
By: **Delegate D. Davis**

Introduced and read first time: February 8, 2006

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

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

3 FOR the purpose of altering the filing requirements and registration fee for an initial
4 registration by a premium finance company; altering the requirements for
5 renewal of a registration; requiring a premium finance company to report
6 certain changes within a certain number of days after a change occurs; requiring
7 a premium finance company to file all changes to the form of the premium
8 finance agreement used by the premium finance company and to certain fees
9 and charges applied by the premium finance company; prohibiting a premium
10 finance company from using a premium finance agreement form or applying
11 certain fees or charges unless the form, fee, or charge is approved by the
12 Maryland Insurance Commissioner; requiring a premium finance company to
13 disclose a certain method or formula to the Commissioner on written request;
14 altering the penalties that may be imposed on a premium finance company for
15 certain violations; providing that a premium finance company that delegates
16 administration of a premium finance agreement to a third party is responsible
17 for a violation of certain provisions of law by the third party; altering the
18 information that must be contained in a premium finance agreement; altering
19 the requirements for sending certain notices; clarifying that a cancellation date
20 stated in a notice of intent to cancel an insurance contract is not superseded by
21 the issuance of a subsequent notice of intent to cancel; altering the
22 circumstances under which an insurance contract is invalid and a policy shall be
23 voided; requiring a certain disclosure comparing the costs and terms of premium
24 financing with the insurer's alternative payment plan to contain certain
25 information; making conforming changes; and generally relating to the
26 regulation of premium finance companies.

27 BY repealing and reenacting, with amendments,
28 Article - Insurance
29 Section 23-203 through 23-206, 23-208, 23-301, 23-307, 23-402, 23-403.1, and
30 23-505.2
31 Annotated Code of Maryland
32 (2002 Replacement Volume and 2005 Supplement)

33 BY repealing

1 Article -Insurance
2 Section 23-401.1
3 Annotated Code of Maryland
4 (2002 Replacement Volume and 2005 Supplement)

5 BY adding to
6 Article - Insurance
7 Section 23-401.1
8 Annotated Code of Maryland
9 (2002 Replacement Volume and 2005 Supplement)

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

12 **Article - Insurance**

13 23-203.

14 (a) An applicant for INITIAL registration shall:

15 (1) file with the Commissioner:

16 (I) an application on the form that the Commissioner requires;

17 (II) IN THE CASE OF A CORPORATION OR LIMITED LIABILITY
18 COMPANY, A CERTIFICATE OF GOOD STANDING ISSUED BY THE STATE DEPARTMENT
19 OF ASSESSMENTS AND TAXATION;

20 (III) EVIDENCE OF COMPLIANCE WITH § 23-202 OF THIS SUBTITLE;

21 (IV) THE FORM OF THE PREMIUM FINANCE AGREEMENT TO BE
22 USED; AND

23 (V) THE FINANCE CHARGE, INITIAL SERVICE FEE, AND ALL OTHER
24 FEES AND CHARGES TO BE APPLIED; and

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

26 (b) The registration [form] APPLICATION shall include the following
27 information:

28 (1) the name, business address, and telephone number of the premium
29 finance company; AND

30 (2) the name and business address of each officer, director, principal, and
31 partner of the premium finance company[; and

32 (3) in the case of a corporation, a certificate of good standing issued by
33 the State Department of Assessments and Taxation].

- 1 (c) A registration [form] APPLICATION may require the applicant to[:
- 2 (1) file the form of the premium finance agreement to be used;
- 3 (2) file the service charges to be applied; and
- 4 (3)] disclose the identity, trade names, and names of managers and
- 5 owners of the applicant.

6 23-204.

- 7 (a) When an applicant [files a registration form] COMPLIES WITH THE
- 8 FILING REQUIREMENTS and pays the registration fee to the Commissioner IN
- 9 ACCORDANCE WITH § 23-203 OF THIS SUBTITLE, the Commissioner shall determine
- 10 whether the applicant meets the requirements of this title.

- 11 (b) The Commissioner shall deny registration to an applicant if the
- 12 Commissioner determines that the applicant has submitted an incomplete
- 13 registration.

- 14 (c) The Commissioner shall register each applicant that meets the
- 15 requirements of this title.

16 23-205.

- 17 (a) A registration expires on the first July 1 after its effective date unless it is
- 18 renewed as provided in this section.

- 19 (b) Before a registration expires, the registrant may renew it for an additional
- 20 1-year term if the registrant:

- 21 (1) [otherwise is entitled to be registered] FILES WITH THE
- 22 COMMISSIONER:

- 23 (I) A RENEWAL APPLICATION ON THE FORM THAT THE
- 24 COMMISSIONER REQUIRES;

- 25 (II) IN THE CASE OF A CORPORATION OR LIMITED LIABILITY
- 26 COMPANY, A CERTIFICATE OF GOOD STANDING ISSUED BY THE STATE DEPARTMENT
- 27 OF ASSESSMENTS AND TAXATION; AND

- 28 (III) EVIDENCE OF COMPLIANCE WITH § 23-202 OF THIS SUBTITLE;
- 29 and

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

- 31 (c) The Commissioner shall renew the registration of each registrant that
- 32 meets the requirements of this section.

