

ENROLLED BILL
-- Economic Matters/Finance --

Introduced by ~~Delegates Feldman and Miller~~, **Miller, and Conroy**

Read and Examined by Proofreaders:

Proofreader.

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 **Insurance - Private Passenger Motor Vehicle Liability Insurance -**
3 **Cancellations, Failures to Renew, Reductions in Coverage, and Premium**
4 **Increases**

5 FOR the purpose of providing that certain insurers may cancel, fail to renew, or
6 reduce coverage under a binder or policy of private passenger motor vehicle
7 insurance under certain circumstances; altering the contents of a certain notice
8 of proposed action; requiring an insurer's statement of actual reason for a
9 proposed action to include a brief statement of the basis for the action;
10 specifying the minimum contents of the statement; altering the circumstances
11 under which the Maryland Insurance Commissioner is prohibited from
12 disallowing a proposed action of an insurer; repealing a provision of law that
13 authorizes the Commissioner to adopt certain regulations; altering a certain
14 burden of proof; providing that a notice of premium increase for private
15 passenger motor vehicle liability insurance may be included in a renewal offer or
16 policy; providing for the form and contents of the notice; authorizing an insured
17 to protest certain premium increases and request a certain hearing under

1 certain circumstances; establishing the criteria the Commissioner must use in
 2 dismissing a protest or disallowing the proposed action of an insurer;
 3 authorizing the Commissioner to order a stay of a premium increase under
 4 certain circumstances; prohibiting the Commissioner from dismissing a protest
 5 under certain circumstances; altering the amount of interest an insurer is
 6 required to pay to an insured under certain circumstances; authorizing the
 7 Maryland Insurance Administration to establish a certain pilot program;
 8 requiring the Administration to report to certain committees of the General
 9 Assembly on the pilot program on or before a certain date; making conforming
 10 and stylistic changes; providing for the application of this Act; providing for a
 11 delayed effective date; and generally relating to private passenger motor vehicle
 12 liability insurance.

13 BY repealing and reenacting, with amendments,
 14 Article - Insurance
 15 Section 27-605
 16 Annotated Code of Maryland
 17 (2002 Replacement Volume and 2005 Supplement)

18 BY adding to
 19 Article - Insurance
 20 Section 27-605.1
 21 Annotated Code of Maryland
 22 (2002 Replacement Volume and 2005 Supplement)

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

25 **Article - Insurance**

26 27-605.

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

- 29 (1) a surcharge;
 30 (2) retiering or other reclassification of an insured; or
 31 (3) removal or reduction of a discount.]

32 (1) THIS SECTION APPLIES ONLY TO PRIVATE PASSENGER MOTOR
 33 VEHICLE LIABILITY INSURANCE.

34 (2) THIS SECTION DOES NOT APPLY TO THE MARYLAND AUTOMOBILE
 35 INSURANCE FUND.

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

7 (i) cancel or fail to renew the policy or binder [for a reason other
8 than nonpayment of premium]; OR

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

10 (iii)] reduce coverage under the policy.

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

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

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

19 [(iii)] (II) the failure to renew the policy takes place under a plan of
20 withdrawal that:

