

SENATE BILL 764

C4

2lr1180
CF 2lr1518

By: **Senators Kelley, Klausmeier, and Mathias**

Introduced and read first time: February 3, 2012

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Fraudulent Insurance Acts – Individual Sureties – Contracts**
3 **of Surety Insurance**

4 FOR the purpose of establishing that it is a fraudulent insurance act for an individual
5 surety to make a certain representation or to issue a contract of surety
6 insurance, except as provided in certain provisions of law; establishing that it is
7 a fraudulent insurance act for a person to knowingly or willfully assist a person
8 to obtain a contract of surety insurance from an individual surety, except as
9 provided in certain provisions of law; establishing that it is a fraudulent
10 insurance act for a person to knowingly or willfully make a certain false or
11 fraudulent statement or representation about certain assets pledged by an
12 individual surety or to knowingly or willfully fail to return certain money or
13 premiums paid for a contract of surety insurance under certain circumstances;
14 establishing certain penalties for certain violations of this Act; defining a
15 certain term; and generally relating to individual sureties, contracts of surety
16 insurance, and fraudulent insurance acts.

17 BY adding to
18 Article – Insurance
19 Section 27–406.1
20 Annotated Code of Maryland
21 (2011 Replacement Volume)

22 BY repealing and reenacting, with amendments,
23 Article – Insurance
24 Section 27–408
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:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **Article – Insurance**2 **27–406.1.**3 **(A) IN THIS SECTION, “INDIVIDUAL SURETY” MEANS A PERSON THAT:**4 **(1) ISSUES CONTRACT OF SURETY INSURANCE; AND**5 **(2) DOES NOT HAVE A CERTIFICATE OF AUTHORITY ISSUED BY**
6 **THE COMMISSIONER.**7 **(B) EXCEPT AS PROVIDED IN §§ 13–207 AND 17–104 OF THE STATE**
8 **FINANCE AND PROCUREMENT ARTICLE, IT IS A FRAUDULENT INSURANCE ACT**
9 **FOR AN INDIVIDUAL SURETY TO:**10 **(1) REPRESENT THAT IT HAS THE LEGAL AUTHORITY TO ISSUE A**
11 **CONTRACT OF SURETY INSURANCE; OR**12 **(2) ISSUE A CONTRACT OF SURETY INSURANCE.**13 **(C) EXCEPT AS PROVIDED IN §§ 13–207 AND 17–104 OF THE STATE**
14 **FINANCE AND PROCUREMENT ARTICLE, IT IS A FRAUDULENT INSURANCE ACT**
15 **FOR A PERSON TO KNOWINGLY OR WILLFULLY ASSIST A PERSON TO OBTAIN A**
16 **CONTRACT OF SURETY INSURANCE FROM AN INDIVIDUAL SURETY.**17 **(D) IT IS A FRAUDULENT INSURANCE ACT FOR A PERSON TO:**18 **(1) KNOWINGLY OR WILLFULLY MAKE A FALSE OR FRAUDULENT**
19 **STATEMENT OR REPRESENTATION AS TO THE EXISTENCE, VALUE, OR**
20 **MARKETABILITY OF ANY ASSETS PLEDGED BY AN INDIVIDUAL SURETY TO**
21 **SECURE ITS OBLIGATIONS UNDER A CONTRACT OF SURETY INSURANCE; OR**22 **(2) KNOWINGLY OR WILLFULLY FAIL TO RETURN ANY MONEY OR**
23 **PREMIUMS PAID FOR A CONTRACT OF SURETY INSURANCE ISSUED BY AN**
24 **INDIVIDUAL SURETY IF THE CONTRACT OF SURETY INSURANCE IS REJECTED OR**
25 **NOT ACCEPTED BY THE GOVERNMENTAL ENTITY OR PERSON THAT REQUIRES**
26 **THE CONTRACT OF SURETY INSURANCE.**27 **27–408.**28 **(a) (1) A person that violates § 27–407 of this subtitle, or another**
29 **provision of this subtitle in which the claim or act that is the subject of the fraud has a**

1 value of \$300 or more is guilty of a felony and on conviction, for each violation, is
2 subject to:

3 (i) liability for restoring to the victim the property taken or the
4 value of the property taken; and

5 (ii) 1. for a violation of any provision of § 27-403 of this
6 subtitle, a fine, the maximum of which is the greater of three times the value of the
7 claim or act that is the subject of the fraud and \$10,000 and the minimum of which is
8 \$500, or imprisonment not exceeding 15 years or both; and

9 2. for a violation of any provision of § 27-404, § 27-405,
10 § 27-406, **§ 27-406.1**, § 27-407, or § 27-407.1 of this subtitle, a fine not exceeding
11 \$10,000 or imprisonment not exceeding 15 years or both.

12 (2) A person that violates a provision of this subtitle in which the
13 claim or act that is the subject of the fraud has a value of less than \$300 is guilty of a
14 misdemeanor and on conviction, for each violation, is subject to:

15 (i) liability for restoring to the victim the property taken or the
16 value of the property taken; and

17 (ii) 1. for a violation of any provision of § 27-403 of this
18 subtitle, a fine, the maximum of which is the greater of three times the value of the
19 claim or act that is the subject of the fraud and \$10,000 and the minimum of which is
20 \$500, or imprisonment not exceeding 18 months or both; and

21 2. for a violation of any provision of § 27-404, § 27-405,
22 § 27-406, **§ 27-406.1**, § 27-407, or § 27-407.1 of this subtitle, a fine not exceeding
23 \$10,000 or imprisonment not exceeding 18 months or both.

24 (b) (1) The penalties imposed under this section may be imposed
25 separately from and consecutively to or concurrently with a sentence for another
26 offense based on the act that constitutes a violation of this subtitle.

27 (2) Each act of solicitation under § 27-407 of this subtitle constitutes a
28 separate violation for purposes of the penalties imposed under this section.

29 (3) Notwithstanding any other provision of law, a fine imposed under
30 this section is mandatory and not subject to suspension.

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