

SENATE BILL 94

C4

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CF 7lr2064

By: **Senator Reilly**

Introduced and read first time: January 12, 2017

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: January 27, 2017

CHAPTER _____

1 AN ACT concerning

2 **Insurance Premiums – Payment by Credit Card – Reimbursement for Expenses**

3 FOR the purpose of providing that certain provisions of law do not prohibit insurance
4 producers from charging and collecting from insureds certain expenses for payment
5 of the premium for a policy by use of a credit card, subject to certain conditions;
6 requiring an insurance producer, under certain circumstances, to disclose in a
7 certain manner the availability of certain payment methods and a certain charge for
8 certain expenses incurred by the insurance producer; authorizing certain surplus
9 lines brokers to charge and collect from insureds certain expenses incurred by the
10 surplus lines brokers for payment of the premium, policy fee, and any other fees and
11 taxes relating to the policy by use of a credit card; requiring a surplus lines broker
12 to make a certain disclosure of certain charges for payment of the premium, policy
13 fee, and any other fees and taxes relating to the policy by use of a credit card; and
14 generally relating to payment of policy premiums and policy fees, fees, and taxes by
15 use of a credit card.

16 BY repealing and reenacting, with amendments,
17 Article – Insurance
18 Section 27–216(b) and (d)
19 Annotated Code of Maryland
20 (2011 Replacement Volume and 2016 Supplement)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
22 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

27–216.

(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 replacing insurance in an insurer if commissions are not payable by the insurer; or

(iv) 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 \$10 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 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 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 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 SUBSECTION.

(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.

(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 not exceeding:

(i) \$100 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) \$250 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.

(2) 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 \$250 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) 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.

(4) 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.

(5) 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.

(6) 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 paragraph (4) or (5) of this subsection for each policy or certificate of coverage; and

(ii) only one policy fee may be charged under paragraph (1) or (2) of this subsection for each policy or certificate of coverage.

(7) 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 ~~POLICY FEE~~ PREMIUM, POLICY FEE, AND ANY OTHER FEES AND TAXES RELATING TO THE POLICY BY USE OF A CREDIT CARD.

[(7)] (8) 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; **[and]**
 - 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 ~~POLICY FEE~~ 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.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.