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

Introduced and read first time: February 8, 2005

Assigned to: Economic Matters

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A BILL ENTITLED

1 AN ACT concerning

2                           **Insurance - Property and Casualty - Personal Automobile Liability**  
3                           **Insurance - Coverage and Premiums**

4 FOR the purpose of clarifying and revising certain notice requirements, time frames,  
5 and protest rights for certain cancellations and nonrenewals of certain policies  
6 and binders of personal automobile liability insurance; clarifying and revising  
7 certain notice requirements, time frames, and protest rights for certain  
8 increases in premium and certain reductions in coverage under certain personal  
9 automobile liability insurance policies; authorizing the Maryland Insurance  
10 Commissioner to adopt certain regulations; defining certain terms; and  
11 generally relating to property and casualty insurance.

12 BY repealing

13 Article - Insurance  
14 Section 27-605  
15 Annotated Code of Maryland  
16 (2002 Replacement Volume and 2004 Supplement)

17 BY adding to

18 Article - Insurance  
19 Section 27-605 and 27-605.1  
20 Annotated Code of Maryland  
21 (2002 Replacement Volume and 2004 Supplement)

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

24                           **Article - Insurance**

25 [27-605.

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

- 1 (1) a surcharge;
- 2 (2) retiring or other reclassification of an insured; or
- 3 (3) removal or reduction of a discount.

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

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

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

12 (iii) reduce coverage under the policy.

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

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

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

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

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

25 2. provides that each insured affected by the plan of  
26 withdrawal shall be sent by certificate of mailing at least 45 days before the  
27 nonrenewal of the policy a written notice that states the date that the policy will be  
28 nonrenewed and that the nonrenewal is the result of the withdrawal of the insurer  
29 from the market.

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

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

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

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

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

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

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

7                               2.       for a reduction in coverage, the type of coverage reduced  
8 and the extent of the reduction;

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

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

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

14                               1.       the name of the individual or individuals to be excluded  
15 from coverage; and

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

18                   (v)       the right of the insured to replace the insurance through the  
19 Maryland Automobile Insurance Fund and the current address and telephone number  
20 of the Fund;

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

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

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

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

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

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

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

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

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

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

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

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

25                                   2.       surplus information, provided that the surplus  
26 information is nonmaterial and not misleading.

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

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

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

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

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

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

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

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

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

18                   (i)     shall determine whether the protest by the insured has merit;  
19 and

20                   (ii)     either shall dismiss the protest or disallow the proposed action  
21 of the insurer.

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

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

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

29                   (i)     hold a hearing within a reasonable time after the request for a  
30 hearing; and

31                   (ii)     give written notice of the time and place of the hearing at least  
32 10 days before the hearing.

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

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

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

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

8                   (i)     dismiss the protest; and

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

10                           1.     its proposed effective date; and

11                           2.     30 days after the date of the determination.

12           (3)     If the Commissioner finds the proposed action to be unjustified, the  
13 Commissioner:

14                   (i)     shall disallow the action; and

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

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

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

22                   (i)     return to the insured all disallowed premium received from the  
23 insured; and

24                   (ii)    pay to the insured interest on the disallowed premium received  
25 from the insured calculated at 10% per annum from the date the disallowed premium  
26 was received to the date the disallowed premium was returned.

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

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

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

- 1 (1) an accident;
- 2 (2) a violation of the Maryland vehicle law or the vehicle law of another  
3 state;
- 4 (3) the claims history of the insured;
- 5 (4) the credit history or the credit score of the insured;
- 6 (5) a retiering of the insured; or
- 7 (6) a surcharge.]

8 27-605.

9 (A) IN THIS SECTION, "NAMED INSURED" HAS THE MEANING STATED IN §  
10 19-501 OF THIS ARTICLE.

11 (B) (1) EXCEPT IN ACCORDANCE WITH THIS ARTICLE, WITH RESPECT TO A  
12 PERSONAL AUTOMOBILE LIABILITY INSURANCE POLICY OR A BINDER OF PERSONAL  
13 AUTOMOBILE LIABILITY INSURANCE, IF THE BINDER HAS BEEN IN EFFECT FOR AT  
14 LEAST 45 DAYS, ISSUED IN THE STATE TO ANY RESIDENT OF THE HOUSEHOLD OF  
15 THE NAMED INSURED, AN INSURER OTHER THAN THE MARYLAND AUTOMOBILE  
16 INSURANCE FUND MAY NOT CANCEL OR FAIL TO RENEW THE POLICY OR CANCEL  
17 THE BINDER FOR A REASON OTHER THAN NONPAYMENT OF PREMIUM.