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

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

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

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

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

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

- 1 (3) The notice must state in clear and specific terms:
- 2 (i) the proposed action to be taken, including[:
- 3 1. for a premium increase, the amount of the increase and
4 the type of coverage to which it is applicable; and
- 5 2.] for a reduction in coverage, the type of coverage reduced
6 and the extent of the reduction;
- 7 (ii) the proposed effective date of the action;
- 8 (iii) subject to paragraph (4) of this subsection, the actual reason of
9 the insurer for proposing to take the action;
- 10 (iv) if there is coupled with the notice an offer to continue or renew
11 the policy in accordance with § 27-606 of this subtitle:
- 12 1. the name of the individual or individuals to be excluded
13 from coverage; and
- 14 2. the premium amount if the policy is continued or renewed
15 with the named individual or individuals excluded from coverage;
- 16 (v) the right of the insured to replace the insurance through the
17 Maryland Automobile Insurance Fund and the current address and telephone number
18 of the Fund;
- 19 (vi) the right of the insured to protest the proposed action of the
20 insurer and[, except in the case of a premium increase of 15% or less for the entire
21 policy,] request a hearing before the Commissioner on the proposed action by signing
22 two copies of the notice and sending them to the Commissioner within 30 days after
23 the mailing date of the notice;
- 24 (vii) [except for a premium increase of 15% or less for the entire
25 policy,] that if a protest is filed by the insured, the insurer must maintain the current
26 insurance in effect until a final determination is made by the Commissioner, subject
27 to the payment of any authorized premium due or becoming due before the
28 determination; AND
- 29 (viii) that the Commissioner shall order the insurer to pay reasonable
30 attorney fees incurred by the insured for representation at the hearing if the
31 Commissioner finds that:
- 32 1. the actual reason for the proposed action is not stated in
33 the notice or the proposed action is not in accordance with § 27-501 of this article, the
34 insurer's filed rating plan, its underwriting standards, or the lawful terms and
35 conditions of the policy related to a cancellation, nonrenewal, ~~premium increase~~, or
36 reduction in coverage; and

1 2. the insurer's conduct in maintaining or defending the
2 proceeding was in bad faith or the insurer acted willfully in the absence of a bona fide
3 dispute]; and

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

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

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

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

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

19 (4) (i) The insurer's statement of actual reason for proposing to take
20 an action subject to this section must be [sufficiently] clear and specific [so that an
21 individual of average intelligence can identify the basis for the insurer's decision
22 without making further inquiry] AND INCLUDE A BRIEF STATEMENT OF THE BASIS
23 FOR THE ACTION, INCLUDING, AT A MINIMUM:

24 1. IF THE ACTION OF THE INSURER IS DUE WHOLLY OR
25 PARTLY TO AN ACCIDENT:

26 A. THE NAME OF THE DRIVER;

27 B. THE DATE OF THE ACCIDENT; AND

28 C. IF FAULT IS A MATERIAL FACTOR FOR THE INSURER'S
29 ACTION, A STATEMENT THAT THE DRIVER WAS AT FAULT;

30 2. IF THE ACTION OF THE INSURER IS DUE WHOLLY OR
31 PARTLY TO A VIOLATION OF THE MARYLAND VEHICLE LAW OR THE VEHICLE LAWS
32 OF ANOTHER STATE OR TERRITORY OF THE UNITED STATES:

33 A. THE NAME OF THE DRIVER;

34 B. THE DATE OF THE VIOLATION; AND

35 C. A DESCRIPTION OF THE VIOLATION;

1 3. IF THE ACTION OF THE INSURER IS DUE WHOLLY OR
2 PARTLY TO THE CLAIMS HISTORY OF AN INSURED, A DESCRIPTION OF EACH CLAIM;

3 4. WHETHER THE INSURER'S ACTION IS BASED ON A
4 VIOLATION OF LAW, POLICY TERMS OR CONDITIONS, OR THE INSURER'S
5 UNDERWRITING STANDARDS;

6 5. WHETHER THE INSURER'S ACTION IS BASED ON A
7 MATERIAL MISREPRESENTATION; AND

8 6. ANY OTHER INFORMATION THAT IS THE BASIS FOR THE
9 INSURER'S ACTION.

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

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

15 1. grammatical errors, typographical errors, or other errors
16 provided that the errors are nonmaterial and not misleading; [or]

17 2. surplus information, provided that the surplus
18 information is nonmaterial and not misleading; OR

19 3. ERRONEOUS INFORMATION, PROVIDED THAT IN ABSENCE
20 OF THE ERRONEOUS INFORMATION, THERE REMAINS A SUFFICIENT BASIS TO
21 SUPPORT THE ACTION.

22 (d) At least 10 days before the date an insurer proposes to cancel a policy for
23 nonpayment of premium, the insurer shall [cause to be sent] SEND to the insured, by
24 certificate of ~~mailing~~ MAIL, a written notice of intention to cancel for nonpayment of
25 premium.

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

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

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

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

1 (4) [Except for a premium increase of 15% or less for the entire policy, a]
2 A protest filed with the Commissioner stays the proposed action of the insurer
3 pending a final determination by the Commissioner.

