

**SB0603/987370/1**

BY: Finance Committee

AMENDMENTS TO SENATE BILL 603  
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 5, after “basis;” insert “requiring the Maryland Insurance Commissioner to ensure certain provisions of an installment payment plan; prohibiting the Fund from discriminating among insureds in a certain manner; prohibiting the Fund from paying a higher commission to certain producers; requiring certain written and electronic communications to include a certain statement under certain circumstances; requiring the Fund, in consultation with other State agencies, to develop certain criteria for a certain evaluation of the impact and effectiveness of the Fund’s installment payment plan; requiring the Fund to determine and the Board of Trustees to make a certain certification; requiring the Fund to submit on or before a certain date a certain report to the Commissioner; authorizing the Commissioner to make a certain determination under certain circumstances; requiring on certain dates the Commissioner to make a certain determination; requiring the Commissioner to retain a certain actuary and hold a certain hearing under certain circumstances; requiring a premium finance company, in the event of a certain insurance policy cancellation, to credit to a certain account or refund to a certain insured a certain amount within a certain time; requiring an independent producer to provide a certain disclosure; requiring the Commissioner to study the enforcement of eligibility criteria for insurance coverage in the Fund; requiring the Fund to provide certain information to the Office of Legislative Audits by a certain date; requiring the Office to evaluate the overall costs of the Fund’s installment payment plan by a certain date; requiring the Commissioner to submit certain reports; requiring the Office to submit a certain report;”;

and in line 15, strike “20-507” and substitute “20-404, 20-507, 23-304, and 23-505.2”.

AMENDMENT NO. 2

On page 1, after line 23, insert:

(Over)

“20-404.

(a) On or before March 15 of each year, the Fund shall determine and the Board of Trustees shall certify to the Board of Directors the information required under subsections (b), [and] (c), AND (G)(1) of this section.

(b) Subject to subsection (f) of this section, the following information certified to the Board of Directors shall be separately identified by commercial auto and private passenger auto results:

(1) the statutory operating loss for the immediately preceding calendar year;

(2) a calculation to yield a private passenger auto assessment limit that is determined by subtracting the year-end total surplus of the Fund for the immediately preceding calendar year from an amount equal to 25% of the average of net direct written private passenger auto premiums of the Fund for each of the three immediately preceding calendar years; and

(3) a calculation to yield a commercial auto assessment limit that is determined by subtracting the year-end commercial auto surplus of the Fund for the immediately preceding calendar year from an amount equal to 25% of the average of net direct written commercial auto premiums of the Fund for each of the 3 immediately preceding calendar years.

(c) The assessment certified to the Board of Directors shall be equal to:

(1) subject to subsection (d) of this section, the assessment limit, if the assessment limit is less than or equal to the statutory operating loss; or

(2) the statutory operating loss, if the assessment limit is greater than the statutory operating loss.

(d) If the calculation under subsection (b)(2) of this section yields a number that is less than or equal to zero, the assessment limit is zero.

(e) The statutory operating loss or assessment certified to the Board of Directors may not include:

(1) assessment moneys received for a prior year; or

(2) moneys transferred between the commercial auto and private passenger auto divisions within the Fund.

(f) In a calculation made under this section, income or expenses not clearly attributable to either commercial auto or private passenger auto may be allocated pro rata for that year.

**(g) (1) ON OR BEFORE MARCH 31 OF EACH YEAR, THE EXECUTIVE DIRECTOR SHALL SUBMIT A REPORT TO THE COMMISSIONER ON:**

**(i) THE PRIOR YEAR-END TOTAL SURPLUS OF THE FUND;**

**AND**

**(ii) THE PRIOR YEAR NET DIRECT WRITTEN PRIVATE PASSENGER AUTO PREMIUMS OF THE FUND.**

**(2) (i) EXCEPT AS PROVIDED IN SUBPARAGRAPH (v) OF THIS PARAGRAPH, AS THE COMMISSIONER DETERMINES NECESSARY, THE COMMISSIONER MAY MAKE A DETERMINATION AS TO WHETHER THE SURPLUS IS EXCESSIVE.**

