

# HOUSE BILL 1095

C4

(2lr2509)

## ENROLLED BILL

— Economic Matters/Finance —

Introduced by **Delegate Rudolph**

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 **Property and Casualty Insurance – Underwriting Period – Discovery of**  
3 **Material Risk Factor**

4 FOR the purpose of requiring an insurer that discovers a certain material risk factor  
5 during a certain underwriting period to recalculate the premium for a policy or  
6 binder of personal insurance, commercial property insurance, or commercial  
7 liability insurance under certain circumstances; requiring the insurer to provide  
8 certain written notice to the insured on a certain form if the insurer recalculates  
9 the premium for the policy or binder based on the discovery of a certain  
10 material risk factor; requiring an insurer, at the time of a certain application or  
11 when a certain policy or binder is issued, to provide a certain written notice of its  
12 ability to recalculate a certain premium during a certain period; providing that  
13 certain provisions of law requiring insurers to send certain notice of a premium  
14 increase for a policy of private passenger motor vehicle liability insurance do not  
15 apply to an increase in premium made by an insurer during the underwriting

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**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/conference committee amendments.



1 period under certain circumstances; defining a certain term; making stylistic  
 2 changes; providing for the application of this Act; providing for a delayed  
 3 effective date; and generally relating to the recalculation of the premium for a  
 4 policy or binder of property and casualty insurance during the underwriting  
 5 period.

6 BY repealing and reenacting, with amendments,  
 7 Article – Insurance  
 8 Section 12–106 and 27–614(b)  
 9 Annotated Code of Maryland  
 10 (2011 Replacement Volume)

11 BY repealing and reenacting, without amendments,  
 12 Article – Insurance  
 13 Section 27–614(a) and (c)(1) and (2)  
 14 Annotated Code of Maryland  
 15 (2011 Replacement Volume)

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

18 **Article – Insurance**

19 12–106.

20 [(a) In this section, “personal insurance” means property insurance or  
 21 casualty insurance issued to an individual, trust, estate, or similar entity that is  
 22 intended to insure against loss arising principally from the personal, noncommercial  
 23 activities of the insured.]

24 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE**  
 25 **MEANINGS INDICATED.**

26 **(2) (I) “MATERIAL RISK FACTOR” MEANS A RISK FACTOR**  
 27 **THAT:**

28 **1. WAS INCORRECTLY RECORDED OR NOT**  
 29 **DISCLOSED BY THE INSURED IN AN APPLICATION FOR INSURANCE;**

30 **2. WAS IN EXISTENCE ON THE DATE OF THE**  
 31 **APPLICATION; AND**

32 **3. MODIFIES THE PREMIUM CHARGED ON THE**  
 33 **POLICY OR BINDER IN ACCORDANCE WITH THE RATES AND SUPPLEMENTARY**  
 34 **RATING INFORMATION FILED BY THE INSURER UNDER TITLE 11, SUBTITLE 3 OF**  
 35 **THIS ARTICLE.**

1 (II) "MATERIAL RISK FACTOR" DOES NOT INCLUDE:

2 1. INFORMATION THAT CONSTITUTES A MATERIAL  
3 MISREPRESENTATION; OR

4 2. A CHANGE INITIATED BY AN INSURED, INCLUDING  
5 ANY REQUEST BY THE INSURED THAT RESULTS IN A CHANGE IN COVERAGE,  
6 ~~DECREASE~~ CHANGE IN DEDUCTIBLE, OR OTHER CHANGE TO A POLICY.

7 (3) "PERSONAL INSURANCE" MEANS PROPERTY INSURANCE OR  
8 CASUALTY INSURANCE ISSUED TO AN INDIVIDUAL, TRUST, ESTATE, OR SIMILAR  
9 ENTITY THAT IS INTENDED TO INSURE AGAINST LOSS ARISING PRINCIPALLY  
10 FROM THE PERSONAL, NONCOMMERCIAL ACTIVITIES OF THE INSURED.

11 (b) This section applies only to a binder or policy, other than a renewal  
12 policy, of personal insurance, commercial property insurance, and commercial liability  
13 insurance.

14 (c) A binder or policy is subject to a 45-day underwriting period beginning  
15 on the effective date of coverage.

16 (d) (1) An insurer may cancel a binder or policy during the underwriting  
17 period if the risk does not meet the underwriting standards of the insurer.

18 (2) IF THE INSURER DISCOVERS A MATERIAL RISK FACTOR  
19 DURING THE UNDERWRITING PERIOD, THE INSURER SHALL RECALCULATE THE  
20 PREMIUM FOR THE POLICY OR BINDER BASED ON THE MATERIAL RISK FACTOR  
21 AS LONG AS THE RISK CONTINUES TO MEET THE UNDERWRITING STANDARDS OF  
22 THE INSURER IN ACCORDANCE WITH THE RATES AND SUPPLEMENTARY RATING  
23 INFORMATION FILED BY THE INSURER UNDER TITLE 11, SUBTITLE 3 OF THIS  
24 ARTICLE.