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

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

12 (g) (1) Based on the information contained in the notice, the Commissioner
13 SHALL:

14 (i) [shall] determine whether the protest by the insured has merit;
15 and

16 (ii) [either shall] dismiss the protest or disallow the proposed
17 action of the insurer.

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

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

23 (4) [Except in the case of a premium increase of 15% or less for the
24 entire policy the] THE Commissioner shall:

25 (i) hold a hearing within a reasonable time after the request for a
26 hearing; and

27 (ii) give written notice of the time and place of the hearing at least
28 10 days before the hearing.

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

31 (6) At the hearing the insurer has the burden of proving its proposed
32 action to be [justified] IN ACCORDANCE WITH THE INSURER'S FILED RATING PLAN,
33 ITS UNDERWRITING STANDARDS, OR THE LAWFUL TERMS AND CONDITIONS OF THE
34 POLICY RELATED TO A CANCELLATION, NONRENEWAL, OR REDUCTION IN
35 COVERAGE, AS APPLICABLE, AND NOT IN VIOLATION OF § 27-501 OF THIS TITLE and,
36 in doing so, may rely only on the reasons set forth in its notice to the insured.

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

3 (2) If the Commissioner finds the proposed action of the insurer to be in
4 accordance with the insurer's {filed rating plan, its} underwriting standards{,} or
5 the lawful terms and conditions of the policy related to a cancellation, nonrenewal,
6 [premium increase,] or reduction in coverage, as applicable, and not in violation of §
7 27-501 of this [article] TITLE, 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 that the actual reason for the proposed
13 action is not stated in the notice or the proposed action is not in accordance with §
14 27-501 of this [article] TITLE, the insurer's {filed rating plan, its} underwriting
15 standards{,} or the lawful terms and conditions of the policy related to a cancellation,
16 nonrenewal, [premium increase,] or reduction in coverage, the Commissioner shall:

17 (i) disallow the action; and

18 (ii) order the insurer to pay reasonable attorney fees incurred by
19 the insured for representation at the hearing if the Commissioner finds that the
20 insurer's conduct in maintaining or defending the proceeding was in bad faith or the
21 insurer acted willfully in the absence of a bona fide dispute.

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

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

26 (i) return to the insured all disallowed premium received from the
27 insured; and

28 (ii) pay to the insured interest on the disallowed premium received
29 from the insured calculated at 10% per annum from the date the disallowed premium
30 was received to the date the disallowed premium was returned.

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

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

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

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

11 27-605.1.

12 (A) IN THIS SECTION, "INCREASE IN PREMIUM" AND "PREMIUM INCREASE"
13 INCLUDE AN INCREASE IN TOTAL PREMIUM FOR ~~ANY COVERAGE ON A POLICY~~ DUE
14 TO:

- 15 (1) A SURCHARGE;
- 16 (2) RETIERING OR OTHER RECLASSIFICATION OF AN INSURED; OR
- 17 (3) REMOVAL OR REDUCTION OF A DISCOUNT.

18 (B) (1) THIS SECTION APPLIES ONLY TO PRIVATE PASSENGER MOTOR
19 VEHICLE LIABILITY INSURANCE.

20 (2) THIS SECTION DOES NOT APPLY TO THE MARYLAND AUTOMOBILE
21 INSURANCE FUND.

22 (C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, AT
23 LEAST 45 DAYS BEFORE THE EFFECTIVE DATE OF AN INCREASE IN THE TOTAL
24 PREMIUM FOR A POLICY OF PRIVATE PASSENGER MOTOR VEHICLE LIABILITY
25 INSURANCE, THE INSURER SHALL SEND WRITTEN NOTICE OF THE PREMIUM
26 INCREASE TO THE INSURED AT THE LAST KNOWN ADDRESS OF THE INSURED BY
27 CERTIFICATE OF ~~MAILING~~ MAIL.

28 (2) THE NOTICE REQUIRED BY PARAGRAPH (1) OF THIS SUBSECTION
29 NEED NOT BE GIVEN IF THE PREMIUM INCREASE IS PART OF A GENERAL INCREASE
30 IN PREMIUMS ~~APPROVED BY THE COMMISSIONER~~ THAT IS FILED IN ACCORDANCE
31 WITH TITLE 11 OF THIS ARTICLE AND DOES NOT RESULT FROM A RECLASSIFICATION
32 OF THE INSURED.

