609 OF THIS
23 SUBTITLE, OR SURETY INSURANCE;

24 (II) BINDERS OR POLICIES IN EFFECT FOR 60 DAYS OR LESS, AS
25 PROVIDED IN § 12-106 OF THIS ARTICLE;

26 (III) POLICIES ISSUED TO EXEMPT COMMERCIAL POLICYHOLDERS
27 UNDER § 11-206 OF THIS ARTICLE, IF THE POLICIES PROVIDE FOR WRITTEN NOTICE
28 OF NOT LESS THAN 30 DAYS; OR

29 (IV) POLICIES ISSUED BY THE MARYLAND AUTOMOBILE
30 INSURANCE FUND.

31 [(c) (B) (1) Whenever an insurer cancels or refuses to renew a policy
32 subject to this section, the insurer must provide to the [applicant] FIRST NAMED
33 INSURED a statement of the actual reason for the cancellation or refusal to renew [if
34 the authorized premium has been tendered or paid].

1 [(2) Paragraph (1) of this subsection applies to the cancellation of or
2 refusal to renew a binder that has been in effect for at least 15 days or an actual
3 policy that has been issued.]

4 (2) THE COMMISSIONER MAY NOT DISALLOW A PROPOSED ACTION OF
5 AN INSURER BECAUSE THE STATEMENT OF ACTUAL REASON CONTAINS:

6 (I) GRAMMATICAL, TYPOGRAPHICAL, OR OTHER ERRORS, IF THE
7 ERRORS ARE NOT MATERIAL TO THE PROPOSED ACTION AND ARE NOT MISLEADING;

8 (II) SURPLUS INFORMATION, IF THE SURPLUS INFORMATION IS
9 NOT MISLEADING; OR

10 (III) ERRONEOUS INFORMATION, IF IN THE ABSENCE OF THE
11 ERRONEOUS INFORMATION THERE IS A SUFFICIENT BASIS TO SUPPORT THE
12 PROPOSED ACTION.

13 [(d)] (C) A statement of actual reason is privileged and does not constitute
14 grounds for an action against the insurer, its representatives, or another person that
15 in good faith provides to the insurer information on which the statement is based.

16 [(e)] (D) (1) The reason given in the statement of actual reason must be
17 [sufficiently] clear and specific [so that an applicant of reasonable intelligence can
18 identify the basis for the insurer's decision without making further inquiry].

19 (2) The use of generalized terms such as "personal habits", "physical
20 handicap or disability", "living conditions", "poor morals", or "violation or accident
21 record" does not meet the requirement of this subsection.

22 27-605.

23 (A) (1) THIS SECTION APPLIES TO POLICIES OF COMMERCIAL INSURANCE
24 OTHER THAN WORKERS' COMPENSATION INSURANCE.

25 (2) THIS SECTION DOES NOT APPLY TO:

26 (I) POLICIES OF PERSONAL INSURANCE, PERSONAL MOTOR
27 VEHICLE LIABILITY INSURANCE ISSUED TO A RESIDENT IN A HOUSEHOLD IN THIS
28 STATE AS PROVIDED IN § 27-609 OF THIS SUBTITLE, LIFE INSURANCE, HEALTH
29 INSURANCE, OR SURETY INSURANCE;

30 (II) BINDERS OR POLICIES IN EFFECT FOR 60 DAYS OR LESS, AS
31 PROVIDED IN § 12-106 OF THIS ARTICLE;

32 (III) POLICIES ISSUED TO EXEMPT COMMERCIAL POLICYHOLDERS
33 UNDER § 11-206 OF THIS ARTICLE, IF THE POLICIES PROVIDE FOR WRITTEN NOTICE
34 OF NOT LESS THAN 30 DAYS; OR

35 (IV) POLICIES ISSUED BY THE MARYLAND AUTOMOBILE
36 INSURANCE FUND.

1 (B) (1) WHENEVER AN INSURER CANCELS OR REFUSES TO RENEW A POLICY
2 SUBJECT TO THIS SECTION FOR A REASON OTHER THAN NONPAYMENT OF PREMIUM,
3 THE INSURER MUST PROVIDE TO THE FIRST NAMED INSURED A WRITTEN
4 STATEMENT OF THE ACTUAL REASON FOR THE CANCELLATION OR REFUSAL TO
5 RENEW.

6 (2) THE STATEMENT SHALL INCLUDE THE INSURER'S OFFER TO
7 PROVIDE ADDITIONAL INFORMATION IN SUPPORT OF THE PROPOSED ACTION UPON
8 THE WRITTEN REQUEST OF THE INSURED AND AN ADDRESS FOR THE INSURED TO
9 SUBMIT THE REQUEST.

