

# SENATE BILL 930

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By: **Senators Pugh, Conway, Ferguson, Middleton, Montgomery, Muse, Ramirez, and Young**

Introduced and read first time: February 13, 2013

Assigned to: Rules

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## A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Automobile Insurance Fund – Acceptance of Premiums on**  
3 **Installment Payment Basis**

4 FOR the purpose of authorizing the Maryland Automobile Insurance Fund to accept  
5 premiums on an installment payment basis under certain circumstances;  
6 requiring the Maryland Insurance Commissioner to ensure certain provisions of  
7 an installment payment plan; prohibiting the Fund from discriminating among  
8 insureds in a certain manner; prohibiting the Fund from paying a higher  
9 commission to certain fund producers; requiring certain written and electronic  
10 communications to include a certain statement under certain circumstances;  
11 requiring the Executive Director of the Fund, in consultation with the  
12 Commissioner and certain State agencies, to develop certain criteria for  
13 evaluating the impact and effectiveness of the Fund's installment payment  
14 plan; requiring the Fund to submit a certain report each year to the  
15 Commissioner; requiring the Commissioner to make a certain determination;  
16 requiring the Commissioner to submit a certain report each year to certain  
17 committees of the General Assembly; requiring an independent insurance  
18 producer to provide a certain disclosure; providing for the application of this  
19 Act; and generally relating to accepting premiums on an installment payment  
20 basis on policies issued by the Maryland Automobile Insurance Fund.

21 BY repealing and reenacting, without amendments,  
22 Article – Insurance  
23 Section 20–101(a) and (g)  
24 Annotated Code of Maryland  
25 (2011 Replacement Volume and 2012 Supplement)

26 BY repealing and reenacting, with amendments,  
27 Article – Insurance  
28 Section 20–507 and 23–505.2

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland  
2 (2011 Replacement Volume and 2012 Supplement)

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

5 **Article – Insurance**

6 20–101.

7 (a) In this title the following words have the meanings indicated.

8 (g) “Fund” means the Maryland Automobile Insurance Fund.

9 20–507.

10 (a) Subject to the approval of the Commissioner, the Executive Director shall  
11 determine the premiums to be charged on policies issued by the Fund.

12 (b) (1) Except as provided in subsection (c) of this section, the provisions  
13 of Title 11, Subtitle 2 of this article apply to the determination of premiums by the  
14 Executive Director.

15 (2) Notwithstanding Title 11, Subtitle 2 of this article or any other  
16 provision of this title, the Executive Director may base premiums on one or both of the  
17 following items:

18 (i) the number of points accumulated by an insured or  
19 applicant for insurance under the point system provided for in Title 16, Subtitle 4 of  
20 the Transportation Article; or

21 (ii) the prior claims experience of an insured or applicant for  
22 insurance.

23 (c) (1) Premiums for all commercial coverage shall be determined in  
24 accordance with this section and § 20–508 of this subtitle.

25 (2) Notwithstanding paragraph (1) of this subsection, the rating  
26 principles under subsection (d) of this section may not be used to determine the  
27 premium for commercial coverage.

28 (d) In reviewing rates filed by the Fund, the Commissioner shall consider not  
29 only the rating principles under Title 11, Subtitle 2 of this article but also the  
30 statutory purpose of the Fund under § 20–301 of this title.

31 (e) (1) The Motor Vehicle Administration and Executive Director may  
32 arrange for the Motor Vehicle Administration to collect premiums on policies issued by

1 the Fund when the Motor Vehicle Administration issues a driver's license or certificate  
2 of registration.

3 (2) A premium collected under this subsection shall be paid to the  
4 State Treasurer for the account of the Fund.

5 (f) (1) The Fund may not:

6 (i) provide directly or indirectly for the financing of premiums;  
7 or

8 (ii) **EXCEPT AS PROVIDED IN SUBSECTION (G) OF THIS**  
9 **SECTION**, accept premiums on an installment basis.

10 (2) A premium may be financed only by a premium finance company  
11 registered with the Commissioner in accordance with § 23-201 of this article.

12 (3) If a prospective insured's initial payment to the Fund, a fund  
13 producer, or premium finance company is not honored, a policy or endorsement issued  
14 in reliance on that payment is void.