33 (3) THE NOTICE MAY ACCOMPANY OR BE INCLUDED IN THE RENEWAL
34 OFFER OR POLICY.

1 (4) THE NOTICE MUST BE IN DUPLICATE AND ON A FORM APPROVED BY
2 THE COMMISSIONER.

3 (5) THE NOTICE MUST STATE IN CLEAR AND SPECIFIC TERMS:

4 (I) THE PREMIUM FOR THE CURRENT POLICY PERIOD;

5 (II) THE PREMIUM FOR THE RENEWAL POLICY PERIOD;

6 (III) THE BASIS FOR THE ACTION, INCLUDING, AT A MINIMUM:

7 1. IF THE PREMIUM INCREASE IS DUE WHOLLY OR PARTLY
8 TO AN ACCIDENT:

9 A. THE NAME OF THE DRIVER;

10 B. THE DATE OF THE ACCIDENT; AND

11 C. IF FAULT IS A MATERIAL FACTOR FOR THE INSURER'S
12 ACTION, A STATEMENT THAT THE DRIVER WAS AT FAULT;

13 2. IF THE PREMIUM INCREASE IS DUE WHOLLY OR PARTLY
14 TO A VIOLATION OF THE MARYLAND VEHICLE LAW OR THE VEHICLE LAWS OF
15 ANOTHER STATE OR TERRITORY OF THE UNITED STATES:

16 A. THE NAME OF THE DRIVER;

17 B. THE DATE OF THE VIOLATION; AND

18 C. A DESCRIPTION OF THE VIOLATION;

19 3. IF THE PREMIUM INCREASE IS DUE WHOLLY OR PARTLY
20 TO THE CLAIMS HISTORY OF AN INSURED, A DESCRIPTION OF EACH CLAIM; AND

21 4. ANY OTHER INFORMATION THAT IS THE BASIS FOR THE
22 INSURER'S ACTION;

23 (IV) THAT THE INSURED SHOULD CONTACT THE INSURED'S
24 INSURANCE PRODUCER OR INSURER FOR A REVIEW OF THE PREMIUM IF THE
25 INSURED HAS A QUESTION ABOUT THE INCREASE IN PREMIUM OR BELIEVES THE
26 INFORMATION IN THE NOTICE IS INCORRECT;

27 (V) THE RIGHT OF THE INSURED TO PROTEST THE PREMIUM
28 INCREASE AND, IN THE CASE OF A PREMIUM INCREASE OF MORE THAN 15% FOR THE
29 ENTIRE POLICY, TO REQUEST A HEARING BEFORE THE COMMISSIONER BY MAILING
30 OR TRANSMITTING BY FACSIMILE TO THE COMMISSIONER:

31 1. A COPY OF THE NOTICE;

32 2. THE INSURED'S ADDRESS AND DAYTIME TELEPHONE
33 NUMBER; AND

1 3. A STATEMENT OF THE REASON THAT THE INSURED
2 BELIEVES THE PREMIUM INCREASE IS INCORRECT;

3 (VI) THE ADDRESS AND FACSIMILE NUMBER OF THE
4 ADMINISTRATION; AND

5 (VII) THAT THE COMMISSIONER SHALL ORDER THE INSURER TO PAY
6 REASONABLE ATTORNEY FEES INCURRED BY THE INSURED FOR REPRESENTATION
7 AT A HEARING IF THE COMMISSIONER FINDS THAT:

8 1. THE ACTUAL REASON FOR THE PROPOSED ACTION IS NOT
9 STATED IN THE NOTICE OR THE PROPOSED ACTION IS NOT IN ACCORDANCE WITH
10 THIS ARTICLE OR THE INSURER'S FILED RATING PLAN; AND

11 2. THE INSURER'S CONDUCT IN MAINTAINING OR
12 DEFENDING THE PROCEEDING WAS IN BAD FAITH OR THE INSURER ACTED
13 WILLFULLY IN THE ABSENCE OF A BONA FIDE DISPUTE.

