

HOUSE BILL 1095

C4

2lr2509

By: **Delegate Rudolph**

Introduced and read first time: February 10, 2012

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 17, 2012

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 notice to the insured if the insurer recalculates the premium for the
9 policy or binder based on the discovery of a certain material risk factor;
10 providing that certain provisions of law requiring insurers to send certain notice
11 of a premium increase for a policy of private passenger motor vehicle liability
12 insurance do not apply to an increase in premium made by an insurer during
13 the underwriting period under certain circumstances; defining a certain term;
14 making stylistic changes; providing for the application of this Act; providing for
15 a delayed effective date; and generally relating to the recalculation of the
16 premium for a policy or binder of property and casualty insurance during the
17 underwriting period.

18 BY repealing and reenacting, with amendments,
19 Article – Insurance
20 Section 12–106 and 27–614(b)
21 Annotated Code of Maryland
22 (2011 Replacement Volume)

23 BY repealing and reenacting, without amendments,

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 Article – Insurance
2 Section 27–614(a) and (c)(1) and (2)
3 Annotated Code of Maryland
4 (2011 Replacement Volume)

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

7 **Article – Insurance**

8 12–106.

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

13 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
14 MEANINGS INDICATED.

15 (2) (I) “MATERIAL RISK FACTOR” MEANS A RISK FACTOR
16 THAT:

17 1. WAS INCORRECTLY RECORDED OR NOT
18 DISCLOSED BY THE INSURED IN AN APPLICATION FOR INSURANCE;

19 2. WAS IN EXISTENCE ON THE DATE OF THE
20 APPLICATION; AND

21 3. MODIFIES THE PREMIUM CHARGED ON THE
22 POLICY OR BINDER IN ACCORDANCE WITH THE RATES AND SUPPLEMENTARY
23 RATING INFORMATION FILED BY THE INSURER UNDER TITLE 11, SUBTITLE 3 OF
24 THIS ARTICLE.

25 (II) “MATERIAL RISK FACTOR” DOES NOT INCLUDE:

26 1. INFORMATION THAT CONSTITUTES A MATERIAL
27 MISREPRESENTATION; OR

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

31 (3) “PERSONAL INSURANCE” MEANS PROPERTY INSURANCE OR
32 CASUALTY INSURANCE ISSUED TO AN INDIVIDUAL, TRUST, ESTATE, OR SIMILAR

1 ENTITY THAT IS INTENDED TO INSURE AGAINST LOSS ARISING PRINCIPALLY
2 FROM THE PERSONAL, NONCOMMERCIAL ACTIVITIES OF THE INSURED.

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

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

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

10 (2) IF THE INSURER DISCOVERS A MATERIAL RISK FACTOR
11 DURING THE UNDERWRITING PERIOD, THE INSURER SHALL RECALCULATE THE
12 PREMIUM FOR THE POLICY OR BINDER BASED ON THE MATERIAL RISK FACTOR
13 AS LONG AS THE RISK CONTINUES TO MEET THE UNDERWRITING STANDARDS OF
14 THE INSURER IN ACCORDANCE WITH THE RATES AND SUPPLEMENTARY RATING
15 INFORMATION FILED BY THE INSURER UNDER TITLE 11, SUBTITLE 3 OF THIS
16 ARTICLE.

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

21 (I) THE AMOUNT OF THE RECALCULATED PREMIUM;

22 (II) THE REASON FOR THE INCREASE OR REDUCTION IN THE
23 PREMIUM; AND

24 ~~(H) (III) THE INSURED'S RIGHT TO TERMINATE THE~~
25 ~~POLICY IF THE INSURED DOES NOT CHOOSE TO ACCEPT THE RECALCULATED~~
26 ~~PREMIUM EFFECTIVE NOT LESS THAN 15 DAYS AFTER THE INSURER MAILES THE~~
27 ~~NOTICE REQUIRED UNDER THIS PARAGRAPH IN ACCORDANCE WITH~~
28 ~~SUBSECTION (F) OF THIS SECTION.~~

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

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

- 1 (i) be in writing;
- 2 (ii) have an effective date not less than 15 days after mailing;
- 3 (iii) state clearly and specifically the insurer's actual reason for
4 the cancellation ~~OR PREMIUM RECALCULATION; [and]~~
- 5 (iv) be sent by certificate of mail to the named insured's last
6 known address; ~~AND~~
- 7 ~~(v) BE IN DUPLICATE AND ON A FORM APPROVED BY THE~~
8 ~~COMMISSIONER.~~

9 (2) A notice of cancellation under this section for nonpayment of
10 premium shall:

- 11 (i) be in writing;
- 12 (ii) have an effective date of not less than 10 days after mailing;
- 13 (iii) state the insurer's intent to cancel for nonpayment of
14 premium; and
- 15 (iv) be sent by certificate of mail to the named insured's last
16 known address.

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

- 18 (1) may be made orally or in writing; and
- 19 (2) except as superseded by the clear and express terms of the binder,
20 is considered to include:
- 21 (i) all the usual terms of the policy as to which the binder was
22 given; and
- 23 (ii) the applicable endorsements designated in the binder.

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

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

- 1 (i) the name and address of the insured consumer borrower;
- 2 (ii) the name and address of the lender;
- 3 (iii) a description of the insured residential real property;
- 4 (iv) a provision that the binder may not be canceled within the
5 term of the binder unless the lender and the insured borrower receive written notice at
6 least 15 days before the cancellation;
- 7 (v) except in the case of the renewal of a policy after the closing
8 of a loan, a paid receipt for the full amount of the applicable premium; and
- 9 (vi) the amount of coverage.

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

- 11 (i) if the binder is to be canceled, shall give the lender and the
12 insured consumer borrower at least 15 days' written notice before the cancellation; and
- 13 (ii) within 45 days after the date the binder was given, shall
14 issue a policy of insurance or provide the required notice of cancellation of the binder.

15 27-614.

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

- 18 (1) a surcharge;
- 19 (2) retiering or other reclassification of an insured; or
- 20 (3) removal or reduction of a discount.

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

23 (2) This section does not apply to the Maryland Automobile Insurance
24 Fund.

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

28 (c) (1) Except as provided in paragraph (2) of this subsection, at least 45
29 days before the effective date of an increase in the total premium for a policy of private
30 passenger motor vehicle liability insurance, the insurer shall send written notice of the

1 premium increase to the insured at the last known address of the insured by
2 certificate of mail.

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

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all
8 policies and contracts of personal insurance, commercial property insurance, and
9 commercial liability insurance issued, delivered, or renewed in the State on or after
10 October 1, 2012.

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

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.