

**ENROLLED BILL**  
-- Economic Matters/Finance --

Introduced by **Delegate D. Davis**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

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Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this  
\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_ M.

\_\_\_\_\_  
Speaker.

CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Commercial Law - Antitrust - Business of Insurance**

3 FOR the purpose of providing that certain provisions of law do not make illegal the  
4 activity of a person engaged in the business of insurance with respect to conduct  
5 actively regulated by the ~~Commissioner of Insurance~~ Maryland Insurance  
6 Commissioner or expressly authorized by certain provisions of law; providing  
7 that certain provisions of this Act may not be construed to prevent the  
8 application of certain provisions of law to persons who agree to or engage in  
9 certain acts; making a certain stylistic change; and generally relating to the  
10 business of insurance.

11 BY repealing and reenacting, with amendments,  
12 Article - Commercial Law  
13 Section 11-203  
14 Annotated Code of Maryland  
15 (2000 Replacement Volume and 2004 Supplement)

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

3 **Article - Commercial Law**

4 11-203.

5 (A) This subtitle does not make illegal the activity of:

6 (1) A labor organization or its individual members directed solely to  
7 lawful labor objectives, or a collective bargaining agreement between a labor  
8 organization, as defined in 29 U.S.C. § 152(5), and an employer or group of employers,  
9 which contains those labor objectives;

10 (2) Any incorporated or unincorporated agricultural or horticultural  
11 cooperative organization or its individual members directed solely to their lawful  
12 objectives;

13 (3) A public service company, as defined in § 1-101 of the Public Utility  
14 Companies Article, or a rating organization or bureau representing the company, to  
15 the extent that the activity is subject to the jurisdiction of the Public Service  
16 Commission or authorized by federal law governing interstate commerce;

17 (4) ~~{An insurer, insurance producer, public adjuster, insurance advisor,  
18 or rating organization, to the extent that the activity is subject to regulation} A  
19 PERSON ENGAGED IN THE BUSINESS OF INSURANCE, AS THAT TERM IS USED IN 15  
20 U.S.C. § 1012, INCLUDING THE MAKING OF OR PARTICIPATING IN JOINT  
21 UNDERWRITING OR JOINT REINSURANCE ARRANGEMENTS, WITH RESPECT TO  
22 CONDUCT THAT IS:~~

23 (I) ~~ACTIVELY REGULATED~~ by the ~~Commissioner of Insurance of the~~  
24 ~~State~~ Maryland Insurance Commissioner; or

25 (II) ~~EXPRESSLY~~ [is] authorized by the Insurance Article or any  
26 other law of the State[, including the making of or participating in joint underwriting  
27 or joint reinsurance arrangements];

28 (5) A nonprofit corporation, trust, or organization established exclusively  
29 for religious or charitable purposes, or for both purposes, to the extent that the  
30 activity is a religious or charitable activity;

31 (6) A security dealer who is licensed by the State or who is a member of  
32 the National Association of Securities Dealers or a member of a National Securities  
33 Exchange registered with the Securities and Exchange Commission under the  
34 Securities Exchange Act of 1934, in the course of his business of offering, selling,  
35 buying and selling, or otherwise trading in or underwriting securities as an agent,  
36 broker, or principal, or the activity of a registered National Securities Exchange,  
37 including the establishment of commission rates and schedules of charges;

1 (7) A board of trade designated as a "contract market" by the Secretary of  
2 Agriculture of the United States under 9 U.S.C. § 5;

3 (8) Any person to the extent that the activity is subject to the jurisdiction  
4 of the Maryland Transit Administration or the Washington Metropolitan Area Transit  
5 Authority;

6 (9) A state or national bank to the extent that the activity is regulated or  
7 supervised under the banking laws of the State or the United States;

8 (10) A state or federal savings and loan association to the extent that the  
9 activity is regulated or supervised under the savings and loan laws of the State or the  
10 United States;

11 (11) A bona fide nonprofit association, society, or board of attorneys,  
12 practitioners of medicine, architects, engineers, land surveyors, or real estate brokers  
13 licensed and regulated by an agency of the State, in recommending schedules of  
14 suggested fees, rates, or commissions for use solely as guidelines in determining  
15 charges for professional or technical services;

16 (12) A political subdivision of the State in furnishing services or  
17 commodities; or

18 (13) A hospital, as defined in § 19-301 of the Health - General Article, in  
19 the course of a merger or consolidation or the joint ownership and operation of major  
20 medical equipment, to the extent that the activity is approved by the Maryland  
21 Health Care Commission under § 19-129 of the Health - General Article.

22 (B) *UNLESS AUTHORIZED UNDER THE INSURANCE ARTICLE*, SUBSECTION  
23 (A)(4) OF THIS SECTION MAY NOT BE CONSTRUED TO PREVENT THE APPLICATION OF  
24 THIS SUBTITLE TO A PERSON WHO:

25 (1) AGREES TO:

26 (I) RIG BIDS;

27 (II) ALLOCATE CUSTOMERS OR TERRITORIES;

28 (III) BOYCOTT;

29 (IV) COERCE; OR

30 (V) INTIMIDATE; OR

31 (2) ENGAGES IN AN ACT OF:

32 (I) BID RIGGING;

33 (II) CUSTOMER OR TERRITORIAL ALLOCATION;

34 (III) BOYCOTT;

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(IV) COERCION; OR

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(V) INTIMIDATION.

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SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect

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October 1, 2005.