

HOUSE BILL 1353

C4

8lr2279

By: **Delegates Rudolph, Impallaria, and Mathias**

Introduced and read first time: February 8, 2008

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Omnibus Coastal Property Insurance Reform Act**

3 FOR the purpose of altering the requirements an insurer must meet before refusing to
4 issue or renew certain insurance contracts solely because the insured property
5 or the applicant's or insured's address is located within a certain geographic
6 area of the State; requiring an insurer to adopt a certain underwriting standard
7 and file the underwriting standard with the Maryland Insurance Commissioner
8 for approval; specifying the contents of certain filings; establishing that certain
9 underwriting standards may not take effect until a certain number of days after
10 it is filed with the Commissioner; establishing certain exceptions; establishing
11 certain requirements for certain underwriting standards; providing that certain
12 information shall be open to public inspection; authorizing the Commissioner to
13 disapprove a filing under certain circumstances; requiring the Commissioner to
14 send certain notice of disapproval of a filing under certain circumstances;
15 requiring the Commissioner to hold a hearing under certain circumstances;
16 requiring the Commissioner to give certain notice of the hearing; prohibiting an
17 insurer from adopting an underwriting standard that requires a certain
18 deductible unless the insurer has made a certain filing and obtained approval
19 from the Commissioner; providing that if an insurer has adopted a certain
20 underwriting standard that requires a deductible equal to a percentage of the
21 policy limits of a policy, the deductible may only be applicable during a certain
22 time; requiring an insurer that has adopted a certain underwriting standard to
23 send a certain annual statement; requiring certain insurers to offer a premium
24 discount under certain circumstances; requiring certain insurers that use
25 catastrophic risk planning or other models in setting rates to file certain
26 information with the Commissioner and explain certain information; providing
27 that certain information is proprietary and confidential commercial information
28 under a certain provision of law; authorizing the Commissioner to adopt certain
29 regulations; requiring the Maryland Department of Planning to conduct a
30 certain review and make a certain report by a certain date; providing for the
31 application of this Act; and generally relating to coastal property insurance.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, with amendments,
2 Article – Insurance
3 Section 19–107
4 Annotated Code of Maryland
5 (2006 Replacement Volume and 2007 Supplement)

6 BY adding to
7 Article – Insurance
8 Section 19–208 through 19–210
9 Annotated Code of Maryland
10 (2006 Replacement Volume and 2007 Supplement)

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

13 **Article – Insurance**

14 19–107.

15 (a) An insurer may not refuse to issue or renew a contract of motor vehicle
16 insurance, property insurance, or casualty insurance **OR EXCLUDE CERTAIN PERILS**
17 solely because the subject of the risk or the applicant’s or insured’s address is located
18 in a certain geographic area of the State unless:

19 (1) [at least 60 days before the refusal, the insurer has filed with the
20 Commissioner a written statement designating the geographic area; and

21 (2) the designation has an objective basis and is not arbitrary or
22 unreasonable] **THE INSURER HAS ADOPTED A WRITTEN UNDERWRITING**
23 **STANDARD DESIGNATING THE GEOGRAPHIC AREA;**

24 **(2) THE INSURER HAS FILED THE UNDERWRITING STANDARD FOR**
25 **APPROVAL BY THE COMMISSIONER; AND**

26 **(3) THE COMMISSIONER HAS APPROVED THE UNDERWRITING**
27 **STANDARD IN WRITING.**

28 (b) [A statement filed with the Commissioner under this section is a public
29 record] **THE FILING REQUIRED BY SUBSECTION (A) OF THIS SECTION SHALL BE**
30 **MADE AT LEAST 120 DAYS BEFORE THE INSURER PROPOSES TO IMPLEMENT THE**
31 **UNDERWRITING STANDARD IN THE STATE.**

32 **(C) THE FILING REQUIRED BY SUBSECTION (A) OF THIS SECTION SHALL**
33 **INCLUDE:**

1 (1) A MAP OR OTHER DOCUMENT AND A RATING RULE THAT
2 IDENTIFIES THE GEOGRAPHIC AREAS IN WHICH WRITINGS WILL BE
3 RESTRICTED;

4 (2) A COPY OF THE UNDERWRITING STANDARD THE INSURER
5 PROPOSES TO IMPLEMENT;

6 (3) THE DATA RELIED ON BY THE INSURER IN DEVELOPING THE
7 UNDERWRITING STANDARD; AND

8 (4) THE DATE ON WHICH THE INSURER INTENDS TO IMPLEMENT
9 THE UNDERWRITING STANDARD.

