

Chapter 253

(Senate Bill 531)

AN ACT concerning

Property and Casualty Insurance – Underwriting Period – Discovery of Material Risk Factor

FOR the purpose of requiring an insurer that discovers a certain material risk factor during a certain underwriting period to recalculate the premium for a policy or binder of personal insurance, commercial property insurance, or commercial liability insurance under certain circumstances; requiring the insurer to provide certain written notice to the insured on a certain form if the insurer recalculates the premium for the policy or binder based on the discovery of a certain material risk factor; requiring an insurer, at the time of a certain application or when a certain policy or binder is issued, to provide a certain written notice of its ability to recalculate a certain premium during a certain period; providing that certain provisions of law requiring insurers to send certain notice of a premium increase for a policy of private passenger motor vehicle liability insurance do not apply to an increase in premium made by an insurer during the underwriting period under certain circumstances; defining a certain term; making stylistic changes; providing for the application of this Act; providing for a delayed effective date; and generally relating to the recalculation of the premium for a policy or binder of property and casualty insurance during the underwriting period.

BY repealing and reenacting, with amendments,

Article – Insurance
Section 12–106 and 27–614(b)
Annotated Code of Maryland
(2011 Replacement Volume)

BY repealing and reenacting, without amendments,

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

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

Article – Insurance

12–106.

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

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

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

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

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

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

1. INFORMATION THAT CONSTITUTES A MATERIAL MISREPRESENTATION; OR

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

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

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

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

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

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

(3) AN INSURER THAT RECALCULATES A PREMIUM UNDER PARAGRAPH (2) OF THIS SUBSECTION SHALL PROVIDE A WRITTEN NOTICE TO THE INSURED ON A FORM APPROVED BY THE COMMISSIONER THAT STATES:

(I) THE AMOUNT OF THE RECALCULATED PREMIUM;

(II) THE REASON FOR THE ~~RECALCULATION OF~~ INCREASE OR REDUCTION IN THE PREMIUM; AND

(III) ~~THAT THE INSURED MAY CANCEL~~ THE INSURED'S RIGHT TO TERMINATE THE POLICY.

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

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

(i) be in writing;

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

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

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

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

(i) be in writing;

(ii) have an effective date of not less than 10 days after mailing;

(iii) state the insurer's intent to cancel for nonpayment of premium; and

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

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

(1) may be made orally or in writing; and

(2) except as superseded by the clear and express terms of the binder, is considered to include:

(i) all the usual terms of the policy as to which the binder was given; and

(ii) the applicable endorsements designated in the binder.

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

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

(i) the name and address of the insured consumer borrower;

(ii) the name and address of the lender;

(iii) a description of the insured residential real property;

(iv) a provision that the binder may not be canceled within the term of the binder unless the lender and the insured borrower receive written notice at least 15 days before the cancellation;

(v) except in the case of the renewal of a policy after the closing of a loan, a paid receipt for the full amount of the applicable premium; and

(vi) the amount of coverage.

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

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

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

27-614.

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

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

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

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

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

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

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

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

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

Approved by the Governor, May 2, 2012.