15 **(G) (1) (I) SUBJECT TO THE APPROVAL OF THE COMMISSIONER**  
16 **AND IN ACCORDANCE WITH THIS SUBSECTION, THE FUND MAY ACCEPT**  
17 **PREMIUMS ON AN INSTALLMENT PAYMENT BASIS ONLY ON 12-MONTH**  
18 **PERSONAL LINES POLICIES.**

19 **(II) IN APPROVING THE FUND'S PLAN FOR ACCEPTING**  
20 **PREMIUMS ON AN INSTALLMENT PAYMENT BASIS, THE COMMISSIONER SHALL**  
21 **ENSURE THAT THE FUND'S INSTALLMENT PAYMENT PLAN:**

22 **1. REQUIRES AN INSURED'S INITIAL PREMIUM**  
23 **PAYMENT TO BE NO LESS THAN 25% OF THE TOTAL PREMIUM;**

24 **2. IS STRUCTURED AND ADMINISTERED TO ENSURE**  
25 **THAT THE FUND AT NO TIME PROVIDES INSURANCE COVERAGE TO AN INSURED**  
26 **FOR A PERIOD DURING WHICH THE FUND HAS NOT RECEIVED THE**  
27 **ACTUARIALLY JUSTIFIED PREMIUM PAYMENT;**

28 **3. OFFERS NO MORE THAN SIX INSTALLMENT**  
29 **PAYMENTS ON THE 12-MONTH POLICY;**

30 **4. ALLOWS INSUREDS TO MAKE AN INITIAL PREMIUM**  
31 **PAYMENT AND INSTALLMENT PAYMENTS IN ANY COMMERCIALY ACCEPTABLE**  
32 **FORM, WHICH SHALL INCLUDE PAYMENT BY CHECK, CREDIT CARD, OR**  
33 **ELECTRONIC TRANSFER; AND**

1                   **5.    ALLOWS THE FUND TO IMPOSE AN**  
2 **ADMINISTRATIVE PROCESSING FEE ON INSUREDS PARTICIPATING IN THE**  
3 **INSTALLMENT PLAN OF NO MORE THAN \$8 PER INSTALLMENT PAYMENT.**

4                   **(2)   THE FUND MAY NOT DISCRIMINATE AMONG INSUREDS BY**  
5 **CHARGING DIFFERENT WRITTEN OR EARNED PREMIUM BASED ON THE**  
6 **PAYMENT OPTION SELECTED BY AN INSURED OR ON WHETHER THE FUND**  
7 **PRODUCER IS EMPLOYED BY A PUBLIC ENTITY OR PRIVATE ENTITY.**

8                   **(3)   THE FUND MAY NOT PAY A HIGHER COMMISSION TO A FUND**  
9 **PRODUCER WHO PLACES AN INSURED IN AN INSTALLMENT PAYMENT PLAN**  
10 **OVER ANY OTHER PAYMENT OPTION, INCLUDING A PREMIUM FINANCE**  
11 **AGREEMENT.**

12                   **(4)   (I)   IN ACCORDANCE WITH THIS PARAGRAPH, WRITTEN AND**  
13 **ELECTRONIC COMMUNICATIONS, INCLUDING THE FUND'S WEB SITE,**  
14 **AFFECTING THE PLACEMENT OF COVERAGE BY THE FUND OR A FUND**  
15 **PRODUCER SHALL INCLUDE A STATEMENT, ON A FORM APPROVED BY THE**  
16 **COMMISSIONER, ADVISING AN APPLICANT OR AN INSURED OF THE PAYMENT**  
17 **OPTIONS AVAILABLE TO THE APPLICANT OR INSURED.**

18                   **(II)   THE STATEMENT SHALL STATE THAT THE APPLICANT**  
19 **OR INSURED HAS THE FOLLOWING PAYMENT OPTIONS:**

- 20                   1.    **THE FUND'S INSTALLMENT PAYMENT PLAN;**  
21                   2.    **A PREMIUM FINANCE AGREEMENT; OR**  
22                   3.    **PAYMENT OF THE POLICY IN FULL.**

23                   **(III)  THE STATEMENT SHALL BE INCLUDED ON WRITTEN OR**  
24 **ELECTRONIC COMMUNICATIONS AT THE TIME THE APPLICANT OR INSURED:**

- 25                   1.    **IS ISSUED A NEW POLICY;**  
26                   2.    **IS ISSUED A REISSUANCE, REWRITE, OR RENEWAL**  
27 **OF AN EXISTING POLICY; OR**  
28                   3.    **INCURS ADDITIONAL PREMIUMS UNDER AN**  
29 **EXISTING POLICY.**

1                   **(IV) THE STATEMENT SHALL STATE THAT THE APPLICANT**  
2 **OR INSURED SHOULD CONSULT A FUND PRODUCER WHO WILL FULLY DESCRIBE**  
3 **THE TERMS OF EACH PAYMENT OPTION.**

4                   **(5) (I) THE EXECUTIVE DIRECTOR, IN CONSULTATION WITH**  
5 **THE COMMISSIONER AND STATE AGENCIES AS APPROPRIATE, SHALL DEVELOP**  
6 **CRITERIA FOR EVALUATING THE IMPACT AND EFFECTIVENESS OF THE FUND'S**  
7 **INSTALLMENT PAYMENT PLAN.**

