

HOUSE BILL 164

C4

(91r0045)

ENROLLED BILL

—Economic Matters / Finance—

Introduced by **Chair, Economic Matters Committee (By Request - Departmental - Insurance Administration, Maryland)**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Automobile Liability and Homeowner's Insurance - ~~Surcharges~~ Rating,**
3 **Retiering, and ~~Removal or Reduction of~~ Discounts**

4 FOR the purpose of establishing certain principles for rating homeowner's insurance
5 under prior approval and competitive rating; prohibiting classification or
6 maintenance of certain insureds under homeowner's insurance in a
7 classification that entails a higher premium based on certain claims made in
8 certain periods; providing that the removal of, reduction of, or refusal to apply a
9 discount under homeowner's insurance is not a violation of certain provisions of
10 this Act under certain circumstances; providing for the construction of certain
11 provisions concerning certain discounts in homeowner's insurance and
12 automobile liability insurance; prohibiting an insurer, with respect to
13 automobile liability insurance and homeowner's insurance, from imposing a

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber committee amendments.

Bold italics indicate conference committee amendments.



1 ~~surcharge, retiering a risk, or removing or reducing a discount~~ retiering a policy
 2 containing certain coverage under certain circumstances; providing for a
 3 delayed effective date; and generally relating to automobile liability insurance
 4 and homeowner's insurance.

5 ~~BY repealing and reenacting, with amendments,~~
 6 ~~Article – Insurance~~
 7 ~~Section 27-501(d)(1) and (2)~~
 8 ~~Annotated Code of Maryland~~
 9 ~~(2006 Replacement Volume and 2008 Supplement)~~

10 BY adding to
 11 Article – Insurance
 12 Section 11-213 and 11-315
 13 Annotated Code of Maryland
 14 (2003 Replacement Volume and 2008 Supplement)

15 BY repealing and reenacting, without amendments,
 16 Article – Insurance
 17 Section 11-215(a) and 11-318(a)
 18 Annotated Code of Maryland
 19 (2003 Replacement Volume and 2008 Supplement)

20 BY repealing and reenacting, with amendments,
 21 Article – Insurance
 22 Section 11-215(b) and 11-318(b)
 23 Annotated Code of Maryland
 24 (2003 Replacement Volume and 2008 Supplement)

25 BY repealing and reenacting, with amendments,
 26 Article – Insurance
 27 Section 19-507
 28 Annotated Code of Maryland
 29 (2006 Replacement Volume and 2008 Supplement)

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

32 **Article – Insurance**

33 ~~27-501.~~

34 (d) (1) ~~With respect to automobile liability insurance, an insurer may not:~~
 35 (i) ~~cancel, refuse to renew, [or] otherwise terminate coverage,~~
 36 ~~IMPOSE A SURCHARGE, OR REMOVE OR REDUCE A DISCOUNT~~ for an automobile

~~insurance risk, OR REFUSE AN AUTOMOBILE INSURANCE RISK, because of a claim, traffic violation, or traffic accident that occurred more than 3 years before the effective date of the policy or renewal; or~~

~~(ii) refuse to underwrite an automobile insurance risk because of a claim, traffic violation, or traffic accident that occurred more than 3 years before the date of application.~~

~~(2) With respect to homeowner's insurance, an insurer may not:~~

~~(i) cancel, refuse to renew, [or] otherwise terminate coverage, IMPOSE A SURCHARGE, OR REMOVE OR REDUCE A DISCOUNT for a homeowner's insurance risk, OR REFUSE A HOMEOWNER'S INSURANCE RISK, because of a claim that occurred more than 3 years before the effective date of the policy or renewal; or~~

~~(ii) refuse to underwrite a homeowner's insurance risk because of a claim that occurred more than 3 years before the date of application.~~

11-213.

(A) ALL HOMEOWNER'S INSURANCE RATES SHALL BE MADE IN ACCORDANCE WITH THE PRINCIPLES SET FORTH IN THIS SECTION.

(B) (1) AN INSURER UNDER A HOMEOWNER'S INSURANCE POLICY MAY NOT CLASSIFY OR MAINTAIN AN INSURED FOR A PERIOD LONGER THAN 3 YEARS IN A CLASSIFICATION THAT ENTAILS A HIGHER PREMIUM BECAUSE OF A SPECIFIC CLAIM.

(2) FOR THE PURPOSE OF DETERMINING WHETHER TO CLASSIFY AN INSURED IN A CLASSIFICATION THAT ENTAILS A HIGHER PREMIUM, AN INSURER MAY REVIEW ONLY A PERIOD NOT GREATER THAN 3 YEARS BEFORE:

(I) IF THE POLICY HAS NOT YET BEEN ISSUED:

1. THE DATE OF THE APPLICATION; OR

2. THE PROPOSED EFFECTIVE DATE OF THE POLICY;

OR

(II) ON RENEWAL OF A POLICY, THE EFFECTIVE DATE OF THE RENEWAL.

(3) (I) THE REMOVAL OF, REDUCTION OF, OR REFUSAL TO APPLY A DISCOUNT IS NOT A VIOLATION OF THIS SUBSECTION IF THE CLAIM RESULTING IN THE REMOVAL OF, REDUCTION OF, OR REFUSAL TO APPLY THE

1 DISCOUNT WAS FILED NOT MORE THAN 5 YEARS BEFORE THE REMOVAL,
2 REDUCTION, OR REFUSAL.

3 (II) SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY NOT BE
4 CONSTRUED TO PREVENT AN INSURER FROM GRANTING A CLAIM-FREE
5 DISCOUNT TO AN INSURED.

