

SENATE BILL 278

C4

2lr0489
CF HB 377

By: **Senator McCray**

Introduced and read first time: January 19, 2022

Assigned to: Finance

Committee Report: Favorable

Senate action: Adopted

Read second time: February 12, 2022

CHAPTER _____

1 AN ACT concerning

2 **Maryland Automobile Insurance Fund – Installment Payment Plans**

3 FOR the purpose of altering certain restrictions and requirements related to the authority
4 of the Maryland Automobile Insurance Fund to accept premiums on an installment
5 payment basis for motor vehicle liability insurance policies; authorizing the Fund to
6 charge and collect, if approved by the Maryland Insurance Commissioner, reasonable
7 installment fees or reasonable fees for late payment of premiums by policyholders;
8 and generally relating to the Maryland Automobile Insurance Fund and installment
9 payment plans.

10 BY repealing and reenacting, with amendments,
11 Article – Insurance
12 Section 20–507 and 27–216(b)
13 Annotated Code of Maryland
14 (2017 Replacement Volume and 2021 Supplement)

15 BY repealing and reenacting, without amendments,
16 Article – Insurance
17 Section 27–216(a) and (c)
18 Annotated Code of Maryland
19 (2017 Replacement Volume and 2021 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1

Article – Insurance

2 20–507.

3 (a) Subject to the authority of the Commissioner to determine whether rates are
4 excessive, inadequate, or unfairly discriminatory, as provided in Title 11, Subtitle 3 of this
5 article, the Executive Director shall determine the premiums to be charged on policies
6 issued by the Fund.

7 (b) (1) Except as provided in subsection (c) of this section, the provisions of
8 Title 11, Subtitle 3 of this article apply to the determination of premiums by the Executive
9 Director and the filing of rates with the Commissioner.

10 (2) Notwithstanding Title 11, Subtitle 3 of this article or any other
11 provision of this title, the Executive Director may base premiums on one or both of the
12 following items:

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

16 (ii) the prior claims experience of an insured or applicant for
17 insurance.

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

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

23 (d) In reviewing rates filed by the Fund, the Commissioner shall consider not only
24 the rating principles under Title 11, Subtitle 3 of this article but also the statutory purpose
25 of the Fund under § 20–301 of this title.

26 (e) (1) The Motor Vehicle Administration and Executive Director may arrange
27 for the Motor Vehicle Administration to collect premiums on policies issued by the Fund
28 when the Motor Vehicle Administration issues a driver's license or certificate of
29 registration.

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

32 (f) (1) The Fund may not[:

33 (i)] provide directly or indirectly for the financing of premiums[: or

1 (ii) except as provided in subsection (g) of this section, accept
2 premiums on an installment basis].

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

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

8 (g) (1) (i) Subject to the approval of the Commissioner and in accordance
9 with this subsection, the Fund may accept premiums on an installment payment basis [only
10 on 12–month personal lines policies].

11 (ii) In approving the Fund's plan for accepting premiums on an
12 installment payment basis, the Commissioner shall:

13 **1. CONSIDER AS FACTORS:**

14 **A. THE PERCENTAGE OF THE INITIAL PREMIUM**
15 **PAYMENT IN COMPARISON TO THE TOTAL PREMIUM UNDER THE POLICY;**

16 **B. THE NUMBER OF INSTALLMENT PREMIUM PAYMENTS**
17 **ACCEPTED ON A POLICY UNDER THE INSTALLMENT PAYMENT PLAN; AND**

18 **C. THE OVERALL AFFORDABILITY OF THE INSTALLMENT**
19 **PAYMENT PLAN IN COMPARISON TO OTHER PAYMENT OPTIONS AVAILABLE TO THE**
20 **POLICYHOLDER; AND**

21 **2. ensure that the Fund's installment payment plan[:**

22 1. requires an insured's initial premium payment to be no
23 less than:

24 A. for a total annual premium of less than \$3,000, 25% of the
25 total annual premium; and

26 B. for a total annual premium of \$3,000 or more, 20% of the
27 total annual premium;

28 2. adjusts the amount of the total annual premium used to
29 determine the initial premium payment under item 1 of this subparagraph on October 1 of
30 each year using data from the U.S. Government Bureau of Labor Statistics motor vehicle
31 insurance expenditure category of the Consumer Price Index for all urban consumers;

