

# HOUSE BILL 2500

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CF SB 2002

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By: **Appropriations Committee**

Introduced and read first time: December 16, 2021

Assigned to: Appropriations

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## A BILL ENTITLED

1 AN ACT concerning

2 **OIS Test**

3 FOR the purpose of

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

### 6 **Article – Insurance**

7 1–101.

8 (a) In this article the following words have the meanings indicated.

9 (b) “Administration” means the Maryland Insurance Administration.

10 (b–1) “Affordable Care Act” means the federal Patient Protection and Affordable  
11 Care Act, as amended by the federal Health Care and Education Reconciliation Act of 2010,  
12 and any regulations adopted or guidance issued under the Acts.

13 (c) “Alien insurer” means an insurer that is formed under the laws of a  
14 jurisdiction other than the United States or a state.

15 (d) (1) “Annuity” means an agreement to make periodic payments for which  
16 the making or continuance of all or some of a series of the payments, or the amount of a  
17 payment, depends on the continuance of a human life.

18 (2) “Annuity” includes:

19 (i) an additional benefit that operates to safeguard the contract  
20 from lapse or to provide a special surrender value, special benefit, or annuity in the event  
21 of the total and permanent disability of the holder; and

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (ii) benefits that provide payment or reimbursement for long-term  
2 home health care or long-term care in a nursing home or other related institution.

3 (3) "Annuity" does not include life insurance.

4 (e) "Annuity contract" means a contract that provides for an annuity.

5 (f) "Appointment" means an agreement between an insurance producer and  
6 insurer under which the insurance producer, for compensation, may sell, solicit, or  
7 negotiate policies issued by the insurer.

8 (g) "Authorized insurer" means an insurer that holds a valid certificate of  
9 authority.

10 (h) "Burial insurance" includes any kind of agreement, certificate, policy,  
11 contract, bond, assurance guarantee, or other arrangement, by bylaw, regulation, or  
12 otherwise, in or by which the party that issues the certificate, policy, contract, bond,  
13 assurance guarantee, or other arrangement agrees to:

14 (1) provide for the burial of a named or designated deceased individual;

15 (2) save harmless anyone for all or part of the costs of the burial of a named  
16 or designated deceased individual; or

17 (3) pay all or part of the incidents of the burial of a named or designated  
18 deceased individual.

19 (i) (1) "Casualty insurance" means:

20 (i) insurance against legal, contractual, or assumed liability for  
21 death, injury, or disability of a human being, or for damage to property;

22 (ii) if issued as an incidental coverage with or supplemental to  
23 liability insurance and regardless of legal liability of the insured, insurance that provides  
24 medical, hospital, or surgical disability benefits to injured individuals and funeral and  
25 death benefits to dependents, beneficiaries, or personal representatives of individuals  
26 killed; or

27 (iii) unless disapproved by the Commissioner as contrary to law or  
28 public policy, insurance against any other kind of loss, damage, or liability that is properly  
29 a subject of insurance and not within any other kind of insurance described in this  
30 subsection.

31 (2) "Casualty insurance" includes motor vehicle physical damage  
32 insurance, burglary and theft insurance, glass insurance, workers' compensation  
33 insurance, employer's liability insurance, and boiler and machinery insurance.

1 (j) "Certificate of authority" means a certificate issued by the Commissioner to  
2 engage in the insurance business.

3 (k) "Commissioner" means the Maryland Insurance Commissioner.

4 (l) "County" means a county of the State or Baltimore City.

5 (m) "Domestic insurer" means an insurer that is formed under the laws of the  
6 State.

7 (m-1) (1) "First-class mail tracking method" means a mail tracking method that  
8 provides evidence of the date that a piece of first-class mail was accepted for mailing by  
9 the United States Postal Service.

10 (2) "First-class mail tracking method" includes:

11 (i) a certificate of mail; and

12 (ii) an electronic mail tracking system used by the United States  
13 Postal Service.

14 (3) "First-class mail tracking method" does not include a certificate of bulk  
15 mailing.

16 (n) (1) "Foreign insurer" means an insurer that is formed under the laws of a  
17 jurisdiction other than this State.

18 (2) Unless the context requires otherwise, "foreign insurer" includes an  
19 alien insurer.

20 (o) "Fund producer" means a licensed insurance producer, including a licensed  
21 independent insurance producer, that has been assigned an authorization code by the  
22 Maryland Automobile Insurance Fund.

23 (p) (1) "Health insurance" means insurance of human beings against:

24 (i) bodily injury, disablement, or death by accident or accidental  
25 means, or the expenses of bodily injury, disablement, or death by accident or accidental  
26 means;

27 (ii) disablement or expenses resulting from sickness or childbirth;  
28 and

29 (iii) expenses incurred in prevention of sickness or dental care.

30 (2) "Health insurance" includes:

- 1 (i) accident insurance;
- 2 (ii) disability insurance; and
- 3 (iii) each insurance appertaining to health insurance.
- 4 (3) "Health insurance" does not include workers' compensation insurance.
- 5 (q) "Independent insurance producer" means an insurance producer:
- 6 (1) that is not owned or controlled by an insurer or group of insurers;
- 7 (2) the appointment of which does not prohibit the representation of more  
8 than one insurer or group of insurers; and
- 9 (3) the appointment of which provides that:
- 10 (i) at termination, the records of the insurance producer remain the  
11 property of the insurance producer; and
- 12 (ii) the insurance producer retains the use and control of all  
13 expirations incurred during the period when the appointment was in effect.
- 14 (r) "Industrial life insurance" means life insurance provided by an individual  
15 policy with the term "industrial" printed on the policy as part of the brief description  
16 required by § 16–213 of this article, and under which premiums are payable monthly or  
17 more frequently, if the face amount of the insurance provided by the policy does not exceed  
18 \$1,000.
- 19 (s) Except as expressly provided otherwise in this article, "insurance" means a  
20 contract to indemnify or to pay or provide a specified or determinable amount or benefit on  
21 the occurrence of a determinable contingency.
- 22 (t) (1) "Insurance business" includes the transaction of:
- 23 (i) all matters pertaining to an insurance contract, either before or  
24 after it takes effect; and
- 25 (ii) all matters arising from an insurance contract or a claim under  
26 it.
- 27 (2) "Insurance business" does not include pooling by public entities for self–  
28 insurance of casualty, property, or health risks.
- 29 (u) (1) "Insurance producer" means a person that, for compensation, sells,  
30 solicits, or negotiates insurance contracts, including contracts for nonprofit health service

1 plans, dental plan organizations, and health maintenance organizations, or the renewal or  
2 continuance of these insurance contracts for:

3 (i) persons issuing the insurance contracts; or

4 (ii) insureds or prospective insureds other than the insurance  
5 producer.

6 (2) "Insurance producer" does not include:

7 (i) an individual who performs clerical or similar office duties while  
8 employed by an insurance producer or insurer, including a clerical employee, other than a  
9 clerical employee of an insurer, who takes insurance information or receives premiums in  
10 the insurance producer's office, if the employee's compensation does not vary with the  
11 number of applications or amount of premiums;

12 (ii) a regular salaried officer or employee of an insurer who gives  
13 help to or for a licensed insurance producer, if the officer or employee is not paid a  
14 commission or other compensation that depends directly on the amount of business  
15 obtained; or

16 (iii) if not paid a commission, a person that obtains and forwards  
17 information for:

18 1. group insurance coverage;

19 2. enrolling individuals under group insurance coverage;

20 3. issuing certificates under group insurance coverage; or

21 4. otherwise assisting in administering group plans.

22 (v) "Insurer" includes each person engaged as indemnitor, surety, or contractor  
23 in the business of entering into insurance contracts.

24 (w) "Licensed insurance producer" means an insurance producer that has:

25 (1) obtained a license under Title 10, Subtitle 1 of this article; and

26 (2) in the case of an insurance producer that acts on behalf of an insurer  
27 other than the Maryland Automobile Insurance Fund, obtained an appointment under Title  
28 10, Subtitle 1 of this article.

29 (x) (1) "Life insurance" means insurance for which the probabilities of the  
30 duration of human life or the rate of mortality are an element or condition of the insurance.

