

SENATE BILL 229

C4, J5

(PRE-FILED)

4lr0325
CF HB 67

By: **Chair, Finance Committee (By Request – Departmental – Maryland Insurance Administration)**

Requested: September 15, 2023

Introduced and read first time: January 10, 2024

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Insurance – Penalties – Unauthorized Insurers, Insurance Producers, and**
3 **Public Adjusters**

4 FOR the purpose of altering the maximum civil penalty to which an unauthorized insurer
5 or person that violates certain provisions of State insurance law is subject for each
6 violation; altering the maximum civil penalty that the Maryland Insurance
7 Commissioner may impose, in addition to suspending or revoking the license, on the
8 holder of an insurance producer license or a public adjuster licensee for each violation
9 of State insurance law; and generally relating to penalties imposed under State
10 insurance law.

11 BY repealing and reenacting, with amendments,
12 Article – Insurance
13 Section 4–212, 10–126, and 10–410
14 Annotated Code of Maryland
15 (2017 Replacement Volume and 2023 Supplement)

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

18 **Article – Insurance**

19 4–212.

20 An unauthorized insurer or person that violates this subtitle is subject to a civil
21 penalty of not less than \$100 but not exceeding **[\$50,000] \$125,000** for each violation.

22 10–126.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(a) The Commissioner may deny a license to an applicant under §§ 2–210 through 2–214 of this article, or suspend, revoke, or refuse to renew or reinstate a license after notice and opportunity for hearing under §§ 2–210 through 2–214 of this article if the applicant or holder of the license:

(1) has willfully violated this article or another law of the State that relates to insurance;

(2) has intentionally misrepresented or concealed a material fact in the application for a license;

(3) has obtained or attempted to obtain a license by misrepresentation, concealment, or other fraud;

(4) has misappropriated, converted, or unlawfully withheld money belonging to an insurer, insurance producer, beneficiary, or insured;

(5) has willfully and materially misrepresented the provisions of a policy;

(6) has committed fraudulent or dishonest practices in the insurance business;

(7) has participated, with or without the knowledge of an insurer, in selling motor vehicle insurance without an actual intent to sell the insurance, as evidenced by a persistent pattern of filing certificates of insurance together with or closely followed by cancellation notices for the insurance;

(8) has been convicted by final judgment in any state or federal court of a felony or crime involving moral turpitude;

(9) has knowingly participated in writing or issuing substantial over-insurance of property insurance risks;

(10) has failed an examination required by this subtitle;

(11) has willfully failed to comply with or has willfully violated a proper order, subpoena, or regulation of the Commissioner or the insurance regulatory authority of another state;

(12) has failed or refused to pay over on demand money that belongs to an insurer, insurance producer, or other person entitled to the money;

(13) has otherwise shown a lack of trustworthiness or competence to act as an insurance producer;

(14) is not or does not intend to carry on business in good faith and represent

1 to the public that the person is an insurance producer;

2 (15) has been denied a license or certificate in another state or has had a
3 license or certificate suspended or revoked in another state;

4 (16) has intentionally or willfully made or issued, or caused to be made or
5 issued, a statement that materially misrepresents or makes incomplete comparisons about
6 the terms or conditions of a policy or contract issued by an authorized insurer, for the
7 purpose of inducing or attempting to induce the owner of the policy or contract to forfeit or
8 surrender it or allow it to lapse in order to replace it with another;

9 (17) has transacted insurance business that was directed to the applicant or
10 holder for consideration by a person whose license or certificate to engage in the insurance
11 business at the time was suspended or revoked, and the applicant or holder knew or should
12 have known of the suspension or revocation;

13 (18) has solicited, procured, or negotiated insurance contracts for an
14 unauthorized insurer, including contracts for nonprofit health service plans, dental plan
15 organizations, and health maintenance organizations;

16 (19) has knowingly employed or knowingly continued to employ an
17 individual acting in a fiduciary capacity who has been convicted of a felony or crime of moral
18 turpitude within the preceding 10 years;

19 (20) has forged another's name to an application for insurance or to any
20 document related to an insurance transaction;

21 (21) has improperly used notes or any other reference material to complete
22 an examination for a license;

23 (22) has failed to pay income tax or related interest or penalty under:

24 (i) an assessment under the Tax – General Article that is final and
25 no longer subject to review by the tax court; or

26 (ii) an order of the tax court that is final and no longer subject to
27 judicial review; or

28 (23) in providing information under § 10–118 of this subtitle regarding the
29 termination of an appointment with an insurer, has made an inaccurate statement with
30 actual malice.

31 (b) (1) The Commissioner may deny a license to an applicant business entity
32 under §§ 2–210 through 2–214 of this article, or suspend, revoke, or refuse to renew or
33 reinstate a license of a business entity after notice and opportunity for hearing under §§
34 2–210 through 2–214 of this article, if an individual listed in paragraph (2) of this
35 subsection has:

1 (i) violated any provision of this subtitle;

2 (ii) been convicted of a felony, a crime of moral turpitude, or any
3 criminal offense involving dishonesty or breach of trust; or

4 (iii) had any professional license suspended or revoked for a
5 fraudulent or dishonest practice.