10 (3) A WRITTEN REQUEST FOR INFORMATION UNDER THIS SUBSECTION
11 SHALL BE SENT NOT MORE THAN 30 DAYS FROM THE DATE OF THE NOTICE
12 CONTAINING THE ACTUAL REASON.

13 (4) ON RECEIVING A WRITTEN REQUEST FROM AN INSURED FOR
14 ADDITIONAL INFORMATION UNDER THIS SUBSECTION AND PRIOR TO THE
15 EFFECTIVE DATE OF THE PROPOSED ACTION, AN INSURER SHALL RESPOND IN
16 WRITING WITHIN 15 DAYS.

17 (5) EXCEPT AS PROVIDED IN § 27-501 OF THIS ARTICLE, A REQUEST FOR
18 ADDITIONAL INFORMATION UNDER THIS SECTION DOES NOT STAY THE PROPOSED
19 ACTION.

20 (C) THE COMMISSIONER MAY NOT DISALLOW A PROPOSED ACTION OF AN
21 INSURER BECAUSE THE STATEMENT OF ACTUAL REASON CONTAINS:

22 (1) GRAMMATICAL ERRORS, TYPOGRAPHICAL ERRORS, OR OTHER
23 ERRORS, IF THE ERRORS ARE NOT MATERIAL TO THE PROPOSED ACTION AND ARE
24 NOT MISLEADING;

25 (2) SURPLUS INFORMATION, IF THE SURPLUS INFORMATION IS NOT
26 MISLEADING; OR

27 (3) ERRONEOUS INFORMATION, IF IN THE ABSENCE OF THE
28 ERRONEOUS INFORMATION THERE IS A SUFFICIENT BASIS TO SUPPORT THE
29 PROPOSED ACTION.

30 (D) INFORMATION CONCERNING THE ACTUAL REASON IS PRIVILEGED AND
31 DOES NOT CONSTITUTE GROUNDS FOR AN ACTION AGAINST THE INSURER, THE
32 INSURER'S REPRESENTATIVES, AN INSURANCE PRODUCER, OR ANY OTHER PERSON
33 THAT IN GOOD FAITH PROVIDES INFORMATION ON WHICH THE STATEMENT IS
34 BASED.

35 (E) FOR PURPOSES OF THIS SECTION, AN ASSIGNMENT OR TRANSFER OF AN
36 INSURANCE POLICY SUBJECT TO THIS SECTION TO AN AFFILIATED INSURER WITHIN
37 AN INSURANCE HOLDING COMPANY SYSTEM MAY NOT BE DEEMED A CANCELLATION
38 OR NONRENEWAL.

1 [27-603.] 27-606.

2 (a) (1) Except for life insurance, health insurance, and annuities, an insurer
3 that intends to cancel or not renew a line of business shall file a plan of withdrawal
4 with the Commissioner at least 180 days before the date of the proposed withdrawal.

5 (2) Notwithstanding paragraph (1) of this subsection, the Commissioner
6 may allow an insurer to file a plan of withdrawal at least 60 days before the date of
7 proposed withdrawal if the Commissioner determines that compliance by the insurer
8 with paragraph (1) of this subsection may result in:

9 (i) the impairment of the insurer;

10 (ii) the loss of or substantial changes in applicable reinsurance; or

11 (iii) significant financial losses to the insurer.

12 (3) For health insurance:

13 (i) an insurer that intends to cancel or not renew a health
14 insurance product, as defined by the Commissioner, for all of its covered insureds in
15 the State shall file a plan of withdrawal with the Commissioner at least 90 days
16 before the date of the proposed cancellation or nonrenewal; and

17 (ii) an insurer that intends to withdraw completely from the health
18 insurance market in the State by canceling or not renewing all of its health insurance
19 products in the State shall file a plan of withdrawal with the Commissioner at least
20 180 days before the date of the proposed withdrawal.