1 23-206.

2 (A) The Commissioner shall require a premium finance company to report, on
3 forms provided by the Commissioner, changes in officers, directors, owners, trade
4 names, principals, partners, business addresses, and telephone numbers WITHIN 30
5 DAYS AFTER A CHANGE OCCURS.

6 (B) (1) A PREMIUM FINANCE COMPANY SHALL FILE ALL CHANGES TO:

7 (I) THE FORM OF THE PREMIUM FINANCE AGREEMENT USED BY
8 THE PREMIUM FINANCE COMPANY; AND

9 (II) THE FINANCE CHARGE, INITIAL SERVICE FEE, AND ANY OTHER
10 FEES AND CHARGES APPLIED BY THE PREMIUM FINANCE COMPANY.

11 (2) A PREMIUM FINANCE COMPANY MAY NOT USE A PREMIUM FINANCE
12 AGREEMENT FORM OR APPLY A FEE OR CHARGE UNLESS THE FILING REQUIRED
13 UNDER PARAGRAPH (1) OF THIS SUBSECTION IS APPROVED BY THE COMMISSIONER.

14 (3) A PREMIUM FINANCE COMPANY SHALL DISCLOSE TO THE
15 COMMISSIONER, ON WRITTEN REQUEST, THE METHOD OR FORMULA USED TO
16 CALCULATE THE FINANCE CHARGES AND AMOUNT OF REFUND ON CANCELLATION
17 OF THE INSURANCE CONTRACT.

18 23-208.

19 (a) Subject to the hearing provisions of Title 2 of this article, the
20 Commissioner may deny a registration to an applicant or suspend, revoke, or refuse
21 to renew the registration of a registrant if the Commissioner finds that the applicant
22 or registrant has:

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

25 (2) violated a provision of this title;

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

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

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

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

32 (i) impose on the registrant[, for a first or second offense,] a
33 penalty of not less than \$25 but not exceeding \$500 FOR EACH VIOLATION OF THIS
34 ARTICLE, UP TO A MAXIMUM OF \$50,000 IN THE EVENT OF MULTIPLE VIOLATIONS; or

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

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

8 (C) A PREMIUM FINANCE COMPANY THAT DELEGATES ADMINISTRATION OF A
9 PREMIUM FINANCE AGREEMENT TO A THIRD PARTY IS RESPONSIBLE FOR A
10 VIOLATION OF ANY PROVISION OF THIS TITLE BY THE THIRD PARTY IN THE
11 ADMINISTRATION OF THE PREMIUM FINANCE AGREEMENT, REGARDLESS OF THE
12 DELEGATION.

13 23-301.

14 (a) (1) A premium finance agreement shall be dated and signed by or on
15 behalf of the insured.

16 (2) The printed part of the premium finance agreement shall be in
17 approximately 8-point type and be easily readable by an average individual.

18 (b) A premium finance agreement shall contain:

19 (1) the name and place of business of the insurance producer negotiating
20 the related insurance contract;

21 (2) the name and residence or place of business of the insured as
22 specified by the insured;

23 (3) the name and place of business of the premium finance company to
24 which payments may be made;

25 (4) [a brief description of the insurance contracts involved and the
26 amount of the premium] AN ITEMIZED LIST FOR EACH INSURANCE CONTRACT OR
27 COVERAGE FINANCED UNDER THE PREMIUM FINANCE AGREEMENT THAT
28 INCLUDES:

29 (I) THE APPLICABLE POLICY NUMBER;

30 (II) THE EFFECTIVE DATE OF THE INSURANCE CONTRACT OR
31 COVERAGE;

32 (III) THE NAME OF THE COMPANY ISSUING THE INSURANCE
33 CONTRACT OR COVERAGE; AND

34 (IV) THE PREMIUM FOR THE INSURANCE CONTRACT OR COVERAGE;
35 and

36 (5) if applicable, the following items:

- 1 (i) the total amount of the premiums;
- 2 (ii) the amount of the down payment;
- 3 (iii) the principal balance (the difference between items (i) and (ii) of
4 this item);
- 5 (iv) the amount of the finance charge;
- 6 (v) the balance payable by the insured (the sum of items (iii) and
7 (iv) of this item);
- 8 (vi) the number of installments required, the amount of each
9 installment expressed in dollars, and the due date or period of each installment; AND
- 10 (vii) [an itemized list for each insurance contract or coverage
11 financed under the premium finance agreement that includes:
- 12 1. the applicable prefix and number;
- 13 2. the effective date of the insurance contract or coverage;
- 14 3. the name of the company issuing the insurance contract or
15 coverage; and
- 16 4. the premium for the insurance contract or coverage; and
- 17 (viii)] the electronic payment fee.

18 (c) (1) The items set out in subsection (b)(5) of this section need not be
19 stated in the sequence in which they appear.

20 (2) Additional items may be included to explain the computations made
21 in determining the amount to be paid by the insured.

22 (d) A premium finance agreement may provide for additional insurance
23 premiums to be financed and added to the initial premium finance agreement.

