
By: **Delegate D. Davis**

Introduced and read first time: February 9, 2005

Assigned to: Economic Matters

A BILL ENTITLED

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 or expressly authorized by
6 certain provisions of law; providing that certain provisions of this Act may not be
7 construed to prevent the application of certain provisions of law to persons who
8 agree to or engage in certain acts; and generally relating to the business of
9 insurance.

10 BY repealing and reenacting, with amendments,

11 Article - Commercial Law

12 Section 11-203

13 Annotated Code of Maryland

14 (2000 Replacement Volume and 2004 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

16 MARYLAND, That the Laws of Maryland read as follows:

17 **Article - Commercial Law**

18 11-203.

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

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

24 (2) Any incorporated or unincorporated agricultural or horticultural
25 cooperative organization or its individual members directed solely to their lawful
26 objectives;

27 (3) A public service company, as defined in § 1-101 of the Public Utility
28 Companies Article, or a rating organization or bureau representing the company, to

1 the extent that the activity is subject to the jurisdiction of the Public Service
2 Commission or authorized by federal law governing interstate commerce;

3 (4) [An insurer, insurance producer, public adjuster, insurance advisor,
4 or rating organization, to the extent that the activity is subject to regulation] A
5 PERSON ENGAGED IN THE BUSINESS OF INSURANCE, AS THAT TERM IS USED IN 15
6 U.S.C. § 1012, INCLUDING THE MAKING OF OR PARTICIPATING IN JOINT
7 UNDERWRITING OR JOINT REINSURANCE ARRANGEMENTS, WITH RESPECT TO
8 CONDUCT THAT IS:

9 (I) ACTIVELY REGULATED by the Commissioner of Insurance of the
10 State; or

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

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

17 (6) A security dealer who is licensed by the State or who is a member of
18 the National Association of Securities Dealers or a member of a National Securities
19 Exchange registered with the Securities and Exchange Commission under the
20 Securities Exchange Act of 1934, in the course of his business of offering, selling,
21 buying and selling, or otherwise trading in or underwriting securities as an agent,
22 broker, or principal, or the activity of a registered National Securities Exchange,
23 including the establishment of commission rates and schedules of charges;

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

26 (8) Any person to the extent that the activity is subject to the jurisdiction
27 of the Maryland Transit Administration or the Washington Metropolitan Area Transit
28 Authority;

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

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

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

1 (12) A political subdivision of the State in furnishing services or
2 commodities; or

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

7 (B) SUBSECTION (A)(4) OF THIS SECTION MAY NOT BE CONSTRUED TO
8 PREVENT THE APPLICATION OF THIS SUBTITLE TO A PERSON WHO:

9 (1) AGREES TO:

10 (I) RIG BIDS;

11 (II) ALLOCATE CUSTOMERS OR TERRITORIES;

12 (III) BOYCOTT;

13 (IV) COERCE; OR

14 (V) INTIMIDATE; OR

15 (2) ENGAGES IN AN ACT OF:

16 (I) BID RIGGING;

17 (II) CUSTOMER OR TERRITORIAL ALLOCATION;

18 (III) BOYCOTT;

19 (IV) COERCION; OR

20 (V) INTIMIDATION.

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