8                   **(II) THE EVALUATION SHALL INCLUDE THE IMPACT OF THE**  
9 **FUND'S INSTALLMENT PAYMENT PLAN ON:**

10                   1.     **THE COST OF AUTOMOBILE INSURANCE FOR FUND**  
11 **INSUREDS;**

12                   2.     **THE NUMBER OF INSURED AND UNINSURED**  
13 **MOTORISTS IN THE STATE;**

14                   3.     **THE NUMBER OF FUND POLICIES IN FORCE BY**  
15 **GEOGRAPHIC AREA;**

16                   4.     **THE DURATION OF FUND POLICIES IN FORCE; AND**

17                   5.     **THE FREQUENCY OF PAYMENT METHODS USED BY**  
18 **FUND INSUREDS, INCLUDING THE FUND'S INSTALLMENT PAYMENT PLAN,**  
19 **PREMIUM FINANCE AGREEMENTS, AND CASH AND CREDIT CARD PAYMENTS.**

20                   **(III) ON OR BEFORE MARCH 31 OF EACH YEAR, THE FUND**  
21 **SHALL SUBMIT A REPORT TO THE COMMISSIONER BASED ON THE FUND'S**  
22 **DETERMINATION OF THE IMPACT AND EFFECTIVENESS OF THE FUND'S**  
23 **INSTALLMENT PAYMENT PLAN FOR THE PRIOR YEAR BASED ON:**

24                   1.     **THE EVALUATION CRITERIA DEVELOPED UNDER**  
25 **SUBPARAGRAPH (I) OF THIS PARAGRAPH; AND**

26                   2.     **THE LIMITATIONS OF THE TERMS OF THE**  
27 **INSTALLMENT PAYMENT PLAN UNDER PARAGRAPH (1)(II)1 AND 3 OF THIS**  
28 **SUBSECTION.**

29                   **(6) (I) ON RECEIPT OF THE REPORT UNDER PARAGRAPH**  
30 **(5)(III) OF THIS SUBSECTION, THE COMMISSIONER SHALL MAKE A**  
31 **DETERMINATION OF THE IMPACT AND EFFECTIVENESS OF THE FUND'S**  
32 **INSTALLMENT PAYMENT PLAN, INCLUDING A REVIEW OF COMPLAINTS**

1 RECEIVED BY THE COMMISSIONER RELATING TO THE FUND'S INSTALLMENT  
2 PAYMENT PLAN AND PREMIUM FINANCE AGREEMENTS.

3 (II) ON OR BEFORE DECEMBER 1 OF EACH YEAR, THE  
4 COMMISSIONER SHALL SUBMIT A REPORT, IN ACCORDANCE WITH § 2-1246 OF  
5 THE STATE GOVERNMENT ARTICLE, TO THE SENATE FINANCE COMMITTEE  
6 AND THE HOUSE ECONOMIC MATTERS COMMITTEE ON THE COMMISSIONER'S  
7 DETERMINATION OF THE IMPACT AND EFFECTIVENESS OF THE FUND'S  
8 INSTALLMENT PAYMENT PLAN.

9 23-505.2.

10 (a) An insurer that markets through independent insurance producers as  
11 defined in this article may not discriminate, intimidate, or retaliate against an  
12 insurance producer or insured that uses premium financing by denying the insurance  
13 producer or insured the same rights accorded to insurance producers or insureds who  
14 pay premiums in a different manner.

15 (b) (1) With respect to personal lines automobile insurance **OTHER THAN**  
16 **INSURANCE WRITTEN THROUGH THE MARYLAND AUTOMOBILE INSURANCE**  
17 **FUND**, an independent insurance producer, who directly or indirectly has an  
18 ownership interest in a premium finance company, shall provide a disclosure to be  
19 signed by the insured comparing the costs and terms of premium financing with the  
20 insurer's alternative payment plan.

21 (2) **WITH RESPECT TO PERSONAL LINES AUTOMOBILE**  
22 **INSURANCE WRITTEN THROUGH THE MARYLAND AUTOMOBILE INSURANCE**  
23 **FUND, AN INDEPENDENT INSURANCE PRODUCER SHALL PROVIDE A**  
24 **DISCLOSURE TO BE SIGNED BY THE INSURED COMPARING THE COSTS AND**  
25 **TERMS OF PREMIUM FINANCING WITH THE FUND'S ALTERNATIVE PAYMENT**  
26 **PLAN.**

27 (c) The disclosure required by subsection (b) of this section shall:

28 (1) state the total amount to be paid by the insured under the  
29 premium finance agreement during the policy term, including premium, any down  
30 payment, and all interest, fees, and charges incident to the premium finance  
31 agreement and resulting extension of credit; and

32 (2) state the total amount to be paid by the insured under the  
33 insurer's alternative payment plan during the policy term, including premium, any  
34 down payment, and all fees and charges incident to the alternative payment plan.

1           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all  
2 policies and contracts issued by the Maryland Automobile Insurance Fund on or after  
3 the effective date of this Act.

4           SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
5 October 1, 2013.