

# SENATE BILL 637

C4

9lr1767  
CF 9lr2374

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By: **Senators Hershey and Klausmeier**  
Introduced and read first time: February 4, 2019  
Assigned to: Finance

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## A BILL ENTITLED

1 AN ACT concerning

2 **Insurance – Premium Finance – Refunds and Debts**

3 FOR the purpose of authorizing a premium finance company to satisfy a debt owed under  
4 a certain premium finance agreement with a refund due under a certain premium  
5 finance agreement; requiring that a certain premium finance agreement must  
6 include a certain disclosure for a premium finance company to use a certain refund  
7 to satisfy a certain debt; and generally relating to premium finance agreement  
8 refunds and premium finance agreement debts.

9 BY repealing and reenacting, with amendments,  
10 Article – Insurance  
11 Section 23–405  
12 Annotated Code of Maryland  
13 (2017 Replacement Volume and 2018 Supplement)

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

16 **Article – Insurance**

17 23–405.

18 (a) (1) Notwithstanding any other provision of this article, when an insurance  
19 contract is canceled, whether by a premium finance company, an insurer, or an insured,  
20 the insurer shall return any gross unearned premiums that are due under the insurance  
21 contract, computed pro rata, and excluding any expense constant, administrative fee, or  
22 any nonrefundable charge filed with and approved by the Commissioner, to the premium  
23 finance company for the account of the insured within a reasonable time not exceeding 45  
24 days after:

25 (i) receipt by the insurer of a notice of cancellation from the

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 premium finance company or the insured;

2 (ii) the date the insurer cancels the insurance contract; or

3 (iii) with respect to commercial automobile, fire, or liability  
4 insurance, completion of any audit necessary to determine the amount of premium earned  
5 while the insurance contract was in force.

6 (2) An audit under paragraph (1)(iii) of this subsection shall be performed  
7 within 45 days after the insurer receives the notice of cancellation.

8 (b) (1) After the insurer returns to the premium finance company any gross  
9 unearned premiums that are due under the insurance contract, the premium finance  
10 company shall refund to the insured the amount of unearned premium that exceeds any  
11 amount due under the premium finance agreement.

12 (2) A premium finance company need not make a refund to the insured if  
13 the amount of the refund would be less than \$5.

14 **(3) SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, IF THE**  
15 **INSURED ENTERED INTO A PREMIUM FINANCE AGREEMENT WITH THE SAME**  
16 **PREMIUM FINANCE COMPANY WITHIN 3 YEARS BEFORE THE INCEPTION OF A**  
17 **PREMIUM FINANCE AGREEMENT FOR WHICH THERE IS A REFUND DUE, THE**  
18 **PREMIUM FINANCE COMPANY MAY SATISFY A DEBT OWED UNDER ANY OR ALL OF**  
19 **THE PREVIOUS PREMIUM FINANCE AGREEMENTS USING ALL OR PART OF THE**  
20 **REFUND.**

21 **(4) A PREMIUM FINANCE AGREEMENT MUST INCLUDE THE**  
22 **FOLLOWING DISCLOSURE FOR A PREMIUM FINANCE COMPANY TO USE A REFUND TO**  
23 **SATISFY A DEBT FROM A PREVIOUS PREMIUM FINANCE AGREEMENT:**

24 **“IF WITHIN 3 YEARS BEFORE THE DATE OF THIS PREMIUM FINANCE**  
25 **AGREEMENT YOU HAVE FINANCED INSURANCE WITH THIS PREMIUM FINANCE**  
26 **COMPANY, AND THERE IS A DEBT OWED UNDER THE PRIOR AGREEMENT, THE**  
27 **PREMIUM FINANCE COMPANY MAY USE ANY REFUND DUE UNDER THIS AGREEMENT**  
28 **TO SATISFY THAT DEBT.”**

29 (c) Whenever an insurer, after receiving notice of the existence of a premium  
30 finance agreement, returns any unearned premiums to a person other than the premium  
31 finance company named in the premium finance agreement, the insurer shall be directly  
32 responsible to the premium finance company for all unearned premiums arising from the  
33 cancellation of the premium finance agreement.

34 (d) (1) An insurer that fails to return any premium required under this section  
35 shall pay interest of 1% per month on the unearned premium that has not been returned  
36 until the unearned premium is returned.

1                   (2) Any payment under this subsection to the premium finance company  
2 shall be credited to the account of the insured.

3                   (e) An insurer may not deduct from any return premium any amount owed to the  
4 insurer by the insured under any other insurance contract.

5                   (f) An insurance producer shall return any gross unearned commissions,  
6 calculated as provided in subsection (a)(1) of this section, to an insurer within a reasonable  
7 period of time as required by the insurer.

8                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
9 October 1, 2019.