18 (2) NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBSECTION, THE  
19 REQUIREMENTS OF THIS SECTION DO NOT APPLY IF THE FAILURE TO RENEW THE  
20 POLICY TAKES PLACE UNDER A PLAN OF WITHDRAWAL THAT:

21 (I) IS APPROVED BY THE COMMISSIONER UNDER § 27-603 OF THIS  
22 SUBTITLE; AND

23 (II) PROVIDES THAT EACH FIRST NAMED INSURED AFFECTED BY  
24 THE PLAN OF WITHDRAWAL SHALL BE SENT, BY CERTIFICATE OF MAILING, AT LEAST  
25 45 DAYS BEFORE THE NONRENEWAL OF THE POLICY A WRITTEN NOTICE THAT  
26 STATES THE DATE THAT THE POLICY WILL BE NONRENEWED AND THAT THE  
27 NONRENEWAL IS THE RESULT OF THE WITHDRAWAL OF THE INSURER FROM THE  
28 MARKET.

29 (C) (1) EXCEPT AS PROVIDED IN SUBSECTION (G) OF THIS SECTION, AT  
30 LEAST 45 DAYS BEFORE THE PROPOSED EFFECTIVE DATE OF THE ACTION, AN  
31 INSURER THAT INTENDS TO TAKE AN ACTION SUBJECT TO THIS SECTION SHALL  
32 SEND WRITTEN NOTICE OF ITS PROPOSED ACTION TO THE FIRST NAMED INSURED AT  
33 THE LAST KNOWN ADDRESS OF THE FIRST NAMED INSURED BY CERTIFIED MAIL.

34 (2) THE NOTICE SHALL BE IN DUPLICATE AND ON A FORM APPROVED BY  
35 THE COMMISSIONER.

1 (3) THE NOTICE SHALL INCLUDE A STATEMENT OF THE ACTUAL  
2 REASON OF THE INSURER FOR TAKING THE PROPOSED ACTION, INCLUDING AT A  
3 MINIMUM:

4 (I) IF THE ACTION OF THE INSURER IS DUE WHOLLY OR PARTLY  
5 TO AN ACCIDENT OR A VIOLATION OF THE MARYLAND MOTOR VEHICLE LAW OR THE  
6 MOTOR VEHICLE LAW OF ANOTHER STATE:

- 7 1. AN INDICATION OF WHETHER THE INCIDENT IS AN  
8 ACCIDENT OR A VIOLATION;
- 9 2. THE DATE ON WHICH THE ACCIDENT OR VIOLATION  
10 OCCURRED;
- 11 3. IF AN ACCIDENT, WHETHER THE INSURED WAS AT FAULT  
12 OR NEGLIGENT; AND
- 13 4. IF A VIOLATION, THE NATURE OF THE VIOLATION;

14 (II) IF THE ACTION OF THE INSURER IS DUE WHOLLY OR PARTLY  
15 TO A CLAIM OTHER THAN AN ACCIDENT-RELATED CLAIM, THE DATE THAT THE  
16 CLAIM OCCURRED AND A DESCRIPTION OF THE CLAIM THAT IS THE BASIS OF THE  
17 INSURER'S ACTION, SUCH AS:

- 18 1. "THEFT OF VEHICLE ON (DATE)";
- 19 2. "VANDALISM OF VEHICLE ON (DATE)"; OR
- 20 3. "TOWING CLAIM ON (DATE)";

21 (III) IF THE PROPOSED ACTION IS BASED WHOLLY OR PARTLY ON  
22 INFORMATION FROM A CONSUMER CREDIT REPORT:

- 23 1. THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE  
24 CONSUMER REPORTING AGENCY THAT FURNISHED THE CREDIT REPORT,  
25 INCLUDING THE TOLL-FREE NUMBER ESTABLISHED BY THE AGENCY IF THE  
26 AGENCY COMPILES AND MAINTAINS FILES ON CONSUMERS ON A NATIONWIDE  
27 BASIS;
- 28 2. THAT THE CONSUMER REPORTING AGENCY DID NOT  
29 MAKE THE DECISION TO TAKE THE PROPOSED ACTION AND IS UNABLE TO PROVIDE  
30 THE NAMED INSURED THE SPECIFIC REASONS WHY THE ACTION IS PROPOSED TO BE  
31 TAKEN;
- 32 3. THAT THE INSURED MAY OBTAIN, UNDER § 1681 OF THE  
33 FEDERAL FAIR CREDIT REPORTING ACT, A FREE COPY OF THE CREDIT REPORT OF  
34 THE INSURED FROM THE CONSUMER REPORTING AGENCY WITHIN 60 DAYS AFTER  
35 RECEIPT OF THE NOTICE; AND



1                                   4.        THAT THE INSURED MAY DISPUTE, UNDER § 1681I OF THE  
2 FEDERAL FAIR CREDIT REPORTING ACT, WITH A CONSUMER REPORTING AGENCY  
3 THE ACCURACY OR COMPLETENESS OF ANY INFORMATION IN THE CREDIT REPORT  
4 FURNISHED BY THE AGENCY; AND

5                                   (IV)     IF THE ACTION OF THE INSURER IS DUE WHOLLY OR PARTLY  
6 TO A REASON OTHER THAN THOSE DESCRIBED IN ITEMS (I), (II), AND (III) OF THIS  
7 PARAGRAPH OR TO A VIOLATION OF THE LAWFUL TERMS AND CONDITIONS OF THE  
8 POLICY OR THE UNDERWRITING STANDARDS OF THE INSURER, A DESCRIPTION OF  
9 THE ACTION OF THE INSURED THAT IS THE BASIS OF THE INSURER'S ACTION, SUCH  
10 AS:

11                                   1.        "INSURED LENDS THE INSURED VEHICLE TO AN  
12 EXCLUDED DRIVER"; OR

13                                   2.        "INSURED LENDS THE INSURED VEHICLE TO A  
14 NONLISTED DRIVER".

15                                   (4)     THE NOTICE SHALL ADVISE THE FIRST NAMED INSURED OF THE  
16 RIGHT TO REPLACE THE INSURANCE THROUGH THE MARYLAND AUTOMOBILE  
17 INSURANCE FUND AND INCLUDE THE CURRENT ADDRESS AND TELEPHONE NUMBER  
18 OF THE MARYLAND AUTOMOBILE INSURANCE FUND.

19                                   (5)     IN ADDITION TO THE INFORMATION REQUIRED BY PARAGRAPHS (3)  
20 AND (4) OF THIS SUBSECTION, THE NOTICE SHALL INDICATE WHETHER THE ACTION  
21 BY THE INSURED:

22                                   (I)     DISQUALIFIES THE INSURED UNDER THE INSURER'S FILED  
23 RATING PLAN OR UNDERWRITING STANDARDS; OR

24                                   (II)    VIOLATES THE LAWFUL TERMS AND CONDITIONS OF THE  
25 POLICY.

26                                   (D)     A STATEMENT OF ACTUAL REASON CONTAINED IN THE NOTICE OF  
27 PROPOSED ACTION GIVEN UNDER SUBSECTION (C) OF THIS SECTION IS PRIVILEGED  
28 AND DOES NOT CONSTITUTE GROUNDS FOR AN ACTION AGAINST THE INSURER, ITS  
29 REPRESENTATIVES, OR ANOTHER PERSON THAT IN GOOD FAITH PROVIDES TO THE  
30 INSURER INFORMATION ON WHICH THE STATEMENT IS BASED.

31                                   (E)     IF THERE IS COUPLED WITH THE NOTICE OF PROPOSED ACTION GIVEN  
32 UNDER SUBSECTION (C) OF THIS SECTION AN OFFER TO CONTINUE OR RENEW THE  
33 POLICY, WITH AN EXCLUSION, IN ACCORDANCE WITH § 27-606 OF THIS SUBTITLE,  
34 THE OFFER SHALL INCLUDE:

35                                   (1)     THE NAME OF THE INDIVIDUAL OR INDIVIDUALS TO BE EXCLUDED  
36 FROM COVERAGE; AND

37                                   (2)     THE PREMIUM AMOUNT OF THE POLICY IF RENEWED WITHOUT THE  
38 NAMED INDIVIDUAL OR INDIVIDUALS.

1 (F) (1) THIS SUBSECTION DOES NOT APPLY TO AN ACTION OF AN INSURER  
2 TAKEN UNDER SUBSECTION (G) OF THIS SECTION.

3 (2) A NAMED INSURED MAY PROTEST A PROPOSED ACTION OF AN  
4 INSURER BY SIGNING A COPY OF THE NOTICE OF PROPOSED ACTION GIVEN UNDER  
5 SUBSECTION (C) OF THIS SECTION AND DELIVERING THE COPY TO THE  
6 COMMISSIONER WITHIN 30 DAYS AFTER THE MAILING DATE OF THE NOTICE.

7 (3) ON RECEIPT OF A PROTEST, THE COMMISSIONER SHALL NOTIFY THE  
8 INSURER OF THE FILING OF THE PROTEST.

9 (4) A PROTEST FILED WITH THE COMMISSIONER STAYS THE PROPOSED  
10 ACTION OF THE INSURER PENDING A DETERMINATION BY THE COMMISSIONER.

11 (5) THE INSURER SHALL MAINTAIN IN EFFECT THE SAME COVERAGE  
12 AND PREMIUM THAT WERE IN EFFECT ON THE DAY THE NOTICE OF PROPOSED  
13 ACTION WAS SENT TO THE FIRST NAMED INSURED UNTIL A DETERMINATION IS  
14 MADE BY THE COMMISSIONER, SUBJECT TO THE PAYMENT OF ANY AUTHORIZED  
15 PREMIUM DUE OR BECOMING DUE BEFORE THE DETERMINATION.

