

HOUSE BILL 1078

C4

8lr3065
CF SB 792

By: **Delegate Frick**

Introduced and read first time: February 7, 2018

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Commercial Insurance – Insurance Producers – Commissions**

3 FOR the purpose of providing that an insurer is not prohibited from paying certain
4 commissions under commercial insurance policies to licensed insurance producers in
5 a certain manner under certain circumstances; making a technical change; providing
6 for the application of this Act; and generally relating to commissions paid to
7 insurance producers under commercial insurance policies.

8 BY repealing and reenacting, without amendments,

9 Article – Insurance

10 Section 27–212(e), 27–216(a) and (b)(1), and 27–601(a) and (b)

11 Annotated Code of Maryland

12 (2017 Replacement Volume)

13 BY repealing and reenacting, with amendments,

14 Article – Insurance

15 Section 27–212(f) and 27–216(b)(2)

16 Annotated Code of Maryland

17 (2017 Replacement Volume)

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

19 That the Laws of Maryland read as follows:

20 **Article – Insurance**

21 27–212.

22 (e) (1) An insurer may not make or allow unfair discrimination between
23 insureds or properties having like insuring or risk characteristics in:

24 (i) the premium or rates charged for insurance;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (ii) the dividends or other benefits payable on the insurance; or

2 (iii) any of the other terms or conditions of the insurance.

3 (2) Notwithstanding any other provision of this section, an insurer may not
4 make or allow a differential in ratings, premium payments, or dividends for a reason based
5 on the sex, physical handicap, or disability of an applicant or policyholder unless there is
6 actuarial justification for the differential.

7 (f) This section does not prohibit an insurer from:

8 (1) paying commissions or other compensation to licensed insurance
9 producers;

10 **(2) PAYING COMMISSIONS UNDER POLICIES OF COMMERCIAL**
11 **INSURANCE, AS DEFINED IN § 27-601 OF THIS TITLE, TO LICENSED INSURANCE**
12 **PRODUCERS ON A VARIABLE BASIS IF:**

13 **(I) THE PAYMENT IS MADE UNDER THE TERMS OF A**
14 **COMMISSION EXPENSE REDUCTION PLAN FILED WITH AND APPROVED BY THE**
15 **COMMISSIONER UNDER THE APPLICABLE RATING MANUAL; AND**

16 **(II) THE INSURANCE PRODUCER HAS AGREED TO THE**
17 **PARTICULAR LEVEL OF COMMISSION TO BE PAID UNDER THE POLICY; or**

18 ~~[(2)]~~ **(3)** allowing or returning to its participating policyholders,
19 members, or subscribers lawful dividends, savings, or unabsorbed premium deposits.

20 27-216.

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

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

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

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

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

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

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

8 (iii) an insurance producer from charging a fee, not exceeding 15% of
9 the premium, for services rendered in ~~[replacing]~~ PLACING insurance in an insurer if
10 commissions are not payable by the insurer;

11 (IV) AN INSURER FROM PAYING COMMISSIONS UNDER POLICIES
12 OF COMMERCIAL INSURANCE, AS DEFINED IN § 27-601 OF THIS TITLE, TO LICENSED
13 INSURANCE PRODUCERS ON A VARIABLE BASIS IF:

14 1. THE PAYMENT IS MADE UNDER THE TERMS OF A
15 COMMISSION EXPENSE REDUCTION PLAN FILED WITH AND APPROVED BY THE
16 COMMISSIONER UNDER THE APPLICABLE RATING MANUAL; AND

17 2. THE INSURANCE PRODUCER HAS AGREED TO THE
18 PARTICULAR LEVEL OF COMMISSION TO BE PAID UNDER THE POLICY; or

19 ~~[(iv)]~~ (v) a fund producer from charging and collecting, as actual
20 expenses incurred in placing automobile insurance with the Maryland Automobile
21 Insurance Fund:

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

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

26 27-601.

27 (a) In this subtitle the following words have the meanings indicated.

28 (b) (1) "Commercial insurance" means property insurance or casualty
29 insurance issued to an individual, a sole proprietor, partnership, corporation, limited
30 liability company, or similar entity and intended to insure against loss arising from the
31 business pursuits of the insured entity.

32 (2) "Commercial insurance" does not include:

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- 1 (i) policies issued by the Maryland Automobile Insurance Fund;
- 2 (ii) policies issued by the Joint Insurance Association;
- 3 (iii) workers' compensation insurance; or
- 4 (iv) title insurance.

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all
6 policies of commercial insurance offered, sold, or issued in the State on or after October 1,
7 2018.

8 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 October 1, 2018.