

# SENATE BILL 531

C4

2lr2027

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By: **Senator Middleton**

Introduced and read first time: February 3, 2012

Assigned to: Finance

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## A BILL ENTITLED

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; and generally  
15 relating to the recalculation of the premium for a policy or binder of property  
16 and casualty insurance during the underwriting period.

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

22 BY repealing and reenacting, without amendments,  
23 Article – Insurance  
24 Section 27–614(a) and (c)(1) and (2)  
25 Annotated Code of Maryland  
26 (2011 Replacement Volume)

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

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **Article – Insurance**

2 12–106.

3 (a) **(1)** [In this section, “personal insurance” means property insurance or  
4 casualty insurance issued to an individual, trust, estate, or similar entity that is  
5 intended to insure against loss arising principally from the personal, noncommercial  
6 activities of the insured.] **IN THIS SECTION THE FOLLOWING WORDS HAVE THE  
7 MEANINGS INDICATED.**

8 **(2) (I) “MATERIAL RISK FACTOR” MEANS A RISK FACTOR  
9 THAT:**

10 **1. WAS INCORRECTLY RECORDED OR NOT  
11 DISCLOSED IN AN APPLICATION FOR INSURANCE;**

12 **2. WAS IN EXISTENCE ON THE DATE OF THE  
13 APPLICATION; AND**

14 **3. MODIFIES THE PREMIUM CHARGED ON THE  
15 POLICY OR BINDER IN ACCORDANCE WITH THE RATES AND SUPPLEMENTARY  
16 RATING INFORMATION FILED BY THE INSURER UNDER TITLE 11, SUBTITLE 3 OF  
17 THIS ARTICLE.**

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

19 **1. INFORMATION THAT CONSTITUTES A MATERIAL  
20 MISREPRESENTATION; OR**

21 **2. A CHANGE INITIATED BY AN INSURED, INCLUDING  
22 ANY REQUEST BY THE INSURED THAT RESULTS IN A CHANGE IN COVERAGE,  
23 DEDUCTIBLE, OR OTHER CHANGE TO A POLICY.**

24 **(3) “PERSONAL INSURANCE” MEANS PROPERTY INSURANCE OR  
25 CASUALTY INSURANCE ISSUED TO AN INDIVIDUAL, TRUST, ESTATE, OR SIMILAR  
26 ENTITY THAT IS INTENDED TO INSURE AGAINST LOSS ARISING PRINCIPALLY  
27 FROM THE PERSONAL, NONCOMMERCIAL ACTIVITIES OF THE INSURED.**

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

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

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

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

12 (3) AN INSURER THAT RECALCULATES A PREMIUM UNDER  
13 PARAGRAPH (2) OF THIS SUBSECTION SHALL PROVIDE NOTICE TO THE INSURED  
14 THAT STATES:

15 (I) THE AMOUNT OF THE RECALCULATED PREMIUM;

16 (II) THE REASON FOR THE RECALCULATION OF THE  
17 PREMIUM; AND

18 (III) THAT THE INSURED MAY CANCEL THE POLICY.

19 (e) If applicable, at the time of application or when a binder or policy is  
20 issued, an insurer shall provide written notice of its ability to cancel a binder or policy  
21 during the underwriting period.

22 (f) (1) Except as provided in paragraph (2) of this subsection, a notice of  
23 cancellation under this section shall:

24 (i) be in writing;

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

26 (iii) state clearly and specifically the insurer's actual reason for  
27 the cancellation; and

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

30 (2) A notice of cancellation under this section for nonpayment of  
31 premium shall:

- 1 (i) be in writing;
- 2 (ii) have an effective date of not less than 10 days after mailing;
- 3 (iii) state the insurer's intent to cancel for nonpayment of  
4 premium; and
- 5 (iv) be sent by certificate of mail to the named insured's last  
6 known address.

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

- 8 (1) may be made orally or in writing; and
- 9 (2) except as superseded by the clear and express terms of the binder,  
10 is considered to include:
- 11 (i) all the usual terms of the policy as to which the binder was  
12 given; and
- 13 (ii) the applicable endorsements designated in the binder.

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

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

- 21 (i) the name and address of the insured consumer borrower;
- 22 (ii) the name and address of the lender;
- 23 (iii) a description of the insured residential real property;
- 24 (iv) a provision that the binder may not be canceled within the  
25 term of the binder unless the lender and the insured borrower receive written notice at  
26 least 15 days before the cancellation;
- 27 (v) except in the case of the renewal of a policy after the closing  
28 of a loan, a paid receipt for the full amount of the applicable premium; and
- 29 (vi) the amount of coverage.

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

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

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

5 27-614.

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

8 (1) a surcharge;

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

10 (3) removal or reduction of a discount.

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

13 (2) This section does not apply to the Maryland Automobile Insurance  
14 Fund.

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

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

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

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

31 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
32 October 1, 2012.