6 (2) This subsection applies in any case that involves a business entity if the
7 violation was committed by an individual who is:

8 (i) an insurance producer;

9 (ii) 1. in the case of a limited liability company, an officer,
10 director, member, or manager;

11 2. in the case of a partnership, a partner; and

12 3. in the case of a corporation, a director, officer, or owner; or

13 (iii) an individual with direct control over the fiscal management of
14 the business entity.

15 (c) Instead of or in addition to suspending or revoking the license, the
16 Commissioner may impose on the holder of the license a penalty of not less than \$100 but
17 not exceeding **[\$500] \$5,000** for each violation of this article.

18 (d) Instead of or in addition to suspending or revoking the license, the
19 Commissioner may require that restitution be made to any citizen who has suffered
20 financial injury because of the violation of this article.

21 (e) If the license is suspended under this section, the Commissioner may require
22 the individual to pass an examination and file a new application before the suspension is
23 lifted.

24 (f) (1) Within 30 days after the final disposition of the matter, an insurance
25 producer shall report to the Commissioner any adverse administrative action taken against
26 the insurance producer:

27 (i) in another jurisdiction; or

28 (ii) by another governmental unit in this State.

29 (2) The report shall include a copy of the order, consent order, and any
30 other relevant legal documents.

(g) (1) (i) In this subsection, the term “charging document” means a written accusation alleging that a defendant has committed an offense.

(ii) In this subsection, the term “charging document” includes:

1. a citation;
2. an indictment;
3. an information; and
4. a statement of charges.

(2) This subsection does not apply to a misdemeanor violation of the Maryland Vehicle Law or the vehicle law of another jurisdiction.

(3) If an insurance producer is prosecuted for a crime in any jurisdiction, the insurance producer shall report the prosecution to the Commissioner within 30 days after the insurance producer’s initial appearance before a court, including an appearance before:

- (i) a judicial officer of the District Court due to an arrest;
- (ii) the District Court in response to a summons;
- (iii) the circuit court due to execution of a warrant; or
- (iv) the circuit court in person or by written notice of counsel in response to a summons.

(4) The report shall include a copy of:

- (i) the charging document;
- (ii) any order issued by a court; and
- (iii) any other relevant legal documents.

(h) An individual is subject to denial or suspension of a license under § 10–119.3 of the Family Law Article if the individual:

(1) is in arrears in the payment of child support amounting to more than 120 days under the most recent order; or

(2) has failed to comply with a subpoena issued by the Child Support Administration under § 10–108.6 of the Family Law Article.

1 10–410.

2 (a) The Commissioner may deny a license to an applicant or suspend, revoke, or
3 refuse to renew or reinstate a license after notice and opportunity for a hearing under §§
4 2–210 through 2–214 of this article if the applicant or licensee:

5 (1) has violated this article;

6 (2) has made a material misstatement in the application for the license;

7 (3) has engaged in fraudulent or dishonest practices;

8 (4) has demonstrated incompetency or untrustworthiness to act as a public
9 adjuster;

10 (5) has misappropriated, converted, or unlawfully withheld money that
11 belongs to an insurer, insurance producer, insured, or other person;

12 (6) has willfully and materially misrepresented the provisions of a policy;

13 (7) has been convicted of a felony, a crime of moral turpitude, or any
14 criminal offense involving dishonesty or breach of trust;

15 (8) has willfully failed to comply with or has willfully violated a proper
16 order or regulation of the Commissioner;

17 (9) has failed or refused to pay on demand money that belongs to an
18 insurer, insurance producer, insured, or other person entitled to the money;

19 (10) is not carrying on or does not intend to carry on business in good faith
20 while representing to the public that the person is a public adjuster;

21 (11) has been denied a license or has had a license suspended or revoked in
22 another state; or

23 (12) has knowingly employed or knowingly continued to employ an
24 individual acting in a fiduciary capacity who has been convicted within the preceding 10
25 years of a felony or crime of moral turpitude.

26 (b) (1) The Commissioner may deny a license to a business entity applicant or
27 suspend, revoke, or refuse to renew or reinstate the license of a business entity after notice
28 and opportunity for a hearing under §§ 2–210 through 2–214 of this article, if an individual
29 listed in paragraph (2) of this subsection:

30 (i) violates any provision of this article;

31 (ii) is convicted of a felony, a crime of moral turpitude, or any

1 criminal offense involving dishonesty or breach of trust; or

2 (iii) has any professional license suspended or revoked for a
3 fraudulent or dishonest practice.

4 (2) The sanctions provided for under this subsection may be imposed on a
5 business entity if the violation was committed by an individual who:

6 (i) is a public adjuster employed by the business entity;

7 (ii) 1. in the case of a limited liability company, is an officer,
8 director, member, or manager;

9 2. in the case of a partnership, is a partner; and

10 3. in the case of a corporation, is a director, officer, or
11 controlling owner; or

12 (iii) has direct control over the fiscal management of the business
13 entity.

14 (c) Instead of or in addition to suspending or revoking the license of a public
15 adjuster, the Commissioner may impose on the licensee a penalty of not less than \$100 but
16 not exceeding ~~[\$500]~~ **\$5,000** for each violation of this article.

17 (d) Instead of or in addition to suspending or revoking the license, the
18 Commissioner may require that restitution be made to any citizen who has suffered
19 financial injury because of the violation of this article.

20 (e) If the license is suspended under this section, the Commissioner may require
21 the individual to pass an examination and file a new application before the suspension is
22 lifted.

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 October 1, 2024.