

HOUSE BILL 1078

C4

8lr3065
CF SB 792

By: **Delegate Frick**

Introduced and read first time: February 7, 2018

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 10, 2018

CHAPTER _____

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
5 under commercial insurance policies issued to certain exempt commercial
6 policyholders in a certain manner under certain circumstances; making a technical
7 change; providing for the application of this Act; and generally relating to
8 commissions paid to insurance producers under commercial insurance policies.

9 BY repealing and reenacting, without amendments,
10 Article – Insurance
11 Section 27–212(e), 27–216(a) and (b)(1), and 27–601(a) and (b)
12 Annotated Code of Maryland
13 (2017 Replacement Volume)

14 BY repealing and reenacting, with amendments,
15 Article – Insurance
16 Section 27–212(f) and 27–216(b)(2)
17 Annotated Code of Maryland
18 (2017 Replacement Volume)

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

21 **Article – Insurance**

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.



1 27-212.

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

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

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

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

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

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

12 (1) paying commissions or other compensation to licensed insurance
13 producers;

14 ~~(2) PAYING COMMISSIONS UNDER POLICIES OF COMMERCIAL~~
15 ~~INSURANCE, AS DEFINED IN § 27-601 OF THIS TITLE, TO LICENSED INSURANCE~~
16 ~~PRODUCERS ON A VARIABLE BASIS IF:~~

17 ~~(I) THE PAYMENT IS MADE UNDER THE TERMS OF A~~
18 ~~COMMISSION EXPENSE REDUCTION PLAN FILED WITH AND APPROVED BY THE~~
19 ~~COMMISSIONER UNDER THE APPLICABLE RATING MANUAL; AND~~

20 ~~(II) THE INSURANCE PRODUCER HAS AGREED TO THE~~
21 ~~PARTICULAR LEVEL OF COMMISSION TO BE PAID UNDER THE POLICY; or~~

22 (2) PAYING COMMISSIONS TO LICENSED INSURANCE PRODUCERS ON
23 A VARIABLE BASIS ON POLICIES ISSUED TO QUALIFIED EXEMPT COMMERCIAL
24 POLICYHOLDERS, AS DEFINED IN § 11-206 OF THIS ARTICLE, IF:

25 (I) THE PAYMENT OF THE COMMISSION TO THE INSURANCE
26 PRODUCER ON A VARIABLE BASIS RESULTS IN A LOWER TOTAL COST OF THE POLICY
27 TO THE QUALIFIED EXEMPT COMMERCIAL POLICYHOLDER; AND

28 (II) THE INSURANCE PRODUCER RECEIVING THE COMMISSION
29 HAS AