

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.



Article – Insurance

20–507.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. CONSIDER AS FACTORS:

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

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

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

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

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

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

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

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

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

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

4. offers no more than:

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

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

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

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

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

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

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

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

1. the Fund's installment payment plan;

2. a premium finance agreement; or

3. payment of the policy in full.

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

1. is issued a new policy; or

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

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

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

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

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

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

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;

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.