21 (b) The plan of withdrawal shall contain:

22 (1) a statement by an elected officer of the insurer that the cancellation
23 or nonrenewal action is necessary as a result of:

24 (i) the loss of or substantial changes in applicable reinsurance;

25 (ii) financial losses of the insurer; or

26 (iii) another business or economic reason of the insurer;

27 (2) if the reason for cancellation or nonrenewal is loss of or substantial
28 changes in reinsurance, a statement that explains:

29 (i) that the insurer made a good faith effort to obtain replacement
30 reinsurance, but was unable to do so due to either the unavailability or
31 unaffordability of replacement reinsurance;

32 (ii) how the loss of or reduction in reinsurance affects the insurer's
33 risks throughout the entire line or category of insurance proposed for cancellation or
34 nonrenewal; and

1 (iii) why cancellation or nonrenewal is necessary to cure the loss of
2 or reduction in available reinsurance; and

3 (3) notwithstanding the reason for cancellation or nonrenewal, a
4 statement that:

5 (i) identifies the category of risk, the total number of risks written
6 by the insurer in that line of business, and the number of risks intended to be
7 canceled or not renewed;

8 (ii) explains how the cancellation or nonrenewals, if approved, will
9 be implemented with respect to individual risks and the steps that will be taken to
10 ensure that the cancellation or nonrenewal decisions will not be applied in an
11 arbitrary, capricious, or unfairly discriminatory manner or in violation of § 27-501 of
12 this title; and

13 (iii) includes any other information that the Commissioner
14 reasonably requires.

15 (c) If a plan of withdrawal filed with the Commissioner is not accompanied by
16 the information required by this section, the Commissioner may so inform the insurer
17 and the plan of withdrawal will be deemed filed when the information is provided to
18 the Commissioner.

19 (d) After an insurer has filed a plan of withdrawal with the Commissioner, the
20 insurer shall notify in writing each of its insurance producers in the State that the
21 insurer has filed a plan of withdrawal.

22 (e) The Commissioner shall review each plan of withdrawal to determine its
23 compliance with this section and § 27-501 of this title.

24 (f) (1) (i) The Commissioner shall disapprove each plan of withdrawal
25 that does not comply with this section.

26 (ii) If the Commissioner disapproves a plan, the Commissioner
27 shall issue an order of disapproval that includes specific reasons for the disapproval.

28 (2) (i) Subject to paragraph (3) of this subsection, a plan filed under
29 this section is deemed approved if the Commissioner fails to approve or disapprove
30 the plan within 60 days after the date of filing by the insurer.

31 (ii) If a filing is deemed approved under this paragraph, the filing
32 becomes effective on the 60th day after the date of filing.

33 (3) If the Commissioner does not have sufficient information to
34 determine whether a filing or amended filing meets the requirements of this section,
35 the Commissioner:

36 (i) shall require the insurer to provide the necessary information;
37 and

1 (ii) may extend the period for approval until the information is
2 provided.

3 (4) A plan may be withdrawn or amended by the insurer at any time
4 before approval.

5 (5) After approval or disapproval of a plan, the withdrawal or
6 amendment of the plan is subject to the approval of the Commissioner.

7 (g) The Commissioner may disapprove a plan of withdrawal for health
8 insurance if an insurer, nonprofit health service plan, or health maintenance
9 organization has failed to demonstrate compliance with § 15-1212 or § 15-1308 of
10 this article.

11 [27-604.

12 (a) This section does not apply to:

13 (1) life insurance;

14 (2) health insurance;

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

17 (4) surety insurance;

18 (5) insurance written or issued by the Maryland Automobile Insurance
19 Fund; or

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

23 (b) Whenever an insurer intends to increase a premium for a particular policy
24 written in the State by 20% or more, the insurer shall notify the insured and
25 insurance producer of the increase.

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

28 27-607.

29 (A) (1) THIS SECTION APPLIES TO POLICIES OF PERSONAL INSURANCE AND
30 INSURANCE ISSUED UNDER THE MARYLAND PROPERTY INSURANCE AVAILABILITY
31 ACT OR ANY SIMILAR ACT INSTITUTED TO ENSURE THE AVAILABILITY OF
32 INSURANCE.

33 (2) THIS SECTION DOES NOT APPLY TO:

1 (I) POLICIES OF COMMERCIAL INSURANCE, LIFE INSURANCE,
2 HEALTH INSURANCE, PERSONAL MOTOR VEHICLE LIABILITY INSURANCE ISSUED TO
3 A RESIDENT OF A HOUSEHOLD IN THE STATE AS PROVIDED IN § 27-609 OF THIS
4 SUBTITLE, OR SURETY INSURANCE;

5 (II) POLICIES ISSUED TO EXEMPT COMMERCIAL POLICYHOLDERS
6 UNDER § 11-206 OF THIS ARTICLE, IF THE POLICIES PROVIDE FOR WRITTEN NOTICE
7 OF NOT LESS THAN 30 DAYS; OR

8 (III) POLICIES ISSUED BY THE MARYLAND AUTOMOBILE
9 INSURANCE FUND.

