

Department of Legislative Services  
Maryland General Assembly  
2006 Session

FISCAL AND POLICY NOTE  
Revised

House Bill 861  
Economic Matters

(Delegate D. Davis)

Finance

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**Insurance - Regulation of Premium Finance Companies**

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This bill increases the application fee for initial registration as a premium finance company from \$50 to \$250 and makes various technical and other changes to the provisions governing premium finances companies.

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**Fiscal Summary**

**State Effect:** Special fund revenues would increase by \$200 for each application for initial registration as a premium finance company with the Maryland Insurance Administration. General fund revenues could increase minimally from penalties. Expenditures would not be affected.

**Local Effect:** None.

**Small Business Effect:** Minimal.

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**Analysis**

**Bill Summary and Current Law:**

**Registrations**

*The Bill:* An applicant for initial registration must file with the Maryland Insurance Commissioner, in addition to the application form: (1) in the case of a corporation or a limited liability company, a certificate of good standing issued by the State Department of Assessments and Taxation (SDAT); (2) evidence of compliance with the financial requirements for premium finance companies; (3) the form of the premium finance

agreement to be used; and (4) the finance charge, initial service fee, and all other fees and charges to be applied. The fee for initial registration is \$250.

Before a registration expires, the registrant may renew it for an additional year if the registrant files (1) a renewal application on the appropriate form; (2) in the case of a corporation or a limited liability company, a certificate of good standing issued by SDAT; and (3) evidence of compliance with the financial requirements for premium finance companies.

*Current Law:* An applicant for registration must file an application with the Commissioner on the form required by the Commissioner and pay an application fee of \$50. The registration form must include: (1) specified contact information about the premium finance company and each of its officers, directors, principals, and partners; and (2) in the case of a corporation, a certificate of good standing issued by SDAT. A registration form may require the applicant to file the form of the premium finance agreement to be used and file the service charges to be applied.

Registrations expire on July 1 after the effective date, unless renewed. Before a registration expires, the registrant may renew it for an additional year if the registrant is otherwise entitled to be registered and pays the renewal fee of \$50.

## **Reports**

*The Bill:* A premium finance company's reports on changes in officers, directors, owners, trade names, principals, partners, business addresses, and telephone numbers must be provided to the Commissioner within 30 days after a change occurs. A premium finance company must also file all changes to: (1) its premium finance agreement form; and (2) the finance charge, initial service fee, and any other fees and charges. The filings must be approved by the Commissioner before they may be used, and the premium finance company must disclose how the finance charges and amount of refund were calculated to the Commissioner.

*Current Law:* The Commissioner must require premium finance companies to report changes in officers, directors, owners, trade names, principals, partners, business addresses, and telephone numbers.

## **Discipline**

*The Bill:* The bill alters the penalty that the Commissioner may impose on a registrant, to range from \$25 to \$1,000 for each violation, up to a maximum of \$20,000 in the event of multiple violations. A premium finance company that delegates administration of the agreement to a third party is responsible for the third party's violations in the

administration of the agreement, regardless of the delegation. Signing an agreement, accepting payments, or issuing receipts by an insurance producer is not considered administration of the premium finance agreement.

*Current Law:* Subject to applicable hearing requirements, the Commissioner may deny a registration to an applicant or suspend, revoke, or refuse to renew the registration of a registrant upon finding that the applicant or registrant has: (1) failed to comply with a lawful requirement of the Commissioner; (2) violated the State's insurance laws; (3) made a material misstatement in the registration application; (4) engaged in fraudulent or dishonest practices; or (5) demonstrated incompetence or untrustworthiness to engage in the business of a premium finance company. Instead of or in addition to these actions, the Commissioner may impose on a registrant, for a first or second offense, a penalty ranging between \$25 and \$500 or require restitution be made to a person that has suffered financial injury because of a violation.

### **Contents of Agreements**

*The Bill:* The premium finance agreement must contain an itemized list for each insurance contract or coverage financed under the agreement that includes specified information, rather than being required only if applicable.

*Current Law:* A premium finance agreement must be signed and dated by or on behalf of the insured. The agreement must contain: (1) the name and place of business of the insurance producer negotiating the related insurance contract; (2) the name and residence or place of business of the insured; (3) the name and place of business of the premium finance company; and (4) a brief description of the insurance contracts involved and the amount of the premium. If applicable, the agreement must also contain: (1) the total amount of the premiums; (2) the amount of the down payment; (3) the principal balance; (4) the amount of the finance charge; (5) the balance payable by the insured; (6) the number of installments required, the amount of each installment, and each installment's due date; (7) an itemized list for each insurance contract or coverage financed, including specified information; and (8) the electronic payment fee.

### **Notices of Cancellation**

*The Bill:* If a notice of cancellation is withdrawn and the insurance coverage is reinstated, the insured may be required to pay a reinstatement charge. At the insured's option, the premium finance company may send any required notice by personal delivery, first-class mail, commercial delivery service, e-mail, or facsimile transmission. A delivery method other than personal delivery, first-class mail, or commercial delivery service may be used only with the insured's written consent. The cancellation of an insurance contract on the date stated in a notice of intent to cancel or a notice of

cancellation is not superseded by a premium finance company's issuance of a subsequent notice of intent to cancel or notice of cancellation. There is no valid insurance contract or contracts, and the policy is voided if, within 15 business days after the date of the written notice from a financial institution that the initial down payment for the coverage being financed has been dishonored, an insurer receives notice of the dishonor from the insurance producer or premium finance company.

*Current Law:* If a notice of cancellation is withdrawn before its effective date and the insurance coverage is reinstated, the insured may be required to pay a reinstatement charge in the same amount as the cancellation charge. Generally, notice must be sent by personal delivery or first-class mail. For commercial automobile, fire, or liability insurance, and at the insured's request, the notice may be sent by personal delivery, first-class mail, e-mail, or facsimile.

If an insurer receives notice from an insurance producer or premium finance company, within 15 business days after receiving the initial down payment for the coverage being financed, that the initial down payment has been dishonored, there is no valid insurance contract, and the policy must be voided.

## **Disclosures**

*The Bill:* The disclosure that an independent insurance producer who has an ownership interest in a premium finance company must provide must state: (1) the total amount to be paid by the insured under the agreement during the policy term, including specified information; and (2) the total amount to be paid by the insured under the insurer's alternative payment plan during the policy term, including specified information.

*Current Law:* An insurer that markets through independent insurance producers may not discriminate, intimidate, or retaliate against an insurance producer or insured that uses premium financing by denying the insurance producer or insured the same rights accorded to insurance producers or insureds who pay premiums in a different manner. For personal lines automobile insurance, an independent insurance producer who has an ownership interest in a premium finance company must disclose the interest. The disclosure must compare the costs and terms of premium financing with the insurer's alternative payment plan.

**State Revenues:** Currently, there are 89 registered premium finance companies. The number of initial registration applications received in any given year may vary and cannot be accurately predicted, but is assumed to be minimal.

The bill increases the frequency with which the Commissioner may impose a penalty on a registrant, up to \$50,000. General fund revenues would increase to the extent the

Commissioner imposes more penalties because of the bill. Any such revenue cannot be accurately predicted, but is assumed to be minimal.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Maryland Automobile Insurance Fund, Maryland Insurance Administration, Department of Legislative Services

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