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

Introduced and read first time: January 21, 2005

Rules suspended

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 21, 2005

CHAPTER _____

1 AN ACT concerning

2 **Insurance - Regulation of Premium Finance Companies**

3 FOR the purpose of requiring certain information at the initial registration of a
 4 premium finance company; requiring certain information at the renewal of
 5 registration of a premium finance company; requiring updated information to be
 6 reported within a certain time frame; requiring a premium finance company to
 7 disclose certain information to certain persons on written request; altering the
 8 amount of certain fees to be paid to the Maryland Insurance Commissioner;
 9 increasing the minimum and maximum monetary penalties that the ~~Insurance~~
 10 Commissioner may impose on a premium finance company for certain violations
 11 by the premium finance company; clarifying that the Commissioner may require
 12 that restitution be made by a premium finance company under certain
 13 circumstances in addition to imposing a monetary penalty on the premium
 14 finance company; clarifying the responsibility of a premium finance company
 15 over certain third parties; requiring disclosure of certain information by certain
 16 independent insurance producers; and generally relating to premium finance
 17 companies.

18 BY repealing and reenacting, with amendments,
 19 Article - Insurance
 20 Section 23-203, 23-205, 23-206, 23-208, and 23-505.2
 21 Annotated Code of Maryland
 22 (2002 Replacement Volume and 2004 Supplement)

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

1

Article - Insurance

2 23-203.

3 (a) An applicant for INITIAL registration shall:

4 (1) file with the Commissioner an application on the form that the
5 Commissioner requires; and

6 (2) pay to the Commissioner an application fee of [\$50] \$250.

7 (b) The registration form shall include the following information:

8 (1) the name, business address, and telephone number of the premium
9 finance company;10 (2) the name and business address of each officer, director, principal, and
11 partner of the premium finance company; [and]12 (3) in the case of a corporation OR LIMITED LIABILITY COMPANY, a
13 certificate of good standing issued by the State Department of Assessments and
14 Taxation; AND

15 (4) EVIDENCE OF COMPLIANCE WITH § 23-202 OF THIS SUBTITLE.

16 (c) A registration form may require the applicant to:

17 (1) file the form of the premium finance agreement to be used;

18 (2) file the [service charges] FINANCE CHARGES, INITIAL SERVICE FEE,
19 AND ALL OTHER FEES AND CHARGES to be applied FOR PRIOR APPROVAL; [and]20 (3) ~~FILE THE ACCOUNTING METHOD OF FORMULA USED TO CALCULATE~~
21 ~~FINANCE CHARGES DISCLOSE TO THE COMMISSIONER, AN INSURER, OR THE~~
22 ~~MARYLAND AUTOMOBILE INSURANCE FUND, ON WRITTEN REQUEST, THE METHOD~~
23 ~~OR FORMULA USED TO CALCULATE THE FINANCE CHARGES AND THE AMOUNT OF~~
24 ~~REFUND ON CANCELLATION OF THE INSURANCE CONTRACT; AND~~25 [(3)] (4) disclose the identity, trade names, and names of managers and
26 owners of the applicant.

27 23-205.

28 (a) A registration expires on the first July 1 after its effective date unless it is
29 renewed as provided in this section.30 (b) Before a registration expires, the registrant may renew it for an additional
31 1-year term if the registrant:

1 (1) [otherwise is entitled to be registered; and] FILES WITH THE
2 COMMISSIONER A RENEWAL APPLICATION IN THE FORM REQUIRED BY THE
3 COMMISSIONER; AND

4 (2) pays to the Commissioner a renewal fee of \$50.

5 (C) THE RENEWAL REGISTRATION FORM SHALL INCLUDE:

6 (1) IN THE CASE OF A CORPORATION OR LIMITED LIABILITY COMPANY, A
7 CERTIFICATE OF GOOD STANDING ISSUED BY THE DEPARTMENT OF ASSESSMENTS
8 AND TAXATION; AND

9 (2) EVIDENCE OF COMPLIANCE WITH § 23-202 OF THIS SUBTITLE.

10 [(c)] (D) The Commissioner shall renew the registration of each registrant
11 that meets the requirements of this section.

12 23-206.

13 (A) The Commissioner shall require a premium finance company to report, on
14 forms provided by the Commissioner, changes in officers, directors, owners, trade
15 names, principals, partners, business addresses, and telephone numbers WITHIN 30
16 DAYS AFTER THE CHANGES OCCUR.

