

SENATE BILL 556

C4

6lr2200

By: **Senator Mathias**

Introduced and read first time: February 4, 2016

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Personal Automobile Insurance – Rescission of Policy or Binder –**
3 **Misrepresentations by Applicant**

4 FOR the purpose of authorizing an insurer to rescind a policy or binder of personal
5 automobile insurance if an applicant makes certain misrepresentations; requiring
6 the insurer to provide certain notice to an applicant that certain insurance coverage
7 may be rescinded under certain circumstances; requiring an insurer to take certain
8 actions before rescinding certain insurance coverage; requiring an insurer to send
9 certain notice to an applicant in a certain manner under certain circumstances;
10 providing that no coverage is in effect under a policy or binder of personal automobile
11 insurance as of its proposed effective date under certain circumstances, with certain
12 exceptions; requiring an insurer to send certain notice to a certain secured creditor
13 in a certain manner under certain circumstances; requiring an insurer to provide
14 certain coverage under a certain rescinded policy or binder to a certain secured
15 creditor for a certain period of time; requiring an insurer to provide certain coverage
16 under a certain rescinded policy or binder to a certain person under certain
17 circumstances; providing for the application of this Act; and generally relating to
18 rescission of a policy or binder of personal automobile insurance.

19 BY adding to

20 Article – Insurance

21 Section 12–106(k)

22 Annotated Code of Maryland

23 (2011 Replacement Volume and 2015 Supplement)

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

26 **Article – Insurance**

27 12–106.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **(K) (1) SUBJECT TO PARAGRAPHS (2), (3), AND (4) OF THIS SUBSECTION,**
2 **AN INSURER MAY RESCIND A POLICY OR BINDER OF PERSONAL AUTOMOBILE**
3 **INSURANCE IF AN APPLICANT MISREPRESENTS THAT:**

4 **(I) A MOTOR VEHICLE COVERED UNDER THE POLICY OR**
5 **BINDER IS PRINCIPALLY GARAGED IN THE STATE; OR**

6 **(II) AN OWNER OR OPERATOR OF A MOTOR VEHICLE COVERED**
7 **UNDER THE POLICY OR BINDER RESIDES IN THE STATE.**

8 **(2) AT THE TIME OF APPLICATION FOR A POLICY OF PERSONAL**
9 **AUTOMOBILE INSURANCE, THE INSURER SHALL PROVIDE WRITTEN NOTICE TO THE**
10 **APPLICANT THAT COVERAGE UNDER THE POLICY MAY BE RESCINDED IF THE**
11 **APPLICANT MAKES A MISREPRESENTATION DESCRIBED IN PARAGRAPH (1) OF THIS**
12 **SUBSECTION.**

13 **(3) BEFORE RESCINDING COVERAGE UNDER PARAGRAPH (1) OF THIS**
14 **SUBSECTION, AN INSURER SHALL:**

15 **(I) APPLY UNDERWRITING STANDARDS THAT CLEARLY STATE**
16 **THE INELIGIBILITY OF A RISK DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION;**
17 **AND**

18 **(II) CONDUCT A REASONABLE INVESTIGATION TO CONFIRM**
19 **THAT THE APPLICANT HAS MADE A MISREPRESENTATION DESCRIBED IN**
20 **PARAGRAPH (1) OF THIS SUBSECTION.**

21 **(4) TO RESCIND A POLICY OR BINDER, AN INSURER SHALL SEND**
22 **WRITTEN NOTICE TO THE APPLICANT, BY A FIRST-CLASS MAIL TRACKING METHOD**
23 **AND, IF AVAILABLE, BY ELECTRONIC MAIL OR OTHER ELECTRONIC MEANS, TO THE**
24 **APPLICANT'S LAST KNOWN ADDRESS, STATING THAT:**

25 **(I) THE POLICY OR BINDER IS RESCINDED AS OF ITS PROPOSED**
26 **EFFECTIVE DATE BECAUSE THE APPLICANT MADE A MISREPRESENTATION WHEN**
27 **APPLYING FOR THE POLICY;**

28 **(II) NO COVERAGE IS IN EFFECT UNDER THE POLICY OR BINDER;**
29 **AND**

30 **(III) THE APPLICANT HAS THE RIGHT TO FILE A COMPLAINT**
31 **WITH THE COMMISSIONER.**

1 **(5) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPHS (II)**
2 **AND (III) OF THIS PARAGRAPH, IF AN INSURER RESCINDS A POLICY OR BINDER OF**
3 **PERSONAL AUTOMOBILE INSURANCE UNDER THIS SUBSECTION NO COVERAGE IS IN**
4 **EFFECT UNDER THE POLICY OR BINDER AS OF ITS PROPOSED EFFECTIVE DATE.**

5 **(II) AT THE TIME OF RESCISSION, AN INSURER SHALL SEND**
6 **WRITTEN NOTICE TO ANY SECURED CREDITOR IDENTIFIED ON THE POLICY OR**
7 **BINDER, BY A FIRST-CLASS MAIL TRACKING METHOD OR ANOTHER METHOD BY**
8 **WHICH THE SECURED CREDITOR HAS AGREED TO RECEIVE NOTICES UNDER THE**
9 **POLICY OR BINDER, TO THE SECURED CREDITOR'S LAST KNOWN ADDRESS, STATING**
10 **THAT:**

11 **1. A. THE POLICY OR BINDER IS RESCINDED AS OF**
12 **ITS PROPOSED EFFECTIVE DATE BECAUSE THE APPLICANT MADE A**
13 **MISREPRESENTATION WHEN APPLYING FOR THE POLICY; AND**

14 **B. NO COVERAGE IS IN EFFECT UNDER THE POLICY OR**
15 **BINDER; BUT**

16 **2. THE INSURER SHALL PROVIDE COVERAGE UNDER THE**
17 **RESCINDED POLICY OR BINDER TO THE SECURED CREDITOR, TO THE FULL EXTENT**
18 **OF THE SECURED CREDITOR'S INTEREST, BEGINNING ON THE PROPOSED EFFECTIVE**
19 **DATE OF THE POLICY OR BINDER THROUGH A PERIOD ENDING 5 BUSINESS DAYS**
20 **AFTER THE DATE OF THE NOTICE TO THE SECURED CREDITOR.**

21 **(III) AN INSURER SHALL PROVIDE COVERAGE UNDER A**
22 **RESCINDED POLICY OR BINDER TO A PERSON OTHER THAN THE APPLICANT:**

23 **1. FOR A CLAIM OCCURRING IN THE STATE; AND**

24 **2. IF THE PERSON WAS NOT INVOLVED IN MAKING THE**
25 **MISREPRESENTATION THAT WAS THE BASIS FOR THE RESCISSION.**

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all
27 policies and binders of personal automobile insurance issued or delivered in the State on or
28 after October 1, 2016.

29 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 October 1, 2016.