16 (6) BASED ON THE INFORMATION CONTAINED IN THE NOTICE, THE  
17 COMMISSIONER SHALL:

18 (I) DETERMINE WHETHER THE PROTEST BY THE NAMED INSURED  
19 HAS MERIT; AND

20 (II) ISSUE A DETERMINATION EITHER:

21 1. UPHOLDING THE PROTEST AND DISALLOWING THE  
22 PROPOSED ACTION; OR

23 2. DISMISSING THE PROTEST AND ALLOWING THE  
24 PROPOSED ACTION.

25 (7) THE COMMISSIONER MAY NOT DISALLOW A PROPOSED ACTION OF  
26 AN INSURER BECAUSE THE STATEMENT OF ACTUAL REASON IN THE NOTICE  
27 CONTAINS:

28 (I) GRAMMATICAL ERRORS, TYPOGRAPHICAL ERRORS, OR OTHER  
29 ERRORS, PROVIDED THAT THE ERRORS ARE NONMATERIAL AND NOT MISLEADING;  
30 OR

31 (II) SURPLUS INFORMATION, PROVIDED THAT THE SURPLUS  
32 INFORMATION IS NONMATERIAL AND NOT MISLEADING.

33 (8) IF THE COMMISSIONER FINDS THE PROPOSED ACTION OF THE  
34 INSURER TO BE IN ACCORDANCE WITH THE INSURER'S FILED RATING PLAN, ITS  
35 UNDERWRITING STANDARDS, OR THE LAWFUL TERMS AND CONDITIONS OF THE  
36 POLICY, AS APPLICABLE, THE COMMISSIONER SHALL:

1 (I) DISMISS THE PROTEST; AND

2 (II) ALLOW THE PROPOSED ACTION TO BE TAKEN ON THE LATER  
3 OF:

4 1. ITS PROPOSED EFFECTIVE DATE; OR

5 2. 30 DAYS AFTER THE DATE OF THE DETERMINATION.

6 (9) IF THE COMMISSIONER FINDS THAT THE ACTUAL REASON FOR THE  
7 PROPOSED ACTION IS NOT STATED IN THE NOTICE OR FINDS THE PROPOSED ACTION  
8 NOT TO BE IN ACCORDANCE WITH THE INSURER'S FILED RATING PLAN, ITS  
9 UNDERWRITING STANDARDS, OR THE LAWFUL TERMS AND CONDITIONS OF THE  
10 POLICY, THE COMMISSIONER SHALL:

11 (I) UPHOLD THE PROTEST; AND

12 (II) DISALLOW THE PROPOSED ACTION.

13 (10) THE COMMISSIONER SHALL NOTIFY THE INSURER AND THE NAMED  
14 INSURED OF THE DETERMINATION PROMPTLY IN WRITING.

15 (11) A DETERMINATION ISSUED UNDER THIS SUBSECTION IS EFFECTIVE  
16 30 DAYS AFTER THE DATE OF THE DETERMINATION.

17 (12) A PARTY AGGRIEVED BY THE DETERMINATION MAY REQUEST A  
18 HEARING IN ACCORDANCE WITH § 2-210 OF THIS ARTICLE.

19 (13) THE COMMISSIONER SHALL HAVE THE SOLE DISCRETION TO ORDER  
20 THE INSURER TO PAY REASONABLE ATTORNEY'S FEES INCURRED BY THE NAMED  
21 INSURED FOR REPRESENTATION AT THE HEARING IF THE COMMISSIONER  
22 CONSIDERS THE FEES APPROPRIATE.

23 (14) FOLLOWING THE ISSUANCE OF AN ORDER FROM AN  
24 ADMINISTRATIVE HEARING, AN AGGRIEVED PARTY MAY SEEK JUDICIAL REVIEW IN  
25 ACCORDANCE WITH § 2-215 OF THIS ARTICLE.

26 (G) AT LEAST 10 DAYS BEFORE THE DATE AN INSURER PROPOSES TO CANCEL  
27 A POLICY FOR NONPAYMENT OF PREMIUM, THE INSURER SHALL CAUSE TO BE SENT  
28 TO THE FIRST NAMED INSURED, BY CERTIFICATE OF MAILING, A WRITTEN NOTICE  
29 OF INTENTION TO CANCEL FOR NONPAYMENT OF PREMIUM.

30 (H) THE COMMISSIONER MAY DELEGATE THE POWERS AND DUTIES OF THE  
31 COMMISSIONER UNDER THIS SECTION TO ONE OR MORE EMPLOYEES OR HEARING  
32 OFFICERS.

33 (I) THE COMMISSIONER MAY ADOPT REGULATIONS TO CARRY OUT THIS  
34 SECTION.

1 27-605.1.

2 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
3 INDICATED.

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

5 (3) "NAMED INSURED" HAS THE MEANING STATED IN § 19-501 OF THIS  
6 ARTICLE.

7 (4) "RATING SYMBOL" MEANS A SYMBOL ASSIGNED TO A MAKE OR  
8 MODEL OF VEHICLE TO REFLECT THE LOSS EXPERIENCE OF THAT MAKE OR MODEL  
9 OF VEHICLE.

10 (5) (I) "RECLASSIFICATION" MEANS THE PLACEMENT OF A NAMED  
11 INSURED BY AN INSURER INTO A DIFFERENT CLASSIFICATION BASED ON ONE OR  
12 MORE OF THE FOLLOWING CRITERIA:

13 1. AGE, SEX, OR MARITAL STATUS OF THE NAMED INSURED;

14 2. ACCIDENT OR DRIVING RECORD OF THE NAMED INSURED;

15 3. USAGE, INCLUDING MILEAGE DRIVEN, OF AN INSURED  
16 VEHICLE; OR

17 4. PERFORMANCE CLASSIFICATION (HIGH PERFORMANCE,  
18 INTERMEDIATE PERFORMANCE, AND SPORTS TYPE) OF AN INSURED VEHICLE.

19 (II) "RECLASSIFICATION" INCLUDES THE ASSIGNMENT,  
20 PLACEMENT, OR TRANSFER OF A NAMED INSURED WITHIN OR AMONG AFFILIATES  
21 WITHIN AN INSURANCE HOLDING COMPANY SYSTEM.

22 (III) "RECLASSIFICATION" DOES NOT INCLUDE THE CHANGE OR  
23 MODIFICATION OF A RATING SYMBOL.

24 (6) (I) "REDUCTION IN COVERAGE" INCLUDES:

25 1. A REDUCTION OF ANY LIMIT FOR LIABILITY COVERAGE,  
26 UNINSURED MOTORIST COVERAGE, OR PERSONAL INJURY PROTECTION COVERAGE  
27 IF THE LIMIT IS GREATER THAN THE STATUTORILY REQUIRED MINIMUM; AND

28 2. A REDUCTION OR ELIMINATION OF TOWING COVERAGE,  
29 RENTAL COVERAGE, OR ANY OTHER COVERAGE.

30 (II) "REDUCTION IN COVERAGE" DOES NOT INCLUDE:

31 1. THE ELIMINATION OF ANY COVERAGE THAT IS NO  
32 LONGER OFFERED BY AN INSURER IN ACCORDANCE WITH ITS FILED RATING PLAN;  
33 OR



1 (3) (I) FOR AN INCREASE IN PREMIUM GREATER THAN 15% FOR THE  
2 ENTIRE POLICY, THE NOTICE SHALL INCLUDE A STATEMENT THAT A NAMED  
3 INSURED HAS THE RIGHT TO:

4 1. PROTEST THE PROPOSED INCREASE IN PREMIUM; AND

5 2. REQUEST A HEARING BEFORE THE COMMISSIONER ON  
6 THE INSURER'S PROPOSED ACTION BY SIGNING A COPY OF THE NOTICE AND  
7 DELIVERING THE COPY TO THE COMMISSIONER WITHIN 30 DAYS AFTER THE  
8 MAILING DATE OF THE NOTICE.

9 (II) THE FIRST NAMED INSURED IS NOT OBLIGATED TO PAY THE  
10 AMOUNT OF THE INCREASE, BUT MUST PAY THAT PORTION OF THE PREMIUM THAT  
11 IS NOT UNDER PROTEST AND THAT IS DUE OR BECOMES DUE BEFORE THE  
12 DETERMINATION.

13 (4) (I) FOR AN INCREASE IN PREMIUM OF 15% OR LESS FOR THE  
14 ENTIRE POLICY, THE NOTICE SHALL INCLUDE A STATEMENT THAT A NAMED  
15 INSURED HAS THE RIGHT TO PROTEST THE PROPOSED INCREASE IN PREMIUM BY  
16 SIGNING A COPY OF THE NOTICE AND DELIVERING THE COPY TO THE  
17 COMMISSIONER WITHIN 30 DAYS AFTER THE MAILING DATE OF THE NOTICE.

18 (II) THE FIRST NAMED INSURED MUST PAY ANY AUTHORIZED  
19 PREMIUM THAT IS DUE OR BECOMES DUE BEFORE THE DETERMINATION.

20 (5) FOR A REDUCTION IN COVERAGE, THE NOTICE SHALL INCLUDE A  
21 STATEMENT THAT A NAMED INSURED HAS THE RIGHT TO:

22 (I) PROTEST THE PROPOSED REDUCTION IN COVERAGE; AND

23 (II) REQUEST A HEARING BEFORE THE COMMISSIONER ON THE  
24 INSURER'S PROPOSED ACTION BY SIGNING A COPY OF THE NOTICE AND DELIVERING  
25 THE COPY TO THE COMMISSIONER WITHIN 30 DAYS AFTER THE MAILING DATE OF  
26 THE NOTICE.