17 (B) A PREMIUM FINANCE COMPANY SHALL FILE ALL CHANGES TO THE FORM
18 OF THE PREMIUM FINANCE AGREEMENT FOR APPROVAL PRIOR TO THEIR USE.

19 (C) A PREMIUM FINANCE COMPANY SHALL FILE ALL CHANGES TO FINANCE
20 CHARGES ~~AND FEES, INITIAL SERVICE FEE, AND ALL OTHER FEES AND CHARGES~~
21 UNDER A PREMIUM FINANCE AGREEMENT FOR APPROVAL PRIOR TO THEIR USE.

22 (D) A PREMIUM FINANCE COMPANY SHALL ~~FILE ALL CHANGES TO THE~~
23 ~~ACCOUNTING METHOD OR FORMULA USED TO CALCULATE FINANCE CHARGES~~
24 DISCLOSE TO THE COMMISSIONER, AN INSURER, OR THE MARYLAND AUTOMOBILE
25 INSURANCE FUND, UPON WRITTEN REQUEST, THE METHOD OR FORMULA USED TO
26 CALCULATE THE FINANCE CHARGES AND THE AMOUNT OF REFUND ON
27 CANCELLATION OF THE INSURANCE CONTRACT.

28 23-208.

29 (a) Subject to the hearing provisions of Title 2 of this article, the
30 Commissioner may deny a registration to an applicant or suspend, revoke, or refuse
31 to renew the registration of a registrant if the Commissioner finds that the applicant
32 or registrant has:

33 (1) failed to comply with a lawful requirement of the Commissioner
34 under this title;

35 (2) violated a provision of this title;

36 (3) made a material misstatement in the application for registration;

1 (4) engaged in fraudulent or dishonest practices; or

2 (5) demonstrated incompetency or untrustworthiness to engage in the
3 business of a premium finance company.

4 (b) (1) Instead of or in addition to suspending, revoking, or refusing to renew
5 a registration, the Commissioner may:

6 (i) impose on the registrant[, for a first or second offense,] a
7 penalty of not less than [\$25] \$100 but not exceeding [\$500] ~~\$125,000; or \$5,000 FOR~~
8 EACH VIOLATION OF THIS ARTICLE; AND

9 (ii) require that restitution be made by a registrant that violates
10 this title to a person that has suffered financial injury as a result of a violation of this
11 title.

12 (2) For purposes of this subsection, restitution means the sum of money
13 that, if paid to a person that suffers financial injury as a result of violation of this
14 title, will restore the person to the same financial position the person would have
15 been in had the violation not occurred.

16 (C) A PREMIUM FINANCE COMPANY THAT DELEGATES ADMINISTRATION OF A
17 PREMIUM FINANCE AGREEMENT TO A THIRD PARTY IS RESPONSIBLE FOR A
18 VIOLATION OF ANY PROVISION OF THIS TITLE BY THAT THIRD PARTY IN THE
19 ADMINISTRATION OF THE PREMIUM FINANCE AGREEMENT REGARDLESS OF THE
20 DELEGATION.

21 23-505.2.

22 (a) An insurer that markets through independent insurance producers as
23 defined in this article may not discriminate, intimidate, or retaliate against an
24 insurance producer or insured that uses premium financing by denying the insurance
25 producer or insured the same rights accorded to insurance producers or insureds who
26 pay premiums in a different manner.

27 (b) With respect to personal lines automobile insurance, an independent
28 insurance producer, who directly or indirectly has an ownership interest in a
29 premium finance company, shall provide a disclosure to be signed by the insured
30 comparing the costs and terms of premium financing with the insurer's alternative
31 payment plan.

32 (C) THE COMPARISON REQUIRED BY SUBSECTION (B) OF THIS SECTION SHALL
33 STATE:

34 (1) THE TOTAL AMOUNT TO BE PAID BY THE INSURED UNDER THE
35 PREMIUM FINANCE AGREEMENT DURING THE POLICY TERM, INCLUDING PREMIUM,
36 ANY DOWN PAYMENT, AND ALL INTEREST, FEES, AND CHARGES INCIDENT TO THE
37 PREMIUM FINANCE AGREEMENT AND RESULTING EXTENSION OF CREDIT; AND

1 (2) THE TOTAL AMOUNT TO BE PAID BY THE INSURED UNDER THE
2 INSURER'S ~~ALTERNATE~~ ALTERNATIVE PAYMENT PLAN DURING THE POLICY TERM,
3 INCLUDING PREMIUM, ANY DOWN PAYMENT, AND ALL FEES AND CHARGES
4 INCIDENT TO THE ALTERNATIVE PAYMENT PLAN.

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