(Over)

(II) IN MAKING A DETERMINATION AS TO WHETHER THE SURPLUS IS EXCESSIVE, THE COMMISSIONER SHALL:

1. RETAIN AN INDEPENDENT ACTUARY IN ACCORDANCE WITH § 7-307 OF THIS ARTICLE; AND

2. HOLD A PUBLIC HEARING.

(III) IF THE COMMISSIONER DETERMINES THAT THE SURPLUS IS EXCESSIVE, THE COMMISSIONER SHALL SUBMIT A REPORT, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE SENATE FINANCE COMMITTEE AND THE HOUSE ECONOMIC MATTERS COMMITTEE ON:

1. THE STATUS OF THE SURPLUS; AND

2. THE COMMISSIONER'S RECOMMENDATIONS, IN ACCORDANCE WITH SUBPARAGRAPH (IV) OF THIS PARAGRAPH, FOR POTENTIAL DISTRIBUTIONS OF ANY EXCESS SURPLUS, INCLUDING PREMIUM RATE ADJUSTMENTS FOR FUND INSURED IN ACCORDANCE WITH § 20-507(D) OF THIS TITLE.

(IV) THE RECOMMENDATIONS OF THE COMMISSIONER UNDER SUBPARAGRAPH (III) OF THIS PARAGRAPH SHALL:

1. CONSIDER THE TRENDS OF THE:

A. ANNUAL YEAR-END TOTAL SURPLUS OF THE FUND; AND

B. ANNUAL NET DIRECT WRITTEN PRIVATE PASSENGER AUTO PREMIUMS OF THE FUND; AND

2. BE CONSISTENT WITH THE FACT THAT:

A. SURPLUS FUNDS WERE DERIVED FROM COMMERCIAL AUTO AND PRIVATE PASSENGER AUTO PREMIUMS AND THE INVESTMENT EARNINGS ON THOSE PREMIUMS;

B. AN ADEQUATE LEVEL OF SURPLUS PROTECTS THE DRIVING PUBLIC FROM AN ASSESSMENT AUTHORIZED UNDER THIS SUBTITLE; AND

C. THE TOTAL SURPLUS GROWS AND DIMINISHES DEPENDING ON EXTERNAL MARKET FORCES.

(V) NOTWITHSTANDING SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE COMMISSIONER SHALL, IN ACCORDANCE WITH THIS PARAGRAPH, MAKE A DETERMINATION AS TO WHETHER THE SURPLUS IS EXCESSIVE AND SUBMIT A REPORT:

1. ON OR BEFORE OCTOBER 1, 2008; AND

2. ON OR BEFORE OCTOBER 1, 2011 OR 2 YEARS FOLLOWING THE INCEPTION OF THE OFFERING OF AN INSTALLMENT PAYMENT PLAN OPTION BY THE FUND UNDER § 20-507(G) OF THIS TITLE, WHICHEVER IS LATER.”

AMENDMENT NO. 3

On page 2, before line 1, insert:

“SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Insurance”;

in lines 29, 30, and 32, in each instance, strike the brackets; and in line 32, after “(ii)” insert “EXCEPT AS PROVIDED IN SUBSECTION (G) OF THIS SECTION,”.

On page 3, in line 6, strike “**THE**” and substitute “**(1)(I) SUBJECT TO THE APPROVAL OF THE COMMISSIONER AND IN ACCORDANCE WITH THIS SUBSECTION, THE**”; in the same line, after “**BASIS**” insert “**ONLY ON 12-MONTH PERSONAL LINES POLICIES**”; and after line 6, insert:

“(II) IN APPROVING THE FUND’S PLAN FOR ACCEPTING PREMIUMS ON AN INSTALLMENT BASIS, THE COMMISSIONER SHALL ENSURE THAT THE FUND’S INSTALLMENT PAYMENT PLAN:

1. REQUIRES AN INSURED’S INITIAL PREMIUM PAYMENT TO BE NO LESS THAN 25% OF THE TOTAL PREMIUM;

2. IS STRUCTURED AND ADMINISTERED TO ENSURE THAT THE FUND AT NO TIME PROVIDES INSURANCE COVERAGE TO AN INSURED FOR A PERIOD DURING WHICH THE FUND HAS NOT RECEIVED THE ACTUARIALLY JUSTIFIED PREMIUM PAYMENT;

3. OFFERS NO MORE THAN SIX INSTALLMENT PAYMENTS ON THE 12-MONTH POLICY;

4. ALLOWS INSUREDS TO MAKE AN INITIAL PREMIUM PAYMENT AND INSTALLMENT PAYMENTS IN ANY COMMERCIALY ACCEPTABLE FORM, WHICH SHALL INCLUDE PAYMENT BY CHECK, CREDIT CARD, OR ELECTRONIC TRANSFER; AND

5. ALLOWS THE FUND TO IMPOSE AN ADMINISTRATIVE PROCESSING FEE ON INSUREDS PARTICIPATING IN THE INSTALLMENT PAYMENT PLAN OF NO MORE THAN \$8 PER INSTALLMENT PAYMENT.

(2) THE FUND MAY NOT DISCRIMINATE AMONG INSUREDS BY CHARGING A DIFFERENT WRITTEN OR EARNED PREMIUM BASED ON THE PAYMENT OPTION SELECTED BY AN INSURED OR ON WHETHER THE FUND PRODUCER IS EMPLOYED BY A PUBLIC ENTITY OR PRIVATE ENTITY.

(3) THE FUND MAY NOT PAY A HIGHER COMMISSION TO A PRODUCER WHO PLACES AN INSURED IN AN INSTALLMENT PAYMENT PLAN OVER ANY OTHER PAYMENT OPTION, INCLUDING A PREMIUM FINANCE AGREEMENT.

(4) (I) IN ACCORDANCE WITH THIS PARAGRAPH, WRITTEN AND ELECTRONIC COMMUNICATIONS, INCLUDING THE FUND'S WEBSITE, AFFECTING THE PLACEMENT OF COVERAGE BY THE FUND OR A FUND PRODUCER SHALL INCLUDE A STATEMENT, ON A FORM APPROVED BY THE COMMISSIONER, ADVISING AN APPLICANT OR AN INSURED OF THE PAYMENT OPTIONS AVAILABLE TO THE APPLICANT OR THE INSURED.

(II) THE STATEMENT SHALL STATE THAT THE APPLICANT OR INSURED HAS THE FOLLOWING PAYMENT OPTIONS:

(Over)

- 1. THE FUND'S INSTALLMENT PAYMENT PLAN;**
- 2. A PREMIUM FINANCE AGREEMENT; OR**
- 3. PAYMENT OF THE POLICY IN FULL.**

**(III) THE STATEMENT SHALL BE INCLUDED ON WRITTEN OR ELECTRONIC COMMUNICATIONS AT THE TIME THE APPLICANT OR INSURED:**

- 1. IS ISSUED A NEW POLICY;**
- 2. IS ISSUED A RE-ISSUANCE, RE-WRITE, OR RENEWAL OF AN EXISTING POLICY; OR**
- 3. INCURS ADDITIONAL PREMIUMS UNDER AN EXISTING POLICY.**

**(IV) THE STATEMENT SHALL STATE THAT THE APPLICANT OR INSURED SHOULD CONSULT A FUND PRODUCER WHO WILL FULLY DESCRIBE THE TERMS OF EACH PAYMENT OPTION.**

**(5) (I) THE EXECUTIVE DIRECTOR, IN CONSULTATION WITH THE COMMISSIONER AND OTHER STATE AGENCIES AS APPROPRIATE, SHALL DEVELOP CRITERIA FOR EVALUATING THE IMPACT AND EFFECTIVENESS OF THE FUND'S INSTALLMENT PAYMENT PLAN.**