27 (6) THE NOTICE SHALL INCLUDE A STATEMENT OF THE ACTUAL  
28 REASON OF THE INSURER FOR TAKING THE PROPOSED ACTION, INCLUDING AT A  
29 MINIMUM:

30 (I) IF THE ACTION OF THE INSURER IS DUE WHOLLY OR PARTLY  
31 TO AN ACCIDENT OR A VIOLATION OF THE MARYLAND MOTOR VEHICLE LAW OR THE  
32 MOTOR VEHICLE LAW OF ANOTHER STATE:

33 1. AN INDICATION OF WHETHER THE INCIDENT IS AN  
34 ACCIDENT OR A VIOLATION;

35 2. THE DATE ON WHICH THE ACCIDENT OR VIOLATION  
36 OCCURRED;

1 3. IF AN ACCIDENT, WHETHER THE INSURED WAS AT FAULT  
2 OR NEGLIGENT; AND

3 4. IF A VIOLATION, THE NATURE OF THE VIOLATION;

4 (II) IF THE ACTION OF THE INSURER IS DUE WHOLLY OR PARTLY  
5 TO A CLAIM OTHER THAN AN ACCIDENT-RELATED CLAIM, THE DATE THAT THE  
6 CLAIM OCCURRED AND A DESCRIPTION OF THE CLAIM THAT IS THE BASIS OF THE  
7 INSURER'S ACTION, SUCH AS:

8 1. "THEFT OF VEHICLE ON (DATE)";

9 2. "VANDALISM OF VEHICLE ON (DATE)"; OR

10 3. "TOWING CLAIM ON (DATE)";

11 (III) IF THE PROPOSED ACTION IS BASED WHOLLY OR PARTLY ON  
12 INFORMATION FROM A CONSUMER CREDIT REPORT:

13 1. THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE  
14 CONSUMER REPORTING AGENCY THAT FURNISHED THE CREDIT REPORT,  
15 INCLUDING THE TOLL-FREE NUMBER ESTABLISHED BY THE AGENCY IF THE  
16 AGENCY COMPILES AND MAINTAINS FILES ON CONSUMERS ON A NATIONWIDE  
17 BASIS;

18 2. THAT THE CONSUMER REPORTING AGENCY DID NOT  
19 MAKE THE DECISION TO TAKE THE PROPOSED ACTION AND IS UNABLE TO PROVIDE  
20 THE NAMED INSURED THE SPECIFIC REASONS WHY THE ACTION IS PROPOSED TO BE  
21 TAKEN;

22 3. THAT THE INSURED MAY OBTAIN, UNDER § 1681 OF THE  
23 FEDERAL FAIR CREDIT REPORTING ACT, A FREE COPY OF THE CREDIT REPORT OF  
24 THE INSURED FROM THE CONSUMER REPORTING AGENCY WITHIN 60 DAYS AFTER  
25 RECEIPT OF THE NOTICE; AND

26 4. THAT THE INSURED MAY DISPUTE, UNDER § 1681I OF THE  
27 FEDERAL FAIR CREDIT REPORTING ACT, WITH A CONSUMER REPORTING AGENCY  
28 THE ACCURACY OR COMPLETENESS OF ANY INFORMATION IN THE CREDIT REPORT  
29 FURNISHED BY THE AGENCY; AND

30 (IV) IF THE ACTION OF THE INSURER IS DUE WHOLLY OR PARTLY  
31 TO A REASON OTHER THAN THOSE DESCRIBED IN ITEMS (I), (II), AND (III) OF THIS  
32 PARAGRAPH, THE UNDERWRITING STANDARDS OF THE INSURER, OR THE LAWFUL  
33 TERMS AND CONDITIONS OF THE POLICY, A DESCRIPTION OF THE ACTION OF THE  
34 INSURED THAT IS THE BASIS OF THE INSURER'S ACTION, SUCH AS "INSURED LENDS  
35 THE INSURED VEHICLE TO A NONLISTED DRIVER".

36 (7) IN ADDITION TO THE INFORMATION REQUIRED BY PARAGRAPHS (3)  
37 THROUGH (6) OF THIS SUBSECTION, THE NOTICE SHALL INCLUDE A STATEMENT OF

1 THE ACTION BY THE INSURED THAT EXCEEDS THE INSURER'S RATING CRITERIA  
2 THAT IS THE BASIS OF THE INCREASE IN PREMIUM.

3 (D) A STATEMENT OF ACTUAL REASON CONTAINED IN THE NOTICE OF  
4 PROPOSE ACTION GIVEN UNDER SUBSECTION (C) OF THIS SECTION IS PRIVILEGED  
5 AND DOES NOT CONSTITUTE GROUNDS FOR AN ACTION AGAINST THE INSURER, ITS  
6 REPRESENTATIVES, OR ANOTHER PERSON THAT IN GOOD FAITH PROVIDES TO THE  
7 INSURER INFORMATION ON WHICH THE STATEMENT IS BASED.

