

CHAPTER 378

(House Bill 164)

AN ACT concerning

Automobile Liability and Homeowner's Insurance – ~~Surcharges~~ Rating, Retiering, and ~~Removal or Reduction of~~ Discounts

FOR the purpose of establishing certain principles for rating homeowner's insurance under prior approval and competitive rating; prohibiting classification or maintenance of certain insureds under homeowner's insurance in a classification that entails a higher premium based on certain claims made in certain periods; providing that the removal of, reduction of, or refusal to apply a discount under homeowner's insurance is not a violation of certain provisions of this Act under certain circumstances; providing for the construction of certain provisions concerning certain discounts in homeowner's insurance and automobile liability insurance; prohibiting an insurer, with respect to automobile liability insurance and homeowner's insurance, from imposing a surcharge, retiering a risk, or removing or reducing a discount retiering a policy containing certain coverage under certain circumstances; *providing for a delayed effective date*; and generally relating to automobile liability insurance and homeowner's insurance.

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

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

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

BY repealing and reenacting, with amendments,
Article – Insurance

Section 11-215(b) and 11-318(b)
Annotated Code of Maryland
(2003 Replacement Volume and 2008 Supplement)

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

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

Article – Insurance

~~27-501.~~

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

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

(i) because of a specific claim; or

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

(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 a discount is not a violation of this subsection.

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

11-315.

(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.

11-318.

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

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

- (i) because of a specific claim; or
- (ii) because of the insured's driving record.

(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 a discount is not a violation of this subsection.

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

19-507.

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

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

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

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

(2) The named insured may:

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

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

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

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

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

Approved by the Governor, May 7, 2009.