6 11-215.

7 (a) All automobile insurance rates shall be made in accordance with the
8 principles set forth in this section.

9 (b) (1) An insurer under an automobile liability insurance policy may not
10 classify or maintain an insured for a period longer than 3 years in a classification that
11 entails a higher premium:

12 (i) because of a specific claim; or

13 (ii) because of the insured's driving record.

14 (2) For the purpose of determining whether to classify an insured in a
15 classification that entails a higher premium, an insurer may review only a period not
16 greater than 3 years before:

17 (i) if the policy has not yet been issued:

18 1. the date of the application; or

19 2. the proposed effective date of the policy; or

20 (ii) on renewal of a policy, the effective date of the renewal.

21 (3) (I) The removal of a discount is not a violation of this
22 subsection.

23 (II) SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY NOT BE
24 CONSTRUED TO PREVENT AN INSURER FROM GRANTING A CLAIM-FREE
25 DISCOUNT TO AN INSURED.

26 11-315.

27 (A) ALL HOMEOWNER'S INSURANCE RATES SHALL BE MADE IN
28 ACCORDANCE WITH THE PRINCIPLES SET FORTH IN THIS SECTION.

29 (B) (1) AN INSURER UNDER A HOMEOWNER'S INSURANCE POLICY
30 MAY NOT CLASSIFY OR MAINTAIN AN INSURED FOR A PERIOD LONGER THAN 3

1 YEARS IN A CLASSIFICATION THAT ENTAILS A HIGHER PREMIUM BECAUSE OF A
2 SPECIFIC CLAIM.

3 (2) FOR THE PURPOSE OF DETERMINING WHETHER TO CLASSIFY
4 AN INSURED IN A CLASSIFICATION THAT ENTAILS A HIGHER PREMIUM, AN
5 INSURER MAY REVIEW ONLY A PERIOD NOT GREATER THAN 3 YEARS BEFORE:

6 (I) IF THE POLICY HAS NOT YET BEEN ISSUED:

7 1. THE DATE OF THE APPLICATION; OR

8 2. THE PROPOSED EFFECTIVE DATE OF THE POLICY;
9 OR

10 (II) ON RENEWAL OF A POLICY, THE EFFECTIVE DATE OF
11 THE RENEWAL.

12 (3) (I) THE REMOVAL OF, REDUCTION OF, OR REFUSAL TO
13 APPLY A DISCOUNT IS NOT A VIOLATION OF THIS SUBSECTION IF THE CLAIM
14 RESULTING IN THE REMOVAL OF, REDUCTION OF, OR REFUSAL TO APPLY THE
15 DISCOUNT WAS FILED NOT MORE THAN 5 YEARS BEFORE THE REMOVAL,
16 REDUCTION, OR REFUSAL.

17 (II) SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY NOT BE
18 CONSTRUED TO PREVENT AN INSURER FROM GRANTING A CLAIM-FREE
19 DISCOUNT TO AN INSURED.

20 11-318.

21 (a) All automobile insurance rates shall be made in accordance with the
22 principles set forth in this section.

23 (b) (1) An insurer under an automobile liability insurance policy may not
24 classify or maintain an insured for a period longer than 3 years in a classification that
25 entails a higher premium:

26 (i) because of a specific claim; or

27 (ii) because of the insured's driving record.

28 (2) For the purpose of determining whether to classify an insured in a
29 classification that entails a higher premium, an insurer may review only a period not
30 greater than 3 years before:

31 (i) if the policy has not yet been issued:

- 1 1. the date of the application; or
 2 2. the proposed effective date of the policy; or
 3 (ii) on renewal of a policy, the effective date of the renewal.
 4 (3) (I) The removal of a discount is not a violation of this
 5 subsection.

6 (ii) SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY NOT BE
 7 CONSTRUED TO PREVENT AN INSURER FROM GRANTING A CLAIM-FREE
 8 DISCOUNT TO AN INSURED.

9 19-507.

10 (a) The benefits described in § 19-505 of this subtitle shall be payable
 11 without regard to:

12 (1) the fault or nonfault of the named insured or the recipient of
 13 benefits in causing or contributing to the motor vehicle accident; and

14 (2) any collateral source of medical, hospital, or wage continuation
 15 benefits.

16 (b) (1) Subject to paragraph (2) of this subsection, if the insured has both
 17 coverage for the benefits described in § 19-505 of this subtitle and a collateral source
 18 of medical, hospital, or wage continuation benefits, the insurer or insurers may
 19 coordinate the policies to provide for nonduplication of benefits, subject to appropriate
 20 reductions in premiums for one or both of the policies approved by the Commissioner.

21 (2) The named insured may:

22 (i) elect to coordinate the policies by indicating in writing which
 23 policy is to be the primary policy; or

24 (ii) reject the coordination of policies and nonduplication of
 25 benefits.

26 (c) An insurer that issues a policy that contains the coverage described in §
 27 19-505 of this subtitle may not impose a surcharge **OR RETIER THE POLICY** for a
 28 claim or payment made under that coverage and, at the time the policy is issued, shall
 29 notify the policyholder in writing that a surcharge may not be imposed **AND THE**
 30 **POLICY MAY NOT BE RETIERED** for a claim or payment made under that coverage.

1 (d) An insurer that provides the benefits described in § 19-505 of this
2 subtitle does not have a right of subrogation and does not have a claim against any
3 other person or insurer to recover any benefits paid because of the alleged fault of the
4 other person in causing or contributing to a motor vehicle accident.

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 ~~October 1, 2009~~ January 1, 2010.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.