31 (2) "Life insurance" includes the granting of:

- 1 (i) endowment benefits;
- 2 (ii) additional benefits in the event of death by accident or accidental  
3 means;
- 4 (iii) additional disability benefits in the event of dismemberment or  
5 loss of sight;
- 6 (iv) additional disability benefits that operate to safeguard the  
7 contract from lapse or to provide a special surrender value, special benefit, or annuity in  
8 the event of total and permanent disability;
- 9 (v) benefits that provide payment or reimbursement for long-term  
10 home health care, or long-term care in a nursing home or other related institution;
- 11 (vi) burial insurance;
- 12 (vii) optional modes of settlement of proceeds of life insurance;
- 13 (viii) additional benefits for a second opinion for specified health  
14 conditions; and
- 15 (ix) additional benefits that provide a lump-sum benefit for a  
16 specified disease and that meet the requirements established by the Commissioner under  
17 § 15-109 of this article.
- 18 (3) "Life insurance" does not include workers' compensation insurance.
- 19 (y) "Life insurer" means an insurer in life insurance.
- 20 (z) (1) "Marine insurance" includes:
- 21 (i) insurance against loss or damage in connection with any risk of  
22 navigation, transit, or transportation, including war risks, marine builder's risks and  
23 personal property floater risks, to vessels, craft, aircraft, automobiles, trailers, or vehicles  
24 of any kind, as well as all goods, freight, cargoes, merchandise, effects, disbursements,  
25 profits, money, bullion, precious stones, securities, choses in action, evidences of debt,  
26 valuable papers, bottomry and respondentia interests, and all other kinds of property and  
27 interests:
- 28 1. on or under water, on land, or in the air;
- 29 2. while being assembled, packed, crated, baled, compressed,  
30 or similarly prepared for shipment or while awaiting shipment; or



1 the substantive benefits, terms, or conditions of the contract, provided that the person  
2 engaged in that act either sells insurance or obtains insurance from insurers for  
3 purchasers.

4 (dd) "Person" means an individual, receiver, trustee, guardian, personal  
5 representative, fiduciary, representative of any kind, partnership, firm, association,  
6 corporation, or other entity.

7 (ee) (1) "Policy" means the written instrument in which an insurance contract  
8 is set forth.

9 (2) "Policy" includes all clauses, endorsements, riders, and other papers  
10 attached to or made part of the insurance contract.

11 (ff) (1) "Premium" means consideration for insurance.

12 (2) "Premium" includes:

13 (i) except as provided in paragraph (3) of this subsection, an  
14 assessment; and

15 (ii) a membership fee, policy fee, survey fee, inspection fee, service  
16 fee, driving record report fee, accident history report fee, or other similar fee in  
17 consideration for an insurance contract.

18 (3) "Premium" does not include:

19 (i) an assessment as described in § 9-225 of this article; or

20 (ii) an assessment made under any State law that provides for  
21 insolvency protection or insurance availability.

22 (gg) (1) "Property insurance" means insurance on real or personal property on  
23 land, in water, or in the air or an interest in real or personal property against loss or damage  
24 from any hazard or cause and against loss that is consequential to the loss or damage.

25 (2) "Property insurance" includes fire insurance, flood insurance, extended  
26 coverage insurance, homeowners insurance, farm owners insurance, allied lines insurance,  
27 earthquake insurance, growing crops insurance, aircraft physical damage insurance,  
28 automobile physical damage insurance, glass insurance, livestock insurance, and animal  
29 insurance.

30 (3) "Property insurance" does not include insurance against legal liability  
31 for loss or damage to real or personal property.



1 (hh) "Reciprocal insurance" means insurance that arises from an exchange among  
2 subscribers of mutual agreements of indemnity and that is effected through an attorney in  
3 fact common to the subscribers.

4 (ii) "Reciprocal insurer" means an unincorporated aggregation of subscribers that  
5 operate individually and collectively through an attorney in fact to provide reciprocal  
6 insurance.

7 (jj) "Reinsurance" means a contract under which an insurer obtains insurance for  
8 itself from another insurer for all or part of an insurance risk.

9 (kk) "Sell" means to exchange a contract of insurance by any means, for money or  
10 its equivalent, on behalf of an insurer.