**(II) THE EVALUATION SHALL INCLUDE THE IMPACT OF THE PLAN ON:**

- 1. THE COST OF AUTOMOBILE INSURANCE;**



**2. THE NUMBER OF INSURED AND UNINSURED MOTORISTS IN THE STATE;**

**3. THE NUMBER OF POLICIES IN FORCE BY GEOGRAPHIC AREA;**

**4. THE DURATION OF POLICIES IN FORCE; AND**

**5. THE FREQUENCY OF PAYMENT METHODS USED BY INSUREDS, INCLUDING THE FUND'S INSTALLMENT PAYMENT PLAN, PREMIUM FINANCE AGREEMENTS, AND CASH AND CREDIT CARD PAYMENTS.**

**(III) ON OR BEFORE MARCH 31 OF EACH YEAR, THE FUND SHALL REPORT TO THE COMMISSIONER ON THE IMPACT AND EFFECTIVENESS OF THE FUND'S INSTALLMENT PAYMENT PLAN FOR THE PRIOR YEAR BASED ON:**

**1. THE EVALUATION CRITERIA DEVELOPED UNDER PARAGRAPH (5)(I) OF THIS SUBSECTION; AND**

**2. THE LIMITATIONS OF THE TERMS OF THE PLAN UNDER PARAGRAPH (1)(II)1 AND 3 OF THIS SUBSECTION.**

**(6) (I) UPON RECEIPT OF THE REPORT UNDER PARAGRAPH (5)(III) OF THIS SUBSECTION, THE COMMISSIONER SHALL MAKE A DETERMINATION ON THE IMPACT AND EFFECTIVENESS OF THE FUND'S INSTALLMENT PLAN, INCLUDING A REVIEW OF COMPLAINTS RECEIVED BY THE COMMISSIONER RELATING TO THE FUND'S INSTALLMENT PAYMENT PLAN AND TO PREMIUM FINANCE AGREEMENTS.**

(Over)

**(II) ON OR BEFORE DECEMBER 1 OF EACH YEAR, THE COMMISSIONER SHALL SUBMIT A REPORT, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE SENATE FINANCE COMMITTEE AND THE HOUSE ECONOMIC MATTERS COMMITTEE ON:**

**1. THE IMPACT AND EFFECTIVENESS OF THE FUND'S INSTALLMENT PAYMENT PLAN; AND**

**2. THE COMMISSIONER'S DETERMINATION UNDER § 20-404(G)(2)(I) OF THIS SUBTITLE.**

23-505.2.

(a) An insurer that markets through independent insurance producers as defined in this article 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.

(b) (1) With respect to personal lines automobile insurance OTHER THAN INSURANCE WRITTEN THROUGH THE MARYLAND AUTOMOBILE INSURANCE FUND, an independent insurance producer, who directly or indirectly has an ownership interest in a premium finance company, shall provide a disclosure to be signed by the insured comparing the costs and terms of premium financing with the insurer's alternative payment plan.

**(2) WITH RESPECT TO PERSONAL LINES AUTOMOBILE INSURANCE WRITTEN THROUGH THE MARYLAND AUTOMOBILE INSURANCE FUND, AN INDEPENDENT INSURANCE PRODUCER SHALL PROVIDE A DISCLOSURE TO BE SIGNED BY THE INSURED COMPARING THE COSTS AND**

TERMS OF PREMIUM FINANCING WITH THE FUND'S ALTERNATIVE PAYMENT PLAN.

(c) The disclosure required by subsection (b) of this section shall:

(1) state the total amount to be paid by the insured under the premium finance agreement during the policy term, including premium, any down payment, and all interest, fees, and charges incident to the premium finance agreement and resulting extension of credit; and

(2) state the total amount to be paid by the insured under the insurer's alternative payment plan during the policy term, including premium, any down payment, and all fees and charges incident to the alternative payment plan.

SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Insurance

23–304.

(A) The finance charge shall be computed:

(1) on the amount of the entire premium loan advanced, including any taxes or fees that are financed under § 23–301.1 of this subtitle, after subtracting any down payment on the premium loan made by the insured;

(2) from the inception date of the insurance contract or from the due date of the premium, disregarding any grace period or credit allowed for payment of the premium, through the date when the final installment under the premium finance agreement is payable; and

(Over)

(3) at a rate not exceeding 1.15% for each 30 days, charged in advance.

**(B) IN THE EVENT OF A CANCELLATION OF A MARYLAND AUTOMOBILE INSURANCE FUND POLICY, THE PREMIUM FINANCE COMPANY SHALL WITHIN 15 DAYS OF RECEIPT OF THE UNEARNED PREMIUM ON THE POLICY OF AN INSURED, CREDIT TO THE INSURED’S ACCOUNT OR REFUND TO THE INSURED:**

**(1) ANY UNEARNED PREMIUMS DUE UNDER THE POLICY; AND**

**(2) ANY UNEARNED FINANCE CHARGES, CALCULATED BY THE ACTUARIAL METHOD.”.**

AMENDMENT NO. 4

On page 3, strike in their entirety lines 7 through 9, inclusive, and substitute:

“SECTION 4. AND BE IT FURTHER ENACTED, That on or before December 31, 2008, the Insurance Commissioner shall study the enforcement of eligibility criteria for insurance coverage in the Maryland Automobile Insurance Fund and submit a report, in accordance with § 2-1246 of the State Government Article, to the Senate Finance Committee and the House Economic Matters Committee.

(1) In studying the enforcement of eligibility criteria for insurance coverage in the Fund, the study shall include:

(i) the effectiveness of current procedures to enforce the requirement that applicants be declined coverage by at least two private automobile insurers;

(ii) the number and percentage of Fund insureds with continuous coverage in the Fund for a period of more than 1 year; and

(iii) the number and percentage of Fund insureds with continuous coverage in the Fund for a period of more than 1 year and with no moving violations or chargeable accidents.

(2) The report shall include the Commissioner's findings and recommendations to encourage Fund insurers to obtain coverage from private insurers.

SECTION 5. AND BE IT FURTHER ENACTED, That:

(a) On or before March 1, 2010, the Maryland Automobile Insurance Fund shall provide to the Office of Legislative Audits a report on the Fund's installment payment plan from its inception of the offering of the installment payment plan through December 31, 2009 which includes:

(1) the number and cost of full-time and part-time Fund employees used;

(2) the costs of establishing the program, including consultants and vendors, new software purchased, modified, or developed internally, and new hardware and other physical plant added;

(3) the costs of operating the program, including printing, mailing, payment processing, and management;

(4) the reduction in investment income caused by implementation of the installment payment plan billing;

(5) the amount of earned but uncollected premium and costs associated with collecting bad debt;

(6) the payment methods used by insureds, including the extent to which insureds use the Fund's installment payment plan, premium finance agreements, credit cards, and cash payments; and

(7) any other pertinent information the Office requests from the Fund or the Insurance Commissioner.

(b) On or before June 30, 2010, the Office of Legislative Audits shall evaluate the overall costs of the Fund's installment payment plan and submit a report, in accordance with § 2-1246 of the State Government Article, to the Senate Finance Committee and the House Economic Matters Committee.

SECTION 6. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect October 1, 2008, and shall apply to all policies and contracts issued by the Maryland Automobile Insurance Fund on or after October 1, 2008.

SECTION 7. AND BE IT FURTHER ENACTED, That Section 3 of this Act shall take effect July 1, 2009, and shall apply to all premium finance agreements entered into on or after July 1, 2009.”;

in line 10, strike “3.” and substitute “8.”; in the same line, after “That” insert “, except as provided under Sections 6 and 7 of this Act,”; and in line 11, strike “October” and substitute “July”.