10 (B) AT LEAST 45 DAYS PRIOR TO THE RENEWAL DATE OF A POLICY SUBJECT
11 TO THIS SECTION, THE INSURER SHALL SEND A NOTICE TO THE FIRST NAMED
12 INSURED AND THE INSURANCE PRODUCER, IF ANY, BY FIRST-CLASS MAIL STATING
13 BOTH THE AMOUNT OF THE RENEWAL POLICY PREMIUM AND THE AMOUNT OF THE
14 EXPIRING POLICY PREMIUM.

15 27-608.

16 (A) (1) THIS SECTION APPLIES TO POLICIES OF COMMERCIAL INSURANCE
17 OTHER THAN WORKERS' COMPENSATION INSURANCE.

18 (2) THIS SECTION DOES NOT APPLY TO POLICIES OF PERSONAL
19 INSURANCE OR PERSONAL MOTOR VEHICLE LIABILITY INSURANCE ISSUED TO A
20 RESIDENT IN A HOUSEHOLD IN THIS STATE AS PROVIDED IN § 27-609 OF THIS
21 SUBTITLE.

22 (B) (1) UNLESS AN INSURER HAS GIVEN NOTICE OF ITS INTENTION NOT TO
23 RENEW A POLICY SUBJECT TO THIS SECTION, IF THE INSURER SEEKS TO INCREASE
24 THE RENEWAL POLICY PREMIUM BY 20% OR MORE, THE INSURER SHALL SEND A
25 NOTICE TO THE FIRST NAMED INSURED AND INSURANCE PRODUCER, IF ANY, NOT
26 LESS THAN 45 DAYS PRIOR TO THE RENEWAL DATE OF THE POLICY.

27 (C) A NOTICE UNDER THIS SECTION SHALL INCLUDE:

28 (1) BOTH THE EXPIRING POLICY PREMIUM AND THE RENEWAL POLICY
29 PREMIUM; AND

30 (2) THE TELEPHONE NUMBER FOR THE INSURER OR INSURANCE
31 PRODUCER, IF ANY, TOGETHER WITH A STATEMENT THAT THE INSURED MAY CALL
32 TO REQUEST ADDITIONAL INFORMATION ABOUT THE PREMIUM INCREASE.

33 (D) (1) IF AN INSURER'S RATING METHODOLOGY REQUIRES THE INSURED
34 TO PROVIDE INFORMATION TO CALCULATE THE RENEWAL POLICY PREMIUM, AN
35 INSURER SHALL PROVIDE A REASONABLE ESTIMATE OF THE RENEWAL POLICY
36 PREMIUM IF:

37 (I) THE INSURER HAS REQUESTED THE REQUIRED INFORMATION
38 FROM THE INSURED; AND

1 (II) THE INSURER HAS NOT RECEIVED THE REQUESTED
2 INFORMATION.

3 (2) A REASONABLE ESTIMATE UNDER THIS SUBSECTION SHALL BE
4 BASED UPON THE INFORMATION AVAILABLE TO THE INSURER AT THE TIME THE
5 NOTICE IS SENT.

6 (E) IN DETERMINING THE AMOUNT OF A PREMIUM INCREASE UNDER THIS
7 SECTION, THE INSURER IS NOT REQUIRED TO INCLUDE PREMIUM RESULTING FROM:

8 (1) AN INCREASE IN THE UNITS OF EXPOSURE;

9 (2) THE APPLICATION OF AN EXPERIENCE RATING PLAN;

10 (3) THE APPLICATION OF A RETROSPECTIVE RATING PLAN;

11 (4) A CHANGE MADE BY THE INSURED THAT INCREASES THE INSURER'S
12 EXPOSURE; OR

13 (5) AN AUDIT OF THE INSURED.

14 (F) (1) EXCEPT AS PROVIDED IN THIS SUBSECTION, A NOTICE REQUIRED
15 UNDER THIS SECTION SHALL BE SENT BY CERTIFICATE OF MAILING.

16 (2) A NOTICE REQUIRED BY THIS SECTION MAY BE SENT BY
17 FIRST-CLASS MAIL IF IT IS SENT TOGETHER WITH THE RENEWAL POLICY.

18 [27-605.] 27-609.

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

21 (1) a surcharge;

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

23 (3) removal or reduction of a discount.

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

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

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

32 (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 [27-606.] 27-610.

30 (a) (1) This subsection applies to an automobile liability insurance policy
31 issued in the State to a resident of a household, under which more than one individual
32 is insured.

