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By: **Delegate D. Davis**  
Introduced and read first time: February 9, 2005  
Assigned to: Economic Matters

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Committee Report: Favorable with amendments  
House action: Adopted  
Read second time: March 21, 2005

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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 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

1 organization, as defined in 29 U.S.C. § 152(5), and an employer or group of employers,  
2 which contains those labor objectives;

3 (2) Any incorporated or unincorporated agricultural or horticultural  
4 cooperative organization or its individual members directed solely to their lawful  
5 objectives;

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

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

16 (I) ~~ACTIVELY~~ REGULATED by the Commissioner of Insurance of the  
17 State; or

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

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

24 (6) A security dealer who is licensed by the State or who is a member of  
25 the National Association of Securities Dealers or a member of a National Securities  
26 Exchange registered with the Securities and Exchange Commission under the  
27 Securities Exchange Act of 1934, in the course of his business of offering, selling,  
28 buying and selling, or otherwise trading in or underwriting securities as an agent,  
29 broker, or principal, or the activity of a registered National Securities Exchange,  
30 including the establishment of commission rates and schedules of charges;

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

33 (8) Any person to the extent that the activity is subject to the jurisdiction  
34 of the Maryland Transit Administration or the Washington Metropolitan Area Transit  
35 Authority;

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

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

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

9 (12) A political subdivision of the State in furnishing services or  
10 commodities; or

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

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

17 (1) AGREES TO:

18 (I) RIG BIDS;

19 (II) ALLOCATE CUSTOMERS OR TERRITORIES;

20 (III) BOYCOTT;

21 (IV) COERCE; OR

22 (V) INTIMIDATE; OR

23 (2) ENGAGES IN AN ACT OF:

24 (I) BID RIGGING;

25 (II) CUSTOMER OR TERRITORIAL ALLOCATION;

26 (III) BOYCOTT;

27 (IV) COERCION; OR

28 (V) INTIMIDATION.

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