14 (D) (1) IF THE INSURED BELIEVES THAT THE PREMIUM INCREASE IS
15 INCORRECT, THE INSURED MAY PROTEST THE PROPOSED ACTION OF THE INSURER
16 WITHIN 30 DAYS AFTER THE MAILING DATE OF THE NOTICE BY MAILING OR
17 TRANSMITTING BY FACSIMILE TO THE COMMISSIONER:

18 (I) A COPY OF THE NOTICE;

19 (II) THE INSURED'S ADDRESS AND DAYTIME TELEPHONE NUMBER;
20 AND

21 (III) A STATEMENT OF THE REASON THAT THE INSURED BELIEVES
22 THE PREMIUM INCREASE IS INCORRECT.

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

25 (3) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
26 PARAGRAPH, A PROTEST FILED WITH THE COMMISSIONER DOES NOT STAY THE
27 PROPOSED ACTION OF THE INSURER.

28 (II) IF A PREMIUM INCREASE FOR A POLICY EXCEEDS 15%, THE
29 COMMISSIONER MAY ORDER A STAY OF THE PREMIUM INCREASE PENDING A FINAL
30 DECISION IF THE COMMISSIONER MAKES A FINDING THAT THE PREMIUM INCREASE:

31 1. MAY CAUSE THE POLICYHOLDER UNDUE HARM; AND

32 2. IS IN VIOLATION OF THE INSURER'S FILED RATING PLAN.

33 (4) BASED ON THE INFORMATION CONTAINED IN THE NOTICE, THE
34 COMMISSIONER SHALL:

35 (I) DETERMINE WHETHER THE INSURER'S ACTION IS IN
36 ACCORDANCE WITH THE INSURER'S FILED RATING PLAN AND THIS ARTICLE; AND

1 (II) DISMISS THE PROTEST OR DISALLOW THE PROPOSED ACTION
2 OF THE INSURER.

3 (5) THE COMMISSIONER SHALL NOTIFY THE INSURER AND THE
4 INSURED OF THE ACTION OF THE COMMISSIONER PROMPTLY IN WRITING.

5 (6) FOR A PREMIUM INCREASE OF MORE THAN 15% FOR THE ENTIRE
6 POLICY, WITHIN 30 DAYS AFTER THE MAILING DATE OF THE COMMISSIONER'S
7 NOTICE OF ACTION, THE AGGRIEVED PARTY MAY REQUEST A HEARING.

8 (7) THE COMMISSIONER SHALL:

9 (I) HOLD A HEARING WITHIN A REASONABLE TIME AFTER THE
10 REQUEST FOR A HEARING; AND

11 (II) GIVE WRITTEN NOTICE OF THE TIME AND PLACE OF THE
12 HEARING AT LEAST 10 DAYS BEFORE THE HEARING.

13 (8) A HEARING REQUESTED UNDER THIS SUBSECTION SHALL BE
14 CONDUCTED IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE
15 GOVERNMENT ARTICLE.

16 (9) AT THE HEARING THE INSURER HAS THE BURDEN OF PROVING ITS
17 PROPOSED ACTION TO BE IN ACCORDANCE WITH ITS FILED RATING PLAN AND THIS
18 ARTICLE AND, IN DOING SO, MAY RELY ONLY ON THE REASONS SET FORTH IN ITS
19 NOTICE TO THE INSURED.

20 (E) (1) THE COMMISSIONER SHALL ISSUE AN ORDER WITHIN 30 DAYS AFTER
21 THE CONCLUSION OF THE HEARING.

22 (2) IF THE COMMISSIONER FINDS THE PROPOSED ACTION OF THE
23 INSURER TO BE IN ACCORDANCE WITH THE INSURER'S FILED RATING PLAN AND
24 THIS ARTICLE, THE COMMISSIONER SHALL:

25 (I) DISMISS THE PROTEST; AND

26 (II) IF THE INSURER'S ACTION IS STAYED, ALLOW THE PROPOSED
27 ACTION OF THE INSURER TO BE TAKEN ON THE LATER OF:

28 1. ITS PROPOSED EFFECTIVE DATE; AND

29 2. 30 DAYS AFTER THE DATE OF THE DETERMINATION.