10 (D) (1) EXCEPT AS PROVIDED IN THIS SECTION, AN UNDERWRITING
11 STANDARD SUBJECT TO THIS SECTION MAY NOT TAKE EFFECT UNTIL 120 DAYS
12 AFTER IT IS FILED WITH THE COMMISSIONER.

13 (2) DURING THE INITIAL 120-DAY WAITING PERIOD, THE
14 COMMISSIONER MAY EXTEND THE WAITING PERIOD FOR AN ADDITIONAL
15 PERIOD, NOT TO EXCEED 60 DAYS, BY WRITTEN NOTICE TO THE INSURER THAT
16 THE COMMISSIONER NEEDS ADDITIONAL TIME FOR CONSIDERATION OF THE
17 FILING.

18 (3) IF THE COMMISSIONER REQUIRES ADDITIONAL
19 INFORMATION, THE WAITING PERIOD AND ANY ADDITIONAL PERIOD UNDER
20 THIS SECTION SHALL BE TOLLED AND SHALL BEGIN AGAIN ON THE DATE THE
21 NEEDED INFORMATION IS RECEIVED.

22 (4) A FILING IS DEEMED APPROVED UNLESS DISAPPROVED BY
23 THE COMMISSIONER DURING THE WAITING PERIOD OR ANY EXTENSION OF THE
24 WAITING PERIOD.

25 (E) IF THE COMMISSIONER FINDS THAT COMPLIANCE WITH
26 SUBSECTION (B) OR (D) OF THIS SECTION WOULD RESULT IN IMPAIRMENT OF
27 THE INSURER OR A SIGNIFICANT FINANCIAL LOSS TO THE INSURER, THE
28 COMMISSIONER MAY ALLOW AN INSURER TO IMPLEMENT ITS UNDERWRITING
29 STANDARD DESIGNATING THE GEOGRAPHIC AREAS IN WHICH IT WILL RESTRICT
30 ITS WRITINGS WITHIN 60 DAYS AFTER THE FILING OF THE UNDERWRITING
31 STANDARD.

32 (F) AN UNDERWRITING STANDARD THAT RESTRICTS WRITING IN A
33 CERTAIN GEOGRAPHIC AREA, INCLUDING THE DESIGNATION OF THE AREA AND
34 ITS BOUNDARIES, SHALL:

1 (1) COMPLY WITH THE PROVISIONS OF § 27-501(A) AND (B) OF
2 THIS ARTICLE;

3 (2) BE DEMONSTRATED OBJECTIVELY;

4 (3) INCLUDE CONSIDERATION OF PAST AND PROSPECTIVE LOSS
5 EXPERIENCE WITHIN AND OUTSIDE THE STATE; AND

6 (4) INCLUDE A CONSIDERATION OF ALL RELEVANT HISTORICAL
7 WEATHER DATA FOR ANY RESTRICTION THAT IS BASED, IN WHOLE OR IN PART,
8 ON A CATASTROPHE MODEL.

9 (G) (1) THE INFORMATION FILED UNDER SUBSECTION (C)(1) AND (4)
10 OF THIS SECTION SHALL BE OPEN TO PUBLIC INSPECTION AS SOON AS IT IS
11 FILED.

12 (2) THE INFORMATION FILED UNDER SUBSECTION (C)(2) AND (3)
13 OF THIS SECTION IS SUBJECT TO THE PROVISIONS OF § 27-501(H) OF THIS
14 ARTICLE.

15 (H) (1) THE INSURER BEARS THE BURDEN OF PROOF TO
16 DEMONSTRATE THAT ITS PROPOSED UNDERWRITING STANDARD, INCLUDING
17 ITS GEOGRAPHIC DESIGNATION, MEETS THE REQUIREMENTS OF THIS SECTION.

18 (2) UNLESS THE INSURER DEMONSTRATES THAT ITS PROPOSED
19 UNDERWRITING STANDARD, INCLUDING ITS GEOGRAPHIC DESIGNATION, MEETS
20 THE REQUIREMENTS OF THIS SECTION, THE COMMISSIONER MAY DISAPPROVE
21 THE FILING AND PROHIBIT THE INSURER FROM IMPLEMENTING THE
22 UNDERWRITING STANDARD.

23 (3) IF, DURING THE WAITING PERIOD OR ANY EXTENSION OF THE
24 WAITING PERIOD, THE COMMISSIONER FINDS THAT AN INSURER'S FILING DOES
25 NOT MEET THE REQUIREMENTS OF THIS SECTION, THE COMMISSIONER SHALL
26 SEND WRITTEN NOTICE OF DISAPPROVAL TO THE INSURER.

