
By: **Delegate D. Davis**

Introduced and read first time: February 8, 2006

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 21, 2006

CHAPTER_____

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 or a notice of cancellation of an insurance
21 contract is not superseded by the issuance of a subsequent notice of intent to
22 cancel or notice of cancellation; altering the circumstances under which an
23 insurance contract is invalid and a policy shall be voided; requiring a certain
24 disclosure comparing the costs and terms of premium financing with the
25 insurer's alternative payment plan to contain certain information; making
26 conforming changes; and generally relating to the regulation of premium
27 finance companies.

1 BY repealing and reenacting, with amendments,
2 Article - Insurance
3 Section 23-203 through 23-206, 23-208, 23-301, 23-307, 23-402, 23-403.1, and
4 23-505.2
5 Annotated Code of Maryland
6 (2002 Replacement Volume and 2005 Supplement)

7 BY repealing
8 Article -Insurance
9 Section 23-401.1
10 Annotated Code of Maryland
11 (2002 Replacement Volume and 2005 Supplement)

12 BY adding to
13 Article - Insurance
14 Section 23-401.1
15 Annotated Code of Maryland
16 (2002 Replacement Volume and 2005 Supplement)

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

19 **Article - Insurance**

20 23-203.

21 (a) An applicant for INITIAL registration shall:

22 (1) file with the Commissioner:

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

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

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

28 (IV) THE FORM OF THE PREMIUM FINANCE AGREEMENT TO BE
29 USED; AND

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

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

33 (b) The registration [form] APPLICATION shall include the following
34 information:

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

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

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

7 (c) A registration [form] APPLICATION may require the applicant to[:

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

9 (2) file the service charges to be applied; and

10 (3)] disclose the identity, trade names, and names of managers and
11 owners of the applicant.

12 23-204.

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

17 (b) The Commissioner shall deny registration to an applicant if the
18 Commissioner determines that the applicant has submitted an incomplete
19 registration.

20 (c) The Commissioner shall register each applicant that meets the
21 requirements of this title.

22 23-205.

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

25 (b) Before a registration expires, the registrant may renew it for an additional
26 1-year term if the registrant:

27 (1) [otherwise is entitled to be registered] FILES WITH THE
28 COMMISSIONER:

29 (I) A RENEWAL APPLICATION ON THE FORM THAT THE
30 COMMISSIONER REQUIRES;

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

1 (III) EVIDENCE OF COMPLIANCE WITH § 23-202 OF THIS SUBTITLE;
2 and

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

4 (c) The Commissioner shall renew the registration of each registrant that
5 meets the requirements of this section.

6 23-206.

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

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

12 (I) THE FORM OF THE PREMIUM FINANCE AGREEMENT USED BY
13 THE PREMIUM FINANCE COMPANY; AND

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

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

19 (3) A PREMIUM FINANCE COMPANY SHALL DISCLOSE TO THE
20 COMMISSIONER, ON WRITTEN REQUEST, THE METHOD OR FORMULA USED TO
21 CALCULATE THE FINANCE CHARGES AND AMOUNT OF REFUND ON CANCELLATION
22 OF THE INSURANCE CONTRACT.

23 23-208.

24 (a) Subject to the hearing provisions of Title 2 of this article, the
25 Commissioner may deny a registration to an applicant or suspend, revoke, or refuse
26 to renew the registration of a registrant if the Commissioner finds that the applicant
27 or registrant has:

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

30 (2) violated a provision of this title;

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

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

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

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

3 (i) impose on the registrant[, for a first or second offense,] a
4 penalty of not less than \$25 but not exceeding ~~\$500~~ \$1,000 FOR EACH VIOLATION OF
5 THIS ARTICLE, UP TO A MAXIMUM OF ~~\$50,000~~ \$20,000 IN THE EVENT OF MULTIPLE
6 VIOLATIONS; or

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

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

14 (C) (1) A PREMIUM FINANCE COMPANY THAT DELEGATES ADMINISTRATION
15 OF A PREMIUM FINANCE AGREEMENT TO A THIRD PARTY IS RESPONSIBLE FOR A
16 VIOLATION OF ANY PROVISION OF THIS TITLE BY THE THIRD PARTY IN THE
17 ADMINISTRATION OF THE PREMIUM FINANCE AGREEMENT, REGARDLESS OF THE
18 DELEGATION.