11 (ll) "Solicit" means to attempt to sell insurance or to ask or urge a person to apply  
12 for a particular kind of insurance from a particular insurer.

13 (mm) Except as otherwise expressly provided in this article, "state" means:

14 (1) a state, possession, territory, or commonwealth of the United States; or

15 (2) the District of Columbia.

16 (nn) "Stock insurer" means an insurer that is incorporated with capital that is  
17 divided into shares and owned by its stockholders.

18 (oo) "Surety insurance" includes:

19 (1) fidelity insurance, which is insurance that guarantees the fidelity of  
20 persons that hold positions of public or private trust;

21 (2) insurance that guarantees the performance of contracts other than  
22 insurance contracts;

23 (3) insurance that guarantees the execution of bonds, undertakings, and  
24 contracts of suretyship; and

25 (4) insurance that indemnifies banks, bankers, brokers, or financial  
26 corporations or associations against loss from any cause of bills of exchange, notes, bonds,  
27 securities, evidences of debt, deeds, mortgages, warehouse receipts, other valuable papers,  
28 documents, money, precious metals, articles made from precious metals, jewelry, watches,  
29 necklaces, bracelets, gems, and precious and semi-precious stones, including loss during  
30 transportation by messenger or in armored motor vehicles, but not against other risks of  
31 transportation or navigation, and insurance against loss or damage to a bank's, banker's,  
32 broker's, or financial corporation's or association's premises or furniture, fixtures,  
33 equipment, safes, and vaults on the premises caused by burglary, robbery, theft, vandalism,

1 or malicious mischief, or attempted burglary, robbery, theft, vandalism, or malicious  
2 mischief.

3 (pp) “Surplus lines insurance” means the full amount or kind of insurance needed  
4 to protect the interest of the insured that:

5 (1) cannot be obtained from an authorized insurer; or

6 (2) for the particular kind and class of insurance to provide coverage  
7 against liability of persons described in § 24–206(1) of this article, cannot be obtained from  
8 three or more authorized insurers that write that kind and class of insurance on a broad  
9 basis.

10 (qq) “Title insurance” means insurance of owners of property or other persons that  
11 have an interest in the property against loss by encumbrance, defective title, invalidity of  
12 title, or adverse claim to title.

13 (rr) “Unauthorized insurer” means an insurer that does not hold a certificate of  
14 authority.

15 (ss) “Wet marine and transportation insurance” means the part of marine  
16 insurance that includes only:

17 (1) insurance of vessels, crafts, or hulls and interests in or related to them;

18 (2) insurance of marine builder’s risks or marine war risks;

19 (3) marine protection and indemnity insurance;

20 (4) insurance of freights and disbursements pertaining to a subject of  
21 insurance under this subsection; and

22 (5) insurance of personal property and interests in personal property, in  
23 connection with any risk of navigation, transit, or transportation:

24 (i) in the course of exportation from or importation into a country  
25 and in the course of transportation along a coast or on inland waters, including  
26 transportation by land, water, or air from point of origin to final destination;

27 (ii) while being prepared for and while awaiting shipment; and

28 (iii) during any delay, storage, transshipment, or incidental  
29 reshipment.

30 (tt) (1) “Wholesale life insurance” means life insurance that is:

31 (i) distributed on a mass merchandising basis;

1 (ii) administered by group methods provided, with or without  
2 evidence of insurability, by individual policies; and

3 (iii) made available to employees or members under a program,  
4 which also may provide coverage of dependents of the employees or members, sponsored  
5 by:

6 1. an employer or association of employers;

7 2. a union or association of unions;

8 3. an association of individuals who have the same  
9 occupation or profession;

10 4. an association of civil service employees;

11 5. a religious, charitable, recreational, educational, civic, or  
12 fraternal organization or association;

13 6. a school;

14 7. a sports team;

15 8. a volunteer fire department; or

16 9. a group approved by the Commissioner that has a common  
17 administrative capacity, is not organized primarily for the sale of insurance, and has  
18 sufficient numbers to allow for lower rates.

19 (2) "Wholesale life insurance" does not include a policy solely because the  
20 premium for the policy is paid by salary deduction, salary savings, payroll allotment, or  
21 similar arrangement.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
23 October 1, 2022.