27 (I) (1) IF, AFTER AN UNDERWRITING STANDARD SUBJECT TO THIS
28 SECTION HAS BEEN APPROVED OR OTHERWISE HAS BECOME EFFECTIVE, THE
29 COMMISSIONER HAS REASON TO BELIEVE THAT THE UNDERWRITING STANDARD
30 NO LONGER MEETS THE CRITERIA SET FORTH IN SUBSECTION (F) OF THIS
31 SECTION, THE COMMISSIONER MAY ORDER THE INSURER TO JUSTIFY THE
32 STANDARD.

1 (2) THE COMMISSIONER SHALL HOLD A HEARING BEFORE
2 ISSUING AN ORDER REVOKING APPROVAL OF THE INSURER'S UNDERWRITING
3 STANDARD.

4 (3) THE COMMISSIONER SHALL GIVE WRITTEN NOTICE OF THE
5 HEARING TO THE INSURER AT LEAST 10 DAYS BEFORE THE HEARING.

6 (4) THE NOTICE SHALL SPECIFY THE MATTERS TO BE
7 CONSIDERED AT THE HEARING.

8 **19-208.**

9 (A) (1) AN INSURER MAY NOT ADOPT AN UNDERWRITING STANDARD
10 THAT REQUIRES A DEDUCTIBLE THAT EXCEEDS 5% OF THE POLICY LIMITS OF
11 THE POLICY IN THE CASE OF A HURRICANE OR OTHER RELATED STORM,
12 UNLESS:

13 (I) THE INSURER HAS FILED THE UNDERWRITING
14 STANDARD FOR APPROVAL BY THE COMMISSIONER; AND

15 (II) THE COMMISSIONER HAS APPROVED THE
16 UNDERWRITING STANDARD IN WRITING.

17 (2) THE FILING REQUIRED BY PARAGRAPH (1) OF THIS
18 SUBSECTION SHALL:

19 (I) BE MADE AT LEAST 120 DAYS BEFORE THE INSURER
20 PROPOSES TO IMPLEMENT THE UNDERWRITING STANDARD IN THE STATE; AND

21 (II) INCLUDE ANY INFORMATION REQUIRED BY THE
22 COMMISSIONER, INCLUDING:

23 1. A COPY OF THE UNDERWRITING STANDARD THE
24 INSURER PROPOSES TO IMPLEMENT;

25 2. THE DATA RELIED ON BY THE INSURER IN
26 DEVELOPING THE UNDERWRITING STANDARD; AND

27 3. THE DATE ON WHICH THE INSURER INTENDS TO
28 IMPLEMENT THE UNDERWRITING STANDARD.

29 (3) AN UNDERWRITING STANDARD SUBJECT TO THIS SUBSECTION
30 MAY NOT TAKE EFFECT UNTIL 120 DAYS AFTER IT IS FILED WITH THE
31 COMMISSIONER.

1 **(4) DURING THE INITIAL 120-DAY WAITING PERIOD, THE**
2 **COMMISSIONER MAY EXTEND THE WAITING PERIOD FOR AN ADDITIONAL**
3 **PERIOD, NOT TO EXCEED 60 DAYS, BY WRITTEN NOTICE TO THE INSURER THAT**
4 **THE COMMISSIONER NEEDS ADDITIONAL TIME FOR CONSIDERATION OF THE**
5 **FILING.**

6 **(5) IF THE COMMISSIONER REQUIRES ADDITIONAL**
7 **INFORMATION, THE WAITING PERIOD AND ANY ADDITIONAL PERIOD UNDER**
8 **THIS SECTION SHALL BE TOLLED AND SHALL BEGIN AGAIN ON THE DATE THE**
9 **NEEDED INFORMATION IS RECEIVED.**

10 **(6) A FILING IS DEEMED APPROVED UNLESS DISAPPROVED BY**
11 **THE COMMISSIONER DURING THE WAITING PERIOD OR ANY EXTENSION OF THE**
12 **WAITING PERIOD.**

13 **(7) IF THE COMMISSIONER FINDS THAT COMPLIANCE WITH**
14 **PARAGRAPH (3) OR (4) OF THIS SUBSECTION WOULD RESULT IN IMPAIRMENT OF**
15 **THE INSURER OR A SIGNIFICANT FINANCIAL LOSS TO THE INSURER, THE**
16 **COMMISSIONER MAY ALLOW AN INSURER TO IMPLEMENT ITS UNDERWRITING**
17 **STANDARD ESTABLISHING A DEDUCTIBLE AT THE PERCENTAGE INDICATED IN**
18 **THE FILING WITHIN 60 DAYS AFTER THE FILING OF THE UNDERWRITING**
19 **STANDARD.**

