

HOUSE BILL 1383

C4
HB 860/08 – ECM

2lr3286

By: **Delegate O'Donnell**

Introduced and read first time: February 23, 2012

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Property and Casualty Insurance – Underwriting Based on Geographic Area**

3 FOR the purpose of altering the requirements an insurer must meet before refusing to
4 issue or renew certain insurance contracts solely because the insured property
5 or the applicant's or insured's address is located within a certain geographic
6 area of the State; requiring an insurer to adopt a certain underwriting standard
7 and file the underwriting standard with the Maryland Insurance Commissioner
8 for approval; specifying the contents of a certain filing; establishing that a
9 certain underwriting standard may not take effect until a certain number of
10 days after it is filed with the Commissioner; establishing certain exceptions;
11 establishing certain requirements for a certain underwriting standard;
12 providing that certain information shall be open to public inspection;
13 authorizing the Commissioner to disapprove a filing under certain
14 circumstances; requiring the Commissioner to send certain notice of disapproval
15 of a filing under certain circumstances; requiring the Commissioner to hold a
16 hearing under certain circumstances; requiring the Commissioner to give
17 certain notice of the hearing; and generally relating to underwriting standards
18 for property and casualty insurance.

19 BY repealing and reenacting, with amendments,
20 Article – Insurance
21 Section 19–107
22 Annotated Code of Maryland
23 (2011 Replacement Volume)

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

26 **Article – Insurance**

27 19–107.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) An insurer may not refuse to issue or renew a contract of motor vehicle
2 insurance, property insurance, or casualty insurance **OR EXCLUDE CERTAIN PERILS**
3 solely because the subject of the risk or the applicant's or insured's address is located
4 in a certain geographic area of the State unless:

5 (1) [at least 60 days before the refusal, the insurer has filed with the
6 Commissioner a written statement designating the geographic area; and

7 (2) the designation has an objective basis and is not arbitrary or
8 unreasonable] **THE INSURER HAS ADOPTED A WRITTEN UNDERWRITING**
9 **STANDARD DESIGNATING THE GEOGRAPHIC AREA;**

10 **(2) THE INSURER HAS FILED THE UNDERWRITING STANDARD FOR**
11 **APPROVAL BY THE COMMISSIONER; AND**

12 **(3) THE COMMISSIONER HAS APPROVED THE UNDERWRITING**
13 **STANDARD IN WRITING.**

14 (b) [A statement filed with the Commissioner under this section is a public
15 record] **THE FILING REQUIRED UNDER SUBSECTION (A) OF THIS SECTION SHALL**
16 **BE MADE AT LEAST 120 DAYS BEFORE THE INSURER PROPOSES TO IMPLEMENT**
17 **THE UNDERWRITING STANDARD IN THE STATE.**

18 **(C) THE FILING REQUIRED UNDER SUBSECTION (A) OF THIS SECTION**
19 **SHALL INCLUDE:**

20 **(1) A MAP OR OTHER DOCUMENT AND A RATING RULE THAT**
21 **IDENTIFIES THE GEOGRAPHIC AREAS IN WHICH WRITINGS WILL BE**
22 **RESTRICTED;**

23 **(2) A COPY OF THE UNDERWRITING STANDARD THAT THE**
24 **INSURER PROPOSES TO IMPLEMENT;**

25 **(3) THE DATA RELIED ON BY THE INSURER IN DEVELOPING THE**
26 **UNDERWRITING STANDARD; AND**

27 **(4) THE DATE ON WHICH THE INSURER INTENDS TO IMPLEMENT**
28 **THE UNDERWRITING STANDARD.**

29 **(D) (1) EXCEPT AS PROVIDED IN THIS SECTION, AN UNDERWRITING**
30 **STANDARD SUBJECT TO THIS SECTION MAY NOT TAKE EFFECT UNTIL 120 DAYS**
31 **AFTER IT IS FILED WITH THE COMMISSIONER.**

1 **(2) DURING THE INITIAL 120-DAY WAITING PERIOD, THE**
2 **COMMISSIONER MAY EXTEND THE WAITING PERIOD FOR AN ADDITIONAL**
3 **PERIOD, NOT TO EXCEED 60 DAYS, BY WRITTEN NOTICE TO THE INSURER THAT**
4 **THE COMMISSIONER NEEDS ADDITIONAL TIME FOR CONSIDERATION OF THE**
5 **FILING.**

6 **(3) IF THE COMMISSIONER REQUIRES ADDITIONAL**
7 **INFORMATION, THE WAITING PERIOD AND ANY ADDITIONAL PERIOD UNDER**
8 **THIS SECTION SHALL BE TOLLED AND SHALL BEGIN AGAIN ON THE DATE THE**
9 **NEEDED INFORMATION IS RECEIVED.**

