Article - Insurance

[Previous][Next]

§27–216.

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

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

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

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

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

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

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

(iii) an insurance producer from charging a fee, not exceeding 15% of the premium, for services rendered in placing insurance in an insurer if commissions are not payable by the insurer;

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

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

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

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

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

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

(3) (i) Subject to subparagraphs (ii), (iii), (iv), and (v) of this paragraph, paragraph (1) of this subsection does not prohibit an authorized insurer or the Maryland Automobile Insurance Fund from charging and collecting, if approved by the Commissioner, reasonable installment fees or reasonable fees for late payment of premiums by policyholders or both.

(ii) The Commissioner:

1. shall review administrative expenses submitted by an authorized insurer or the Maryland Automobile Insurance Fund that are associated with late payments or installment payments, including the cost incurred by an authorized insurer or a vendor of the authorized insurer to accept late payments or installment payments by credit card, debit card, electronic funds transfer, or electronic check payment; and

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

(iii) A late fee may not be imposed:

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

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

(iv) An authorized insurer or the Maryland Automobile Insurance Fund shall credit each payment received from an insured to the premium owed by the insured before crediting the payment to a late fee or installment fee owed by the insured.

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

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

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

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

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

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

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

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

(iii) The Commissioner:

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

2. may approve a reinstatement fee not to exceed:

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

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

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

(d) (1) Notwithstanding subsection (a) of this section, a surplus lines broker that holds a certificate of qualification under Title 3, Subtitle 3 of this article may charge a reasonable policy fee on a policy issued by a surplus lines insurer to an exempt commercial policyholder, as defined in § 11–206(j) of this article.

(2) Notwithstanding subsection (a) of this section, a surplus lines broker that holds a certificate of qualification under Title 3, Subtitle 3 of this article may charge a reasonable policy fee on a policy issued by a surplus lines insurer not exceeding:

(i) $200 on each personal lines policy procured by a licensed insurance producer not affiliated with or controlled by the surplus lines broker and to whom the surplus lines broker pays a commission; or

(ii) $500 or 7% of the policy premium, whichever is greater, on each commercial lines policy procured by a licensed insurance producer not affiliated with or controlled by the surplus lines broker and to whom the surplus lines broker pays a commission.

(3) A surplus lines broker that holds a certificate of qualification under Title 3, Subtitle 3 of this article and a license as an insurance producer under Title 10, Subtitle 1 of this article may charge a reasonable policy fee on a policy issued by an authorized insurer not exceeding $500 or 7% of the policy premium, whichever is greater, on each commercial lines policy procured by a licensed insurance producer not affiliated with or controlled by the surplus lines broker and to whom the surplus lines broker pays a commission.

(4) The policy fee charged in accordance with this subsection must be reasonably related to the cost of underwriting, issuing, processing, and servicing the policy by the surplus lines broker for the surplus lines insurer or the authorized insurer.

(5) Notwithstanding subsection (a) of this section, a surplus lines broker that holds a certificate of qualification under Title 3, Subtitle 3 of this article may recoup from the prospective insured the actual cost of an inspection required for the placement of surplus lines insurance with a surplus lines insurer if:

(i) the inspection is required by the surplus lines insurer;

(ii) the cost of the inspection is actually incurred by the surplus lines broker and not retained by the surplus lines broker; and

(iii) the cost of the inspection is documented and verifiable.

(6) A surplus lines broker that holds a certificate of qualification under Title 3, Subtitle 3 of this article and a license as an insurance producer under Title 10, Subtitle 1 of this article may recoup from the prospective insured the actual cost of an inspection required for the placement of insurance with an authorized insurer if:

(i) the inspection is required by the authorized insurer;

(ii) the cost of the inspection is actually incurred by the surplus lines broker and not retained by the surplus lines broker; and

(iii) the cost of the inspection is documented and verifiable.

(7) Regardless of the number of insurers participating on a risk:

(i) only one inspection fee may be charged to recoup the actual cost of an inspection under paragraphs (5) and (6) of this subsection for each policy or certificate of coverage; and

(ii) only one policy fee may be charged under paragraph (2) or (3) of this subsection for each policy or certificate of coverage.

