

# SENATE BILL 938

C4

(2lr2844)

## ENROLLED BILL

— Finance/Economic Matters —

Introduced by **Senator Mathias**

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.

\_\_\_\_\_  
President.

### CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 ~~Property and Casualty~~ ***Personal Automobile Insurance – Rescission of Policy***  
3 **or Binder – Authorized**

4 FOR the purpose of authorizing an insurer to rescind a policy or binder of personal  
5 automobile insurance, ~~commercial property insurance, or commercial liability~~  
6 ~~insurance~~ if the applicant's initial premium payment is made by a check or  
7 other remittance that is ~~dishonored and returned by~~ not honored on  
8 presentation to a financial institution for a certain reason under certain  
9 circumstances; requiring an insurer to continue or reinstate a certain policy or  
10 binder without a lapse of coverage under certain circumstances; requiring that  
11 an insurer, to rescind the policy or binder, send a certain notice to ~~the applicant~~  
12 certain persons within a certain period of time, in a certain manner, and to ~~a~~  
13 ~~certain address~~ certain addresses; requiring the notice to contain certain  
14 statements; providing for the application of this Act; providing for a delayed

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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 *effective date*; and generally relating to the rescission of policies and binders of  
 2 ~~property and casualty~~ *personal automobile* insurance.

3 BY repealing and reenacting, without amendments,  
 4 Article – Insurance  
 5 Section 12–106(a) and (b)  
 6 Annotated Code of Maryland  
 7 (2011 Replacement Volume)

8 BY adding to  
 9 Article – Insurance  
 10 Section 12–106(j)  
 11 Annotated Code of Maryland  
 12 (2011 Replacement Volume)

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

15 **Article – Insurance**

16 12–106.

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

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

24 **(J) (1) ~~AN~~ SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, AN**  
 25 **INSURER MAY RESCIND A POLICY OR BINDER OF PERSONAL AUTOMOBILE**  
 26 **INSURANCE IF:**

27 **(I) THE APPLICANT’S INITIAL PREMIUM PAYMENT FOR THE**  
 28 **POLICY OR BINDER IS MADE BY A CHECK OR OTHER REMITTANCE THAT IS**  
 29 **~~DISHONORED AND RETURNED BY A~~ NOT HONORED ON PRESENTATION TO THE**  
 30 **FINANCIAL INSTITUTION ~~AS UNPAID BECAUSE OF INSUFFICIENT FUNDS IN THE~~**  
 31 **~~ACCOUNT ON WHICH~~ WHERE THE CHECK OR OTHER REMITTANCE IS DRAWN;**  
 32 **AND**

33 **(II) THE INSURER HAS DISCLOSED TO THE APPLICANT AT**  
 34 **THE TIME OF APPLICATION THAT NO COVERAGE WILL BE IN EFFECT IF THE**  
 35 **INITIAL *PREMIUM* PAYMENT IS NOT HONORED ON PRESENTATION TO THE**  
 36 **FINANCIAL INSTITUTION.**

1           **(2) AN INSURER SHALL CONTINUE OR REINSTATE A POLICY OR**  
 2 **BINDER UNDER PARAGRAPH (1) OF THIS SUBSECTION WITHOUT A LAPSE IN**  
 3 **COVERAGE IF:**

4                   **(I) 1. THE FINANCIAL INSTITUTION ERRONEOUSLY**  
 5 **FAILED TO HONOR THE CHECK OR OTHER REMITTANCE; AND**

6                           **2. THE APPLICANT:**

7                                   **A. PROMPTLY NOTIFIES THE INSURER OF THE**  
 8 **ERROR; AND**

9   **B. PROVIDES DOCUMENTATION OF THE ERROR TO**  
 10 **THE INSURER AS IT BECOMES AVAILABLE AND ON REQUEST OF THE INSURER; OR**

11   **(II) THE APPLICANT OR ANY SECURED CREDITOR PAYS THE**  
 12 **INSURER THE AMOUNT OF THE INITIAL PREMIUM WITHIN 5 BUSINESS DAYS**  
 13 **AFTER THE INSURER HAS SENT NOTICE, AS PROVIDED IN PARAGRAPH (3) OF**  
 14 **THIS SUBSECTION, TO THE APPLICANT AND ANY SECURED CREDITOR THAT THE**  
 15 **CHECK OR OTHER REMITTANCE FOR THE INITIAL PREMIUM PAYMENT WAS NOT**  
 16 **HONORED.**

17                   **(2) (3) TO RESCIND A POLICY OR BINDER, AN INSURER SHALL**  
 18 **SEND, WITHIN 10 DAYS IMMEDIATELY OR THE NEXT BUSINESS DAY AFTER**  
 19 **RECEIPT OF A NOTICE OF INSUFFICIENT FUNDS THAT THE CHECK OR OTHER**  
 20 **REMITTANCE FOR THE INITIAL PREMIUM PAYMENT WAS NOT HONORED ON**  
 21 **PRESENTATION TO THE FINANCIAL INSTITUTION, WRITTEN NOTICE TO THE**  
 22 **APPLICANT AND ANY SECURED CREDITOR, BY CERTIFICATE OF MAIL AND, IF**  
 23 **AVAILABLE, BY ELECTRONIC MAIL OR OTHER ELECTRONIC MEANS, TO THE**  
 24 **APPLICANT'S AND ANY SECURED CREDITOR'S LAST KNOWN ADDRESS, STATING**  
 25 **THAT:**

26                           **(I) 1. THE POLICY OR BINDER IS RESCINDED AS OF ITS**  
 27 **PROPOSED EFFECTIVE DATE BECAUSE THE APPLICANT'S CHECK OR OTHER**  
 28 **REMITTANCE FOR THE INITIAL PREMIUM PAYMENT WAS DISHONORED AND**  
 29 **RETURNED BECAUSE OF INSUFFICIENT FUNDS NOT HONORED ON**  
 30 **PRESENTATION TO THE FINANCIAL INSTITUTION; AND**

31                                   **(II) 2. NO COVERAGE IS IN EFFECT UNDER THE POLICY**  
 32 **OR BINDER; BUT**

33   **(III) (II) IF THE FINANCIAL INSTITUTION FAILED TO**  
 34 **HONOR THE CHECK OR OTHER REMITTANCE IN ERROR, THE INSURER SHALL**

1 CONTINUE OR REINSTATE THE POLICY OR BINDER WITHOUT A LAPSE IN  
 2 COVERAGE IF:

3 1. THE FINANCIAL INSTITUTION ERRONEOUSLY  
 4 FAILED TO HONOR THE CHECK OR OTHER REMITTANCE AND THE APPLICANT:

5 ~~1~~A. PROMPTLY NOTIFIES THE INSURER OF THE  
 6 ERROR; AND

7 ~~2~~B. PROVIDES DOCUMENTATION OF THE FINANCIAL  
 8 INSTITUTION'S ERROR TO THE INSURER AS IT BECOMES AVAILABLE AND ON  
 9 REQUEST OF THE INSURER; OR

10 2. THE APPLICANT OR ANY SECURED CREDITOR PAYS  
 11 THE INSURER THE AMOUNT OF THE INITIAL PREMIUM WITHIN 5 BUSINESS DAYS  
 12 AFTER THE INSURER HAS SENT NOTICE TO THE APPLICANT AND ANY SECURED  
 13 CREDITOR THAT THE CHECK OR OTHER REMITTANCE FOR THE INITIAL PREMIUM  
 14 PAYMENT WAS NOT HONORED.

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

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

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.