25 (3) AN INSURER THAT RECALCULATES A PREMIUM UNDER  
26 PARAGRAPH (2) OF THIS SUBSECTION SHALL PROVIDE A WRITTEN NOTICE TO  
27 THE INSURED ON A FORM APPROVED BY THE COMMISSIONER 15 DAYS BEFORE  
28 ~~THE PREMIUM INCREASE OR DECREASE TAKES EFFECT~~ THAT STATES:

29 (I) THE AMOUNT OF THE RECALCULATED PREMIUM;

30 (II) THE REASON FOR THE INCREASE OR REDUCTION IN THE  
31 PREMIUM; AND

1                   ~~(H) (III)~~ THE INSURED'S RIGHT TO TERMINATE THE  
 2 POLICY ~~IF THE INSURED DOES NOT CHOOSE TO ACCEPT THE RECALCULATED~~  
 3 ~~PREMIUM EFFECTIVE NOT LESS THAN 15 DAYS AFTER THE INSURER MAILS THE~~  
 4 ~~NOTICE REQUIRED UNDER THIS PARAGRAPH IN ACCORDANCE WITH~~  
 5 ~~SUBSECTION (F) OF THIS SECTION.~~

6           (e) If applicable, at the time of application or when a binder or policy is  
 7 issued, an insurer shall provide written notice of its ability to cancel a binder or policy  
 8 **OR RECALCULATE THE PREMIUM FROM THE EFFECTIVE DATE OF THE POLICY**  
 9 during the underwriting period.

10           (f) (1) Except as provided in paragraph (2) of this subsection, a notice of  
 11 cancellation ~~OR PREMIUM RECALCULATION~~ under this section shall:

12                   (i) be in writing;

13                   (ii) have an effective date not less than 15 days after mailing;

14                   (iii) state clearly and specifically the insurer's actual reason for  
 15 the cancellation ~~OR PREMIUM RECALCULATION; [and]~~

16                   (iv) be sent by certificate of mail to the named insured's last  
 17 known address; ~~AND~~

18                   ~~(V) BE IN DUPLICATE AND ON A FORM APPROVED BY THE~~  
 19 ~~COMMISSIONER.~~

20           (2) A notice of cancellation under this section for nonpayment of  
 21 premium shall:

22                   (i) be in writing;

23                   (ii) have an effective date of not less than 10 days after mailing;

24                   (iii) state the insurer's intent to cancel for nonpayment of  
 25 premium; and

26                   (iv) be sent by certificate of mail to the named insured's last  
 27 known address.

28           (g) A binder or other contract for temporary insurance:

29                   (1) may be made orally or in writing; and

30                   (2) except as superseded by the clear and express terms of the binder,  
 31 is considered to include:

1 (i) all the usual terms of the policy as to which the binder was  
2 given; and

3 (ii) the applicable endorsements designated in the binder.

4 (h) A binder is no longer valid after the policy as to which it was given is  
5 issued.

6 (i) (1) If a binder is given to a consumer borrower to satisfy a lender's  
7 requirement that the borrower obtain property insurance or credit loss insurance as a  
8 condition of making a loan secured by a first mortgage or first deed of trust on an  
9 interest in owner-occupied residential real property, the insurer or its insurance  
10 producer shall include in or with the binder:

11 (i) the name and address of the insured consumer borrower;

12 (ii) the name and address of the lender;

13 (iii) a description of the insured residential real property;

14 (iv) a provision that the binder may not be canceled within the  
15 term of the binder unless the lender and the insured borrower receive written notice at  
16 least 15 days before the cancellation;

17 (v) except in the case of the renewal of a policy after the closing  
18 of a loan, a paid receipt for the full amount of the applicable premium; and

19 (vi) the amount of coverage.

20 (2) With respect to a binder given under this subsection, an insurer:

21 (i) if the binder is to be canceled, shall give the lender and the  
22 insured consumer borrower at least 15 days' written notice before the cancellation; and

23 (ii) within 45 days after the date the binder was given, shall  
24 issue a policy of insurance or provide the required notice of cancellation of the binder.

25 27-614.

26 (a) In this section, "increase in premium" and "premium increase" include an  
27 increase in total premium for a policy due to:

28 (1) a surcharge;

29 (2) retiering or other reclassification of an insured; or

1 (3) removal or reduction of a discount.

2 (b) (1) This section applies only to private passenger motor vehicle  
3 liability insurance.

4 (2) This section does not apply to the Maryland Automobile Insurance  
5 Fund.

6 (3) **THIS SECTION DOES NOT APPLY TO AN INCREASE IN PREMIUM**  
7 **MADE BY AN INSURER DURING THE 45-DAY UNDERWRITING PERIOD IN**  
8 **ACCORDANCE WITH § 12-106(D)(2) AND (3) AND (F) OF THIS ARTICLE.**

9 (c) (1) Except as provided in paragraph (2) of this subsection, at least 45  
10 days before the effective date of an increase in the total premium for a policy of private  
11 passenger motor vehicle liability insurance, the insurer shall send written notice of the  
12 premium increase to the insured at the last known address of the insured by  
13 certificate of mail.

14 (2) The notice required by paragraph (1) of this subsection need not be  
15 given if the premium increase is part of a general increase in premiums that is filed in  
16 accordance with Title 11 of this article and does not result from a reclassification of  
17 the insured.

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all  
19 policies and contracts of personal insurance, commercial property insurance, and  
20 commercial liability insurance issued, delivered, or renewed in the State on or after  
21 ~~October~~ January 1, 2012 ~~2012~~ 2013.

22 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
23 ~~October~~ January 1, 2012 ~~2012~~ 2013.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.