

HOUSE BILL 164

C4

9lr0045

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

Introduced and read first time: January 26, 2009

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 18, 2009

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
14 surcharge, retiering a risk, or removing or reducing a discount retiering a policy
15 containing certain coverage under certain circumstances; and generally relating
16 to automobile liability insurance and homeowner's insurance.

17 ~~BY repealing and reenacting, with amendments,~~
18 ~~Article - Insurance~~
19 ~~Section 27-501(d)(1) and (2)~~
20 ~~Annotated Code of Maryland~~
21 ~~(2006 Replacement Volume and 2008 Supplement)~~

22 BY adding to
23 Article - Insurance

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.



1 Section 11-213 and 11-315
 2 Annotated Code of Maryland
 3 (2003 Replacement Volume and 2008 Supplement)

4 BY repealing and reenacting, without amendments,
 5 Article – Insurance
 6 Section 11-215(a) and 11-318(a)
 7 Annotated Code of Maryland
 8 (2003 Replacement Volume and 2008 Supplement)

9 BY repealing and reenacting, with amendments,
 10 Article – Insurance
 11 Section 11-215(b) and 11-318(b)
 12 Annotated Code of Maryland
 13 (2003 Replacement Volume and 2008 Supplement)

14 BY repealing and reenacting, with amendments,
 15 Article – Insurance
 16 Section 19-507
 17 Annotated Code of Maryland
 18 (2006 Replacement Volume and 2008 Supplement)

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

21 **Article – Insurance**

22 ~~27-501.~~

23 ~~(d) (1) With respect to automobile liability insurance, an insurer may not:~~

24 ~~(i) cancel, refuse to renew, [or] otherwise terminate coverage,~~
 25 ~~**IMPOSE A SURCHARGE, OR REMOVE OR REDUCE A DISCOUNT** for an automobile~~
 26 ~~insurance risk, **OR RETIER AN AUTOMOBILE INSURANCE RISK**, because of a claim,~~
 27 ~~traffic violation, or traffic accident that occurred more than 3 years before the effective~~
 28 ~~date of the policy or renewal; or~~

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

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

33 ~~(i) cancel, refuse to renew, [or] otherwise terminate coverage,~~
 34 ~~**IMPOSE A SURCHARGE, OR REMOVE OR REDUCE A DISCOUNT** for a homeowner's~~

~~insurance risk, OR REFUSE TO UNDERWRITE 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 DISCOUNT WAS FILED NOT MORE THAN 5 YEARS BEFORE THE REMOVAL, REDUCTION, OR REFUSAL.

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

11-215.

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

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

4 **(i)** because of a specific claim; or

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

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

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

10 **1.** the date of the application; or

11 **2.** the proposed effective date of the policy; or

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

13 **(3) (I)** The removal of a discount is not a violation of this
14 subsection.

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

18 **11-315.**

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

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

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

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

29 **1.** THE DATE OF THE APPLICATION; OR

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

4 19-507.

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

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

9 (2) any collateral source of medical, hospital, or wage continuation
10 benefits.

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

16 (2) The named insured may:

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

19 (ii) reject the coordination of policies and nonduplication of
20 benefits.

21 (c) An insurer that issues a policy that contains the coverage described in §
22 19-505 of this subtitle may not impose a surcharge **OR RETIER THE POLICY** for a
23 claim or payment made under that coverage and, at the time the policy is issued, shall
24 notify the policyholder in writing that a surcharge may not be imposed **AND THE**
25 **POLICY MAY NOT BE RETIERED** for a claim or payment made under that coverage.

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

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 October 1, 2009.