(8) (i) Subject to subparagraph (ii) of this paragraph, a surplus lines broker that holds a certificate of qualification under Title 3, Subtitle 3 of this article may charge and collect from an insured actual expenses incurred by the surplus lines broker for payment of the premium, policy fee, and any other fees and taxes relating to the policy by use of a credit card.

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

(9) On a form approved by the Commissioner, the surplus lines broker shall:

(i) make a clear and conspicuous written disclosure of:

1. any inspection fee;

2. the total amount of the policy fee;

3. the premium tax on the policy;

4. any financial interest in the person performing the inspection, if applicable;

5. whether the surplus lines broker will receive compensation from the person that performs the inspection; and

6. any charge for actual expenses incurred by the surplus lines broker for payment of the premium, policy fee, and any other fees and taxes relating to the policy by use of a credit card; and

(ii) notify the prospective insured of the option to obtain the inspection from another person who meets the requirements of or is approved by the surplus lines insurer.

(e) (1) (i) In this subsection, "accident history report" means a report that details an individual's accident history.

(ii) "Accident history report" includes a comprehensive loss underwriting exchange automobile report (CLUE report).

(iii) "Accident history report" does not include a report that details an individual's credit standing or history.

(2) (i) The Maryland Automobile Insurance Fund may sponsor a fund producer or premium finance company registered under Title 23 of this article for the purpose of obtaining accident history reports directly from a person that provides accident history reports.

(ii) When placing automobile insurance through the Fund, a fund producer or premium finance company sponsored by the Fund under this paragraph may obtain accident history reports directly from a person that provides accident history reports.

(3) Unless provided otherwise by the Fund, a person that provides accident history reports to a fund producer or premium finance company sponsored by the Fund under paragraph (2) of this subsection shall direct all billing for the reports to the fund producer or premium finance company.

(4) Subsection (b)(1) of this section does not prohibit a fund producer or premium finance company from charging and collecting actual expenses that are

imposed by a person for providing accident history reports under this subsection in connection with the placement of automobile insurance through the Fund.

(f) In addition to any other sanction otherwise applicable, a person that violates subsection (b)(1) of this section with regard to a bail bond is subject to a penalty not exceeding $5,000 for each violation.

(g) (1) (i) In this subsection the following words have the meanings indicated.

(ii) "Administrative service" means a service, other than a service related to the sale, solicitation, negotiation, or servicing of a health benefit plan, that an insurance producer provides to assist an employer in:

1. complying with a statutory or regulatory requirement;

2. providing an employee benefit on behalf of the employer; or

3. performing functions related to the management of employees of the employer.

(iii) "Health benefit plan" has the meaning stated in § 2–112.2 of this article.

(2) (i) Notwithstanding subsection (a) of this section and subject to subparagraph (ii) of this paragraph, an insurance producer who is licensed under Title 10 of this article to sell health insurance may charge reasonable fees for an administrative service that is sold by the insurance producer to an employer.

(ii) An insurance producer may not charge fees under this subsection for services that are:

1. compensated by commissions or other compensation paid to the insurance producer by an insurer, nonprofit health service plan, or health maintenance organization related to a health benefit plan of an employer; or

2. performed by the insurance producer acting as an administrator under Title 8, Subtitle 3 of this article or an adviser under Title 10, Subtitle 2 of this article.

(3) Before a fee for administrative services is charged, an insurance producer, on a form adopted by the Commissioner by regulation, shall disclose in a clear and conspicuous manner:

(i) each administrative service to be provided;

(ii) the fee for each administrative service to be provided; and

(iii) if the insurance producer sells a health benefit plan to the employer, the amount of commission or other compensation that the insurance producer will receive from an insurer, nonprofit health service plan, or health maintenance organization related to the health benefit plan.

(4) The disclosure form required under paragraph (3) of this subsection shall be:

(i) signed by the insurance producer and an authorized representative of the employer; and

(ii) retained by the insurance producer as required by regulations adopted by the Commissioner.

[Previous][Next]