8 (E) IF THERE IS COUPLED WITH THE NOTICE OF PROPOSED ACTION GIVEN  
9 UNDER SUBSECTION (C) OF THIS SECTION AN OFFER TO CONTINUE OR RENEW THE  
10 POLICY, WITH AN EXCLUSION, IN ACCORDANCE WITH § 27-606 OF THIS SUBTITLE,  
11 THE OFFER SHALL INCLUDE:

12 (1) THE NAME OF THE INDIVIDUAL OR INDIVIDUALS TO BE EXCLUDED  
13 FROM COVERAGE; AND

14 (2) THE PREMIUM AMOUNT OF THE POLICY IF RENEWED WITHOUT THE  
15 NAMED INDIVIDUAL OR INDIVIDUALS.

16 (F) (1) A NAMED INSURED MAY PROTEST AN INCREASE IN PREMIUM OR A  
17 REDUCTION IN COVERAGE BY SIGNING A COPY OF THE NOTICE OF PROPOSED  
18 ACTION GIVEN UNDER SUBSECTION (C) OF THIS SECTION AND DELIVERING THE  
19 COPY TO THE COMMISSIONER WITHIN 30 DAYS AFTER THE MAILING DATE OF THE  
20 NOTICE.

21 (2) ON RECEIPT OF A PROTEST, THE COMMISSIONER SHALL NOTIFY THE  
22 INSURER OF THE FILING OF THE PROTEST.

23 (3) FOR AN INCREASE IN PREMIUM GREATER THAN 15% FOR THE  
24 ENTIRE POLICY, A PROTEST FILED WITH THE COMMISSIONER STAYS THE PROPOSED  
25 ACTION OF THE INSURER AND THE INSURER SHALL MAINTAIN IN EFFECT THE SAME  
26 COVERAGE AND PREMIUM THAT WERE IN EFFECT ON THE DAY THE NOTICE OF  
27 PROPOSED ACTION WAS SENT TO THE FIRST NAMED INSURED UNTIL A  
28 DETERMINATION IS MADE BY THE COMMISSIONER UNDER SUBSECTION (G) OF THIS  
29 SECTION, SUBJECT TO THE PAYMENT OF THAT PORTION OF THE PREMIUM THAT IS  
30 NOT UNDER PROTEST AND THAT IS DUE OR BECOMES DUE BEFORE THE  
31 DETERMINATION.

32 (4) FOR AN INCREASE IN PREMIUM EQUAL TO OR LESS THAN 15% FOR  
33 THE ENTIRE POLICY, A PROTEST FILED WITH THE COMMISSIONER DOES NOT STAY  
34 THE PROPOSED ACTION OF THE INSURER AND THE FIRST NAMED INSURED MUST  
35 PAY ANY AUTHORIZED PREMIUM THAT IS DUE OR BECOMES DUE BEFORE THE  
36 DETERMINATION.

37 (G) (1) BASED ON THE INFORMATION CONTAINED IN THE NOTICE OF  
38 PROPOSED ACTION GIVEN UNDER SUBSECTION (C) OF THIS SECTION, THE  
39 COMMISSIONER SHALL:



1 (I) DETERMINE WHETHER THE PROTEST BY THE NAMED INSURED  
2 HAS MERIT; AND

3 (II) ISSUE A DETERMINATION EITHER:

4 1. UPHOLDING THE PROTEST AND DISALLOWING THE  
5 PROPOSED ACTION; OR

6 2. DISMISSING THE PROTEST AND ALLOWING THE  
7 PROPOSED ACTION.

8 (2) (I) THE COMMISSIONER MAY NOT DISALLOW A PROPOSED ACTION  
9 OF AN INSURER BECAUSE THE STATEMENT OF ACTUAL REASON IN THE NOTICE  
10 CONTAINS:

11 1. GRAMMATICAL ERRORS, TYPOGRAPHICAL ERRORS, OR  
12 OTHER ERRORS, PROVIDED THAT THE ERRORS ARE NONMATERIAL AND NOT  
13 MISLEADING; OR

14 2. SURPLUS INFORMATION, PROVIDED THAT THE SURPLUS  
15 INFORMATION IS NONMATERIAL AND NOT MISLEADING.