20 **(8) AN UNDERWRITING STANDARD SUBJECT TO THIS SUBSECTION**
21 **SHALL:**

22 **(I) BE DEMONSTRATED OBJECTIVELY; AND**

23 **(II) INCLUDE CONSIDERATION OF PAST AND PROSPECTIVE**
24 **LOSS EXPERIENCE WITHIN AND OUTSIDE THE STATE.**

25 **(9) THE INFORMATION FILED UNDER PARAGRAPH (2)(II)1 AND 3**
26 **OF THIS SUBSECTION SHALL BE OPEN TO PUBLIC INSPECTION AS SOON AS IT IS**
27 **FILED.**

28 **(B) IF AN INSURER HAS ADOPTED AN UNDERWRITING STANDARD THAT**
29 **REQUIRES A DEDUCTIBLE EQUAL TO A PERCENTAGE OF THE POLICY LIMITS OF**
30 **THE POLICY IN THE CASE OF A HURRICANE OR OTHER RELATED STORM, THE**
31 **DEDUCTIBLE MAY ONLY BE APPLICABLE BEGINNING AT THE TIME THE**
32 **NATIONAL HURRICANE CENTER OF THE NATIONAL WEATHER SERVICE ISSUES**
33 **A HURRICANE WARNING FOR ANY PART OF THE STATE WHERE THE INSURED'S**
34 **HOME IS LOCATED AND ENDING 24 HOURS FOLLOWING THE TERMINATION OF**

1 THE LAST HURRICANE WARNING ISSUED FOR ANY PART OF THE STATE IN WHICH
2 THE INSURED'S HOME IS LOCATED.

3 (C) AN INSURER THAT HAS ADOPTED AN UNDERWRITING STANDARD
4 THAT REQUIRES A DEDUCTIBLE EQUAL TO A PERCENTAGE OF THE POLICY
5 LIMITS OF THE POLICY IN THE CASE OF A HURRICANE OR OTHER RELATED
6 STORM SHALL PROVIDE A POLICYHOLDER WITH AN ANNUAL STATEMENT
7 EXPLAINING THE MANNER IN WHICH THE DEDUCTIBLE IS APPLIED.

8 (D) THE COMMISSIONER MAY ADOPT REGULATIONS TO IMPLEMENT
9 THE PROVISIONS OF THIS SECTION.

10 **19-209.**

11 (A) AN INSURER SHALL OFFER A PREMIUM DISCOUNT ON A
12 HOMEOWNER'S INSURANCE POLICY TO AN INSURED WHO SUBMITS PROOF OF
13 IMPROVEMENTS MADE TO THE INSURED PREMISES AS A MEANS OF MITIGATING
14 LOSS FROM A HURRICANE OR OTHER RELATED STORM.

15 (B) THE COMMISSIONER MAY ADOPT REGULATIONS TO IMPLEMENT
16 THE PROVISIONS OF THIS SECTION.

17 **19-210.**

18 (A) IF AN INSURER USES A CATASTROPHIC RISK PLANNING MODEL OR
19 OTHER MODEL IN SETTING RATES, THE INSURER SHALL:

20 (1) FILE WITH THE COMMISSIONER THE SPECIFIC MODEL USED
21 IN SETTING THE RATE; AND

22 (2) EXPLAIN THE MANNER IN WHICH THE MODEL WAS USED TO
23 DETERMINE THE FILED RATE.

24 (B) THE INFORMATION FILED UNDER SUBSECTION (A) OF THIS SECTION
25 IS PROPRIETARY AND CONFIDENTIAL COMMERCIAL INFORMATION UNDER §
26 10-617(D) OF THE STATE GOVERNMENT ARTICLE.

27 (C) THE COMMISSIONER MAY ADOPT REGULATIONS TO IMPLEMENT
28 THE PROVISIONS OF THIS SECTION.

29 SECTION 2. AND BE IT FURTHER ENACTED, That the Maryland
30 Department of Planning shall review current statewide building codes and develop
31 enhanced building codes for coastal regions of the State that promote
32 disaster-resistant construction in the coastal regions of the State. The Department

1 shall report their findings and recommendations, subject to § 2-1246 of the State
2 Government Article, to the Senate Finance Committee and House Economic Matters
3 Committee on or before October 1, 2010. The enhanced building codes shall be
4 provided to the planning boards of the counties in the coastal areas of the State.

5 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall apply to all
6 homeowner's insurance policies issued, delivered, or renewed in the State on or after
7 October 1, 2008.

8 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 October 1, 2008.