24 23-307.

25 (a) A premium finance agreement may require the insured to pay a
26 cancellation charge if a default in paying an installment results in the cancellation of
27 an insurance contract listed in the premium finance agreement.

28 (b) A cancellation charge shall be:

29 (1) with respect to private passenger automobile or personal fire or
30 liability insurance, equal to the difference between a delinquency and collection
31 charge imposed under § 23-306 of this subtitle with respect to the installment in
32 default and \$15; and

1 (2) with respect to commercial automobile, fire, or liability insurance, 5%
2 of the installment, not to exceed an amount equal to the difference between a
3 delinquency and collection charge imposed under § 23-306 of this subtitle with
4 respect to the installment in default and \$100.

5 (c) If a notice of cancellation is withdrawn [before its effective date] and the
6 insurance coverage is reinstated, the premium finance agreement may require the
7 insured to pay a reinstatement charge in the same amount as the cancellation charge
8 that would have been paid if the cancellation had actually taken effect.

9 [23-401.1.

10 (a) Except as provided under subsection (b) of this section, any notice to an
11 insured shall be sent by personal delivery or first class mail.

12 (b) With respect to commercial automobile, fire, or liability insurance, and at
13 the request of the insured, a premium finance company may send any notice to the
14 insured by personal delivery, first-class mail, electronic mail, or facsimile
15 transmission.]

16 23-401.1.

17 (A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, AT THE OPTION OF THE
18 INSURED A PREMIUM FINANCE COMPANY MAY SEND ANY NOTICE REQUIRED UNDER
19 THIS SUBTITLE BY PERSONAL DELIVERY, FIRST-CLASS MAIL, COMMERCIAL
20 DELIVERY SERVICE, ELECTRONIC MAIL, OR FACSIMILE TRANSMISSION.

21 (B) A NOTICE DELIVERY METHOD OTHER THAN PERSONAL DELIVERY,
22 FIRST-CLASS MAIL, OR COMMERCIAL DELIVERY SERVICE MAY BE USED ONLY WITH
23 THE WRITTEN CONSENT OF THE INSURED.

24 23-402.

25 (a) At least 10 days before canceling an insurance contract, a premium finance
26 company shall deliver or mail to the insured written notice of intent to cancel the
27 insurance contract unless the defaulted installment payment is received within the
28 10-day notice period.

29 (b) For an automobile liability insurance contract, the notice of intent to
30 cancel shall include a statement in clear and specific terms that if the insured fails to
31 replace the automobile liability insurance within the 10-day notice period, § 17-106
32 of the Transportation Article provides that uninsured motorist penalties be assessed
33 and that all evidences of registration be surrendered to the Motor Vehicle
34 Administration and that failure to surrender the evidences of registration may result
35 in suspension of current and future registration privileges.

36 [(c) With respect to commercial automobile, fire, or liability insurance, the
37 premium finance company shall deliver the notice in accordance with the insured's
38 request under § 23-401.1(b) of this subtitle.]

1 (C) THE CANCELLATION OF AN INSURANCE CONTRACT ON THE DATE STATED
2 IN A NOTICE OF INTENT TO CANCEL IS NOT SUPERSEDED BY A PREMIUM FINANCE
3 COMPANY'S ISSUANCE OF A SUBSEQUENT NOTICE OF INTENT TO CANCEL SENT
4 UNDER THIS SECTION.

5 23-403.1.

6 If, WITHIN 15 BUSINESS DAYS AFTER THE DATE OF WRITTEN NOTICE FROM A
7 FINANCIAL INSTITUTION THAT THE INITIAL DOWN PAYMENT FOR THE COVERAGE
8 BEING FINANCED HAS BEEN DISHONORED, an insurer receives notice OF THE
9 DISHONOR from an insurance producer or premium finance company, [within 15
10 business days after receipt of the initial down payment for the coverage being
11 financed, that the initial down payment has been dishonored by a financial
12 institution,] there is no valid insurance contract or insurance contracts, and the
13 policy shall be voided.

14 23-505.2.

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

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

25 (C) THE DISCLOSURE REQUIRED BY SUBSECTION (B) OF THIS SECTION SHALL:

26 (1) STATE THE TOTAL AMOUNT TO BE PAID BY THE INSURED UNDER
27 THE PREMIUM FINANCE AGREEMENT DURING THE POLICY TERM, INCLUDING
28 PREMIUM, ANY DOWN PAYMENT, AND ALL INTEREST, FEES, AND CHARGES INCIDENT
29 TO THE PREMIUM FINANCE AGREEMENT AND RESULTING EXTENSION OF CREDIT;
30 AND

31 (2) STATE THE TOTAL AMOUNT TO BE PAID BY THE INSURED UNDER
32 THE INSURER'S ALTERNATIVE PAYMENT PLAN DURING THE POLICY TERM,
33 INCLUDING PREMIUM, ANY DOWN PAYMENT, AND ALL FEES AND CHARGES
34 INCIDENT TO THE ALTERNATIVE PAYMENT PLAN.

35 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
36 October 1, 2006.