30 (3) IF THE COMMISSIONER FINDS THAT THE ACTUAL REASON FOR THE
31 PROPOSED ACTION IS NOT STATED IN THE NOTICE OR THE PROPOSED ACTION IS NOT
32 IN ACCORDANCE WITH THE INSURER'S FILED RATING PLAN OR THIS ARTICLE, THE
33 COMMISSIONER SHALL:

34 (I) DISALLOW THE ACTION; AND

1 (II) ORDER THE INSURER TO PAY REASONABLE ATTORNEY FEES
2 INCURRED BY THE INSURED FOR REPRESENTATION AT THE HEARING IF THE
3 COMMISSIONER FINDS THAT THE INSURER'S CONDUCT IN MAINTAINING OR
4 DEFENDING THE PROCEEDING WAS IN BAD FAITH OR THE INSURER ACTED
5 WILLFULLY IN THE ABSENCE OF A BONA FIDE DISPUTE.

6 (4) THE COMMISSIONER MAY NOT DISMISS A PROTEST SOLELY BECAUSE
7 OF THE INSURED'S FAILURE TO STATE A REASON THAT THE INSURED BELIEVES THE
8 PREMIUM INCREASE IS INCORRECT.

9 (F) (1) IF THE COMMISSIONER DISALLOWS A PREMIUM INCREASE FOR THE
10 ENTIRE POLICY, THE INSURER, WITHIN 30 DAYS AFTER THE DISALLOWANCE, SHALL:

11 (I) RETURN TO THE INSURED ALL DISALLOWED PREMIUM
12 RECEIVED FROM THE INSURED; AND

13 (II) PAY TO THE INSURED INTEREST ON THE DISALLOWED
14 PREMIUM RECEIVED FROM THE INSURED CALCULATED AT 10% A YEAR FROM THE
15 DATE THE DISALLOWED PREMIUM WAS RECEIVED TO THE DATE THE DISALLOWED
16 PREMIUM WAS RETURNED.

17 (2) IF AN INSURER FAILS TO RETURN ANY DISALLOWED PREMIUM AND
18 INTEREST TO THE INSURED AS PROVIDED IN PARAGRAPH (1) OF THIS SUBSECTION
19 WITHIN 30 DAYS AFTER THE COMMISSIONER DISALLOWS THE ACTION OF THE
20 INSURER, THE INSURER SHALL PAY INTEREST ON THE DISALLOWED PREMIUM
21 CALCULATED AT 20% A YEAR BEGINNING ON THE 31ST DAY FOLLOWING THE
22 DISALLOWANCE TO THE DATE THE DISALLOWED PREMIUM IS RETURNED.

23 ~~(2)~~ (3) IF AN INSURER FAILS TO RETURN ANY DISALLOWED PREMIUM
24 OR FAILS TO PAY INTEREST TO AN INSURED IN VIOLATION OF ~~PARAGRAPH (1)~~
25 PARAGRAPHS (1) AND (2) OF THIS SUBSECTION, THE INSURER IS SUBJECT TO THE
26 PENALTIES UNDER § 4-113(D) OF THIS ARTICLE.

27 (G) A PARTY TO A PROCEEDING UNDER THIS SECTION MAY APPEAL THE
28 DECISION OF THE COMMISSIONER IN ACCORDANCE WITH § 2-215 OF THIS ARTICLE.

29 SECTION 2. AND BE IT FURTHER ENACTED, That:

30 (a) The Maryland Insurance Administration may establish a pilot program for
31 the purpose of reducing the number of protests filed under this Act.

32 (b) Participation by insurers and insureds in the pilot program shall be
33 voluntary.

34 (c) The pilot program may require participating insurers to provide certain
35 information and assistance to consumers who request information about premium
36 increases.

37 (d) On or before January 1, 2008, the Maryland Insurance Administration
38 shall report to the Senate Finance Committee and the House Economic Matters

1 Committee, in accordance with § 2-1246 of the State Government Article, on the
2 implementation and results of the pilot program.

3 SECTION 3. AND BE IT FURTHER ENACTED, That this Act applies to all
4 private passenger motor vehicle liability binders and policies issued or renewed on or
5 after the effective date of this Act.

6 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 January 1, 2007.