

SENATE BILL 94

C4

(7lr1164)

ENROLLED BILL

— Finance/Economic Matters —

Introduced by **Senator Reilly**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

President.

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.

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.

Italics indicate opposite chamber/conference committee amendments.



1 BY repealing and reenacting, with amendments,
2 Article – Insurance
3 Section 27–216(b) and (d)
4 Annotated Code of Maryland
5 (2011 Replacement Volume and 2016 Supplement)

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

8 **Article – Insurance**

9 27–216.

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

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

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

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

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

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

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

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

30 1. a maximum charge of \$10 plus \$1 more than the actual
31 charge by the Motor Vehicle Administration for a driving record required to be presented
32 with the application, unless otherwise provided by the Fund; or

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

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

5 (ii) The Commissioner:

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

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

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

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

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

17 (iv) An authorized insurer shall credit each payment received from
18 an insured to the premium owed by the insured before crediting the payment to a late fee
19 or installment fee owed by the insured.

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

22 **(4) (I) SUBJECT TO SUBPARAGRAPHS (II) AND (III) OF THIS**
23 **PARAGRAPH, PARAGRAPH (1) OF THIS SUBSECTION DOES NOT PROHIBIT AN**
24 **INSURANCE PRODUCER FROM CHARGING AND COLLECTING FROM AN INSURED**
25 **ACTUAL EXPENSES INCURRED BY THE INSURANCE PRODUCER FOR PAYMENT OF THE**
26 **PREMIUM FOR A POLICY BY USE OF A CREDIT CARD.**

27 **(II) ANY POINT OF SERVICE CREDIT CARD EXPENSES MAY NOT**
28 **BE CONSIDERED PREMIUM FOR ANY PURPOSE UNDER THIS SUBSECTION**
29 **PARAGRAPH.**

30 **(III) AN INSURANCE PRODUCER THAT ACCEPTS ALTERNATIVE**
31 **PAYMENT METHODS FOR PREMIUMS SHALL DISCLOSE FULLY TO THE INSURED OR**
32 **PROSPECTIVE INSURED;**

1 **1. THE AVAILABILITY OF ALL PAYMENT METHODS**
2 **ACCEPTED BY THE INSURER OR INSURANCE PRODUCER; AND**

3 **2. ANY CHARGE FOR ACTUAL EXPENSES INCURRED BY**
4 **THE INSURANCE PRODUCER FOR PAYMENT OF A PREMIUM BY USE OF A CREDIT**
5 **CARD.**

6 (d) (1) Notwithstanding subsection (a) of this section, a surplus lines broker
7 that holds a certificate of qualification under Title 3, Subtitle 3 of this article may charge a
8 reasonable policy fee on a policy issued by a surplus lines insurer not exceeding:

9 (i) \$100 on each personal lines policy procured by a licensed
10 insurance producer not affiliated with or controlled by the surplus lines broker and to whom
11 the surplus lines broker pays a commission; or

12 (ii) \$250 on each commercial lines policy procured by a licensed
13 insurance producer not affiliated with or controlled by the surplus lines broker and to whom
14 the surplus lines broker pays a commission.

15 (2) A surplus lines broker that holds a certificate of qualification under
16 Title 3, Subtitle 3 of this article and a license as an insurance producer under Title 10,
17 Subtitle 1 of this article may charge a reasonable policy fee on a policy issued by an
18 authorized insurer not exceeding \$250 on each commercial lines policy procured by a
19 licensed insurance producer not affiliated with or controlled by the surplus lines broker and
20 to whom the surplus lines broker pays a commission.

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

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

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

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

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

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

- 1 (i) the inspection is required by the authorized insurer;
- 2 (ii) the cost of the inspection is actually incurred by the surplus lines
3 broker and not retained by the surplus lines broker; and
- 4 (iii) the cost of the inspection is documented and verifiable.
- 5 (6) Regardless of the number of insurers participating on a risk:
- 6 (i) only one inspection fee may be charged to recoup the actual cost
7 of an inspection under paragraph (4) or (5) of this subsection for each policy or certificate
8 of coverage; and
- 9 (ii) only one policy fee may be charged under paragraph (1) or (2) of
10 this subsection for each policy or certificate of coverage.

11 **(7) (I) ~~A SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, A~~**
12 **SURPLUS LINES BROKER THAT HOLDS A CERTIFICATE OF QUALIFICATION UNDER**
13 **TITLE 3, SUBTITLE 3 OF THIS ARTICLE MAY CHARGE AND COLLECT FROM AN**
14 **INSURED ACTUAL EXPENSES INCURRED BY THE SURPLUS LINES BROKER FOR**
15 **PAYMENT OF THE ~~POLICY FEE~~ PREMIUM, POLICY FEE, AND ANY OTHER FEES AND**
16 **TAXES RELATING TO THE POLICY BY USE OF A CREDIT CARD.**

17 **(II) ANY POINT OF SERVICE CREDIT CARD EXPENSES MAY NOT**
18 **BE CONSIDERED PREMIUM FOR ANY PURPOSE UNDER THIS PARAGRAPH.**

19 **[(7)] (8)** On a form approved by the Commissioner, the surplus lines
20 broker shall:

- 21 (i) make a clear and conspicuous written disclosure of:
- 22 1. any inspection fee;
- 23 2. the total amount of the policy fee;
- 24 3. the premium tax on the policy;
- 25 4. any financial interest in the person performing the
26 inspection, if applicable; [and]
- 27 5. whether the surplus lines broker will receive
28 compensation from the person that performs the inspection; and

29 **6. ANY CHARGE FOR ACTUAL EXPENSES INCURRED BY**
30 **THE SURPLUS LINES BROKER FOR PAYMENT OF THE ~~POLICY FEE~~ PREMIUM, POLICY**

1 FEE, AND ANY OTHER FEES AND TAXES RELATING TO THE POLICY BY USE OF A
2 CREDIT CARD; AND

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

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

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.