16 (II) IF THE COMMISSIONER FINDS THE PROPOSED ACTION OF THE  
17 INSURER TO BE IN ACCORDANCE WITH THE INSURER'S FILED RATING PLAN, THE  
18 COMMISSIONER SHALL:

19 1. DISMISS THE PROTEST; AND

20 2. ALLOW THE PROPOSED ACTION TO BE TAKEN ON THE  
21 LATER OF:

22 A. ITS PROPOSED EFFECTIVE DATE; OR

23 B. 30 DAYS AFTER THE DATE OF THE DETERMINATION.

24 (III) IF THE COMMISSIONER FINDS THAT THE ACTUAL REASON FOR  
25 THE PROVIDED ACTION IS NOT STATED IN THE NOTICE OR FINDS THE PROPOSED  
26 ACTION NOT TO BE IN ACCORDANCE WITH THE INSURER'S FILED RATING PLAN, THE  
27 COMMISSIONER SHALL:

28 1. UPHOLD THE PROTEST AND DISALLOW THE ACTION; AND

29 2. FOR A PREMIUM INCREASE OF 15% OR LESS FOR THE  
30 ENTIRE POLICY, ORDER THE INSURER, WITHIN 30 DAYS OF THE DETERMINATION TO:

31 A. RETURN TO THE INSURED ALL DISALLOWED PREMIUM  
32 RECEIVED FROM THE INSURED; AND

33 B. PAY TO THE INSURED INTEREST ON THE DISALLOWED  
34 PREMIUM RECEIVED FROM THE INSURED CALCULATED AT 10% A YEAR FROM THE

1 DATE THE DISALLOWED PREMIUM WAS RECEIVED TO THE DATE THE DISALLOWED  
2 PREMIUM WAS RETURNED.

3 (IV) IF AN INSURER FAILS TO RETURN ANY DISALLOWED PREMIUM  
4 OR FAILS TO PAY INTEREST TO AN INSURED IN VIOLATION OF SUBPARAGRAPH (III)2  
5 OF THIS PARAGRAPH, THE INSURER IS IN VIOLATION OF THIS ARTICLE AND SUBJECT  
6 TO THE PENALTIES UNDER § 4-113(D) OF THIS ARTICLE.

7 (3) THE COMMISSIONER SHALL NOTIFY THE INSURER AND THE  
8 INSURED OF THE DETERMINATION PROMPTLY IN WRITING.

9 (4) A DETERMINATION ISSUED UNDER THIS SUBSECTION IS EFFECTIVE  
10 30 DAYS AFTER THE DATE OF THE DETERMINATION.

11 (H) (1) (I) FOR A DETERMINATION INVOLVING A PREMIUM INCREASE OF  
12 15% OR LESS FOR THE ENTIRE POLICY, THE DETERMINATION OF THE COMMISSIONER  
13 IS FINAL AND NO ADMINISTRATIVE HEARING IS AVAILABLE.

14 (II) A PARTY AGGRIEVED BY THE DETERMINATION MAY SEEK  
15 JUDICIAL REVIEW IN ACCORDANCE WITH § 2-215 OF THIS ARTICLE.

16 (2) (I) FOR A DETERMINATION INVOLVING A PREMIUM INCREASE  
17 GREATER THAN 15% FOR THE ENTIRE POLICY, A PARTY AGGRIEVED BY THE  
18 DETERMINATION MAY REQUEST A HEARING IN ACCORDANCE WITH § 2-210 OF THIS  
19 ARTICLE.

20 (II) THE COMMISSIONER SHALL HAVE THE SOLE DISCRETION TO  
21 ORDER THE INSURER TO PAY REASONABLE ATTORNEY'S FEES INCURRED BY THE  
22 INSURED FOR REPRESENTATION AT THE HEARING IF THE COMMISSIONER  
23 CONSIDERS THE FEES APPROPRIATE.

24 (III) FOLLOWING THE ISSUANCE OF AN ORDER FROM AN  
25 ADMINISTRATIVE HEARING, AN AGGRIEVED PARTY MAY SEEK JUDICIAL REVIEW IN  
26 ACCORDANCE WITH § 2-215 OF THIS ARTICLE.

27 (I) THE COMMISSIONER MAY DELEGATE THE POWERS AND DUTIES OF THE  
28 COMMISSIONER UNDER THIS SECTION TO ONE OR MORE EMPLOYEES OR HEARING  
29 OFFICERS.

30 (J) THE COMMISSIONER MAY ADOPT REGULATIONS:

31 (1) THAT EXCLUDE FROM THE REQUIREMENTS OF THIS SECTION  
32 CERTAIN TYPES OF PREMIUM INCREASES, EXCEPT FOR PREMIUM INCREASES DUE  
33 TO:

34 (I) AN ACCIDENT;

35 (II) A VIOLATION OF THE MARYLAND MOTOR VEHICLE LAW OR THE  
36 MOTOR VEHICLE LAW OF ANOTHER STATE;

- 1 (III) THE CLAIMS HISTORY OF THE INSURED;
- 2 (IV) A RECLASSIFICATION OF THE INSURED; OR
- 3 (V) A SURCHARGE; AND
- 4 (2) TO CARRY OUT THIS SECTION.

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