33 (2) If an insurer is authorized under this article to cancel, nonrenew, or
34 increase the premiums on a policy of automobile liability insurance subject to this

1 subsection because of the claim experience or driving record of one or more but less
2 than all of the individuals insured under the policy, the insurer, instead of
3 cancellation, nonrenewal, or premium increase, shall offer to continue or renew the
4 insurance, but to exclude all coverage when a motor vehicle is operated by the
5 specifically named excluded individual or individuals whose claim experience or
6 driving record could have justified the cancellation, nonrenewal, or premium
7 increase.

8 (b) If an insurer legally could refuse to issue a policy of automobile liability
9 insurance under which more than one individual is insured because of the claim
10 experience or driving record of one or more but less than all of the individuals
11 applying to be insured under the policy, the insurer may issue the policy but exclude
12 all coverage when a motor vehicle is operated by the specifically named excluded
13 individual or individuals whose claim experience or driving record could have
14 justified the refusal to issue.

15 (c) The policy described in subsection (a) or (b) of this section may be endorsed
16 to exclude specifically all coverage for any of the following when the named excluded
17 driver is operating a motor vehicle covered under the policy whether or not that
18 operation or use was with the express or implied permission of an individual insured
19 under the policy:

20 (1) the excluded operator or user;

21 (2) the vehicle owner;

22 (3) family members residing in the household of the excluded operator or
23 user or vehicle owner; and

24 (4) any other individual, except for the coverage required by §§ 19-505
25 and 19-509 of this article if that coverage is not available under another automobile
26 policy.

27 (d) The premiums charged on a policy that excludes a named driver or drivers
28 under this section may not reflect the claim experience or driving record of the
29 excluded named driver or drivers.

30 [27-607.] 27-611.

31 (a) (1) THIS SECTION APPLIES TO PERSONAL INSURANCE AND PERSONAL
32 MOTOR VEHICLE LIABILITY INSURANCE ISSUED TO A RESIDENT IN A HOUSEHOLD IN
33 THIS STATE AS PROVIDED IN § 27-609 OF THIS SUBTITLE.

34 (2) THIS SECTION DOES NOT APPLY TO COMMERCIAL INSURANCE.

35 [(1)] (3) Unless an insurer has provided notice of its intention not to
36 renew a policy in compliance with [§ 27-601, § 27-603, or § 27-605 of] this subtitle,
37 the insurer must provide each policyholder with notice of renewal premium due at
38 least 17 days before the due date.

1 [(2)] (4) A licensed insurance producer may provide notice under
2 paragraph [(1)] (3) of this subsection on behalf of the insurer.

3 [(3)] (5) The duty to provide notice under paragraph [(1)] (3) of this
4 subsection is deemed discharged if:

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

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

9 (b) If an insurer fails to provide notice of renewal premium due under
10 subsection (a) of this section, and subsequently the policyholder fails to make timely
11 payment of the renewal premium, the insurer must:

12 (1) provide coverage for each claim that:

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

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

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

18 [27-608.] 27-612.

19 Before the actual expiration of a policy of motor vehicle insurance that results
20 from nonpayment of a renewal premium, the insurer shall provide notice to the
21 insured in clear and specific terms that if the insured fails to renew or replace the
22 motor vehicle insurance before the due date, § 17-106 of the Transportation Article
23 provides that uninsured motorist penalties be assessed and that evidences of
24 registration be surrendered to the Motor Vehicle Administration and that failure to
25 surrender the evidences of registration may result in suspension of current and future
26 registration privileges.

27 [27-609.] 27-613.

28 (a) (1) If an insurer fails to comply with any provision of [§ 27-601,] §
29 27-602, § 27-603, § 27-604, § 27-605, [or § 27-607] § 27-606, OR § 27-609 of this
30 subtitle, the insurer is liable to the applicant for the coverage that was requested, or
31 that would have become effective except for the failure to comply with these
32 provisions, unless the person seeking coverage:

33 (i) no longer wishes the coverage;

34 (ii) has obtained other substantially equivalent coverage; or

35 (iii) fails to tender or pay the premium after reasonable demand for
36 the premium has been made.

1 (2) The liability of an insurer under paragraph (1) of this subsection is in
2 addition to any other penalties applicable by law.

3 (b) Liability for coverage does not apply to failure to comply with § 27-608 of
4 this subtitle, as it relates to motor vehicle liability insurance.

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
6 construed to apply to all personal and commercial lines of property and casualty
7 insurance issued, delivered, or renewed on or after the effective date of this Act.

8 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 October 1, 2005.