19 (2) FOR PURPOSES OF THIS SUBSECTION, THE FOLLOWING ACTS BY AN
20 INSURANCE PRODUCER IN RELATION TO A PREMIUM FINANCE AGREEMENT ARE NOT
21 CONSIDERED TO BE THE ADMINISTRATION OF THE PREMIUM FINANCE AGREEMENT:

22 (I) SIGNING A PREMIUM FINANCE AGREEMENT;

23 (II) ACCEPTING PAYMENTS; OR

24 (III) ISSUING RECEIPTS.

25 23-301.

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

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

30 (b) A premium finance agreement shall contain:

31 (1) the name and place of business of the insurance producer negotiating
32 the related insurance contract;

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

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

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

5 (I) THE APPLICABLE APPLICATION NUMBER, BINDER NUMBER, OR
 6 POLICY NUMBER;

7 (II) THE EFFECTIVE DATE OF THE INSURANCE CONTRACT OR
 8 COVERAGE;

9 (III) THE NAME OF THE COMPANY ISSUING THE INSURANCE
 10 CONTRACT OR COVERAGE; AND

11 (IV) THE PREMIUM FOR THE INSURANCE CONTRACT OR COVERAGE;
 12 and

13 (5) if applicable, the following items:

14 (i) the total amount of the premiums;

15 (ii) the amount of the down payment;

16 (iii) the principal balance (the difference between items (i) and (ii) of
 17 this item);

18 (iv) the amount of the finance charge;

19 (v) the balance payable by the insured (the sum of items (iii) and
 20 (iv) of this item);

21 (vi) the number of installments required, the amount of each
 22 installment expressed in dollars, and the due date or period of each installment; AND

23 (vii) [an itemized list for each insurance contract or coverage
 24 financed under the premium finance agreement that includes:

25 1. the applicable prefix and number;

26 2. the effective date of the insurance contract or coverage;

27 3. the name of the company issuing the insurance contract or
 28 coverage; and

29 4. the premium for the insurance contract or coverage; and

30 (viii)] the electronic payment fee.

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

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

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

5 23-307.

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

9 (b) A cancellation charge shall be:

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

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

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

22 [23-401.1.

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

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

29 23-401.1.

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

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

1 23-402.

2 (a) At least 10 days before canceling an insurance contract, a premium finance
3 company shall deliver or mail to the insured written notice of intent to cancel the
4 insurance contract unless the defaulted installment payment is received within the
5 10-day notice period.

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

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

16 (C) THE CANCELLATION OF AN INSURANCE CONTRACT ON THE DATE STATED
17 IN A NOTICE OF INTENT TO CANCEL OR A NOTICE OF CANCELLATION IS NOT
18 SUPERSEDED BY A PREMIUM FINANCE COMPANY'S ISSUANCE OF A SUBSEQUENT
19 NOTICE OF INTENT TO CANCEL SENT UNDER THIS SECTION OR A NOTICE OF
20 CANCELLATION SENT UNDER § 23-403 OF THIS ARTICLE.

21 23-403.1.

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

30 23-505.2.

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

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

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

2 (1) STATE THE TOTAL AMOUNT TO BE PAID BY THE INSURED UNDER
3 THE PREMIUM FINANCE AGREEMENT DURING THE POLICY TERM, INCLUDING
4 PREMIUM, ANY DOWN PAYMENT, AND ALL INTEREST, FEES, AND CHARGES INCIDENT
5 TO THE PREMIUM FINANCE AGREEMENT AND RESULTING EXTENSION OF CREDIT;
6 AND

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

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