32 3. is structured and administered to ensure that the Fund at

1 no time provides insurance coverage to an insured for a period during which the Fund has
2 not received the actuarially justified premium payment;

3 4. offers no more than:

4 A. for a policy under item 1A of this subparagraph, six
5 installment payments on the 12-month policy; and

6 B. for a policy under item 1B of this subparagraph, eight
7 installment payments on the 12-month policy;

8 5. allows insureds to make an initial premium payment and
9 installment payments in any commercially acceptable form; and

10 6. allows the Fund to impose an administrative processing
11 fee on insureds participating in the installment plan of no more than \$8 per installment
12 payment] **MEETS THE REQUIREMENTS OF § 27-216 OF THIS ARTICLE.**

13 (2) The Fund may not discriminate among insureds by charging different
14 premiums to insureds who select, as a payment option, the Fund's installment payment
15 plan instead of a premium finance agreement.

16 (3) In determining commissions paid to a fund producer, the Fund may not
17 consider whether the fund producer placed an insured in an installment payment plan.

18 (4) (i) In accordance with this paragraph, written and electronic
19 communications, including the Fund's Web site, affecting the placement of coverage by the
20 Fund or a fund producer shall include a statement, on a form approved by the
21 Commissioner, advising an applicant or an insured of the payment options available to the
22 applicant or insured.

23 (ii) The statement shall state that the applicant or insured has the
24 following payment options:

25 1. the Fund's installment payment plan;

26 2. a premium finance agreement; or

27 3. payment of the policy in full.

28 (iii) The statement shall be included on written or electronic
29 communications at the time the applicant or insured:

30 1. is issued a new policy; or

31 2. is issued a reissuance, rewrite, or renewal of an existing
32 policy.

1 (iv) The statement shall state that the applicant or insured should
2 consult a fund producer who will fully describe the terms of each payment option.

3 (H) (1) IF THE FUND MAKES A CHANGE TO ITS PLAN FOR ACCEPTING
4 PREMIUMS ON AN INSTALLMENT PAYMENT BASIS, WITHIN 90 DAYS AFTER THE
5 CHANGE, THE COMMISSIONER SHALL SUBMIT A REPORT TO THE GENERAL
6 ASSEMBLY PROVIDING THE REASON FOR THE CHANGE.

7 (2) THE REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS
8 SUBSECTION SHALL:

9 (I) INCLUDE THE EFFECT THE CHANGE WILL HAVE ON THE
10 REQUIRED FACTORS FOR CONSIDERATION UNDER (G)(1)(II)1 OF THIS SECTION; AND

11 (II) BE SUBMITTED IN ACCORDANCE WITH § 2-1257 OF THE
12 STATE GOVERNMENT ARTICLE.

13 27-216.

14 (a) A person may not willfully collect a premium or charge for insurance if the
15 insurance is not then provided, or is not in due course to be provided subject to acceptance
16 of the risk by the insurer, in a policy issued by an insurer as authorized by this article.

17 (b) (1) A person may not willfully collect a premium or charge for insurance
18 that:

19 (i) exceeds or is less than the premium or charge applicable to that
20 insurance under the applicable classifications and rates as filed with and approved by the
21 Commissioner; or

22 (ii) if classifications, premiums, or rates are not required by this
23 article to be filed with and approved by the Commissioner, exceeds or is less than the
24 premium or charge specified in the policy and set by the insurer.

25 (2) Paragraph (1) of this subsection does not prohibit:

26 (i) a surplus lines broker that holds a certificate of qualification
27 under Title 3, Subtitle 3 of this article from charging and collecting applicable State and
28 federal taxes in addition to the required premium;

29 (ii) a life insurer from charging and collecting the amount actually
30 expended for a medical examination of an applicant for life insurance or reinstatement of a
31 policy of life insurance;

32 (iii) an insurance producer from charging a fee, not exceeding 15% of

1 the premium, for services rendered in placing insurance in an insurer if commissions are
2 not payable by the insurer;

3 (iv) an insurer from paying commissions to licensed insurance
4 producers on a variable basis on policies issued to qualified exempt commercial
5 policyholders, as defined in § 11–206 of this article, if:

6 1. the payment of the commission to the insurance producer
7 on a variable basis results in a lower total cost of the policy to the qualified exempt
8 policyholder; and

9 2. the insurance producer receiving the commission has
10 agreed to the specific level of commission to be paid on the policy; or

11 (v) a fund producer from charging and collecting, as actual expenses
12 incurred in placing automobile insurance with the Maryland Automobile Insurance Fund:

13 1. a maximum charge of \$25 plus \$1 more than the actual
14 charge by the Motor Vehicle Administration for a driving record required to be presented
15 with the application, unless otherwise provided by the Fund; or

16 2. the amount provided in subsection (e) of this section.

17 (3) (i) Subject to subparagraphs (ii), (iii), (iv), and (v) of this paragraph,
18 paragraph (1) of this subsection does not prohibit an authorized insurer **OR THE**
19 **MARYLAND AUTOMOBILE INSURANCE FUND** from charging and collecting, if approved
20 by the Commissioner, reasonable installment fees or reasonable fees for late payment of
21 premiums by policyholders or both.

22 (ii) The Commissioner:

23 1. shall review administrative expenses submitted by an
24 authorized insurer **OR THE MARYLAND AUTOMOBILE INSURANCE FUND** that are
25 associated with late payments or installment payments, including the cost incurred by an
26 authorized insurer or a vendor of the authorized insurer to accept late payments or
27 installment payments by credit card, debit card, electronic funds transfer, or electronic
28 check payment; and

29 2. may approve a late fee or installment fee not to exceed \$10.

30 (iii) A late fee may not be imposed:

31 1. during any grace period required by law or regulation on
32 a policy of insurance; or

33 2. if no grace period is required by law or regulation on a
34 policy of insurance, until 2 business days after the date the payment amount becomes due.

1 (iv) An authorized insurer **OR THE MARYLAND AUTOMOBILE**
2 **INSURANCE FUND** shall credit each payment received from an insured to the premium
3 owed by the insured before crediting the payment to a late fee or installment fee owed by
4 the insured.

5 (v) A policy of insurance may not be canceled for the failure to pay a
6 single late fee or single installment fee.

7 (4) (i) Subject to subparagraphs (ii) and (iii) of this paragraph,
8 paragraph (1) of this subsection does not prohibit an insurance producer from charging and
9 collecting from an insured actual expenses incurred by the insurance producer for payment
10 of the premium for a policy by use of a credit card.

11 (ii) Any point of service credit card expenses may not be considered
12 premium for any purpose under this paragraph.

13 (iii) An insurance producer that accepts alternative payment
14 methods for premiums shall disclose fully to the insured or prospective insured:

15 1. the availability of all payment methods accepted by the
16 insurer or insurance producer; and

17 2. any charge for actual expenses incurred by the insurance
18 producer for payment of a premium by use of a credit card.

19 (5) (i) Paragraph (1) of this subsection does not prohibit an authorized
20 motor vehicle insurer or the Maryland Automobile Insurance Fund from charging and
21 collecting a reasonable fee approved by the Commissioner under subparagraph (iii) of this
22 paragraph for the reinstatement of a private passenger motor vehicle liability insurance
23 policy in accordance with § 19–519 of this article.

24 (ii) Paragraph (1) of this subsection does not prohibit a licensed
25 insurance producer or a fund producer from charging and collecting a reasonable fee
26 approved by the Commissioner under subparagraph (iii) of this paragraph for the
27 reinstatement of a private passenger motor vehicle liability insurance policy in accordance
28 with § 19–519 of this article.

29 (iii) The Commissioner:

30 1. shall review the administrative expenses submitted by an
31 authorized motor vehicle insurer or the Maryland Automobile Insurance Fund that are
32 associated with reinstatements under § 19–519 of this article; and

33 2. may approve a reinstatement fee not to exceed:

34 A. \$10 to be charged and collected by the insurer or the Fund;

1 and

2 B. \$15 to be charged and collected by the insurance producer
3 or the fund producer.

4 (c) An insurer may not raise the policy limits of coverage, if the effect could be an
5 increase in the premium without the prior consent of the insured.

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

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.