10 **(4) A FILING IS DEEMED APPROVED UNLESS DISAPPROVED BY**
11 **THE COMMISSIONER DURING THE WAITING PERIOD OR ANY EXTENSION OF THE**
12 **WAITING PERIOD.**

13 **(E) IF THE COMMISSIONER FINDS THAT COMPLIANCE WITH**
14 **SUBSECTION (B) OR (D) OF THIS SECTION WOULD RESULT IN IMPAIRMENT OF**
15 **THE INSURER OR A SIGNIFICANT FINANCIAL LOSS TO THE INSURER, THE**
16 **COMMISSIONER MAY ALLOW AN INSURER TO IMPLEMENT ITS UNDERWRITING**
17 **STANDARD DESIGNATING THE GEOGRAPHIC AREAS IN WHICH IT WILL RESTRICT**
18 **ITS WRITINGS WITHIN 60 DAYS AFTER THE FILING OF THE UNDERWRITING**
19 **STANDARD.**

20 **(F) AN UNDERWRITING STANDARD THAT RESTRICTS WRITINGS IN A**
21 **CERTAIN GEOGRAPHIC AREA, INCLUDING THE DESIGNATION OF THE AREA AND**
22 **ITS BOUNDARIES, SHALL:**

23 **(1) COMPLY WITH § 27-501(A) AND (B) OF THIS ARTICLE;**

24 **(2) BE DEMONSTRATED OBJECTIVELY;**

25 **(3) INCLUDE CONSIDERATION OF PAST AND PROSPECTIVE LOSS**
26 **EXPERIENCE WITHIN AND OUTSIDE THE STATE; AND**

27 **(4) INCLUDE A CONSIDERATION OF ALL RELEVANT HISTORICAL**
28 **WEATHER DATA FOR ANY RESTRICTION THAT IS BASED, IN WHOLE OR IN PART,**
29 **ON A CATASTROPHE MODEL.**

30 **(G) (1) THE INFORMATION FILED UNDER SUBSECTION (C)(1) AND (4)**
31 **OF THIS SECTION SHALL BE OPEN TO PUBLIC INSPECTION AS SOON AS IT IS**
32 **FILED.**

1 **(2) THE INFORMATION FILED UNDER SUBSECTION (C)(2) AND (3)**
2 **OF THIS SECTION IS SUBJECT TO § 27-501(H) OF THIS ARTICLE.**

3 **(H) (1) THE INSURER BEARS THE BURDEN OF PROOF TO**
4 **DEMONSTRATE THAT ITS PROPOSED UNDERWRITING STANDARD, INCLUDING**
5 **ITS GEOGRAPHIC DESIGNATION, MEETS THE REQUIREMENTS OF THIS SECTION.**

6 **(2) UNLESS THE INSURER DEMONSTRATES THAT ITS PROPOSED**
7 **UNDERWRITING STANDARD, INCLUDING ITS GEOGRAPHIC DESIGNATION, MEETS**
8 **THE REQUIREMENTS OF THIS SECTION, THE COMMISSIONER MAY DISAPPROVE**
9 **THE FILING AND PROHIBIT THE INSURER FROM IMPLEMENTING THE**
10 **UNDERWRITING STANDARD.**

11 **(3) IF, DURING THE WAITING PERIOD OR ANY EXTENSION OF THE**
12 **WAITING PERIOD, THE COMMISSIONER FINDS THAT AN INSURER'S FILING DOES**
13 **NOT MEET THE REQUIREMENTS OF THIS SECTION, THE COMMISSIONER SHALL**
14 **SEND WRITTEN NOTICE OF DISAPPROVAL TO THE INSURER.**

15 **(I) (1) IF, AFTER AN UNDERWRITING STANDARD SUBJECT TO THIS**
16 **SECTION HAS BEEN APPROVED OR OTHERWISE HAS BECOME EFFECTIVE, THE**
17 **COMMISSIONER HAS REASON TO BELIEVE THAT THE UNDERWRITING STANDARD**
18 **NO LONGER MEETS THE CRITERIA SET FORTH IN SUBSECTION (F) OF THIS**
19 **SECTION, THE COMMISSIONER MAY ORDER THE INSURER TO JUSTIFY THE**
20 **STANDARD.**

21 **(2) THE COMMISSIONER SHALL HOLD A HEARING BEFORE**
22 **ISSUING AN ORDER REVOKING APPROVAL OF THE INSURER'S UNDERWRITING**
23 **STANDARD.**

24 **(3) THE COMMISSIONER SHALL GIVE WRITTEN NOTICE OF THE**
25 **HEARING TO THE INSURER AT LEAST 10 DAYS BEFORE THE HEARING.**

26 **(4) THE NOTICE SHALL SPECIFY THE MATTERS TO BE**
27 **CONSIDERED AT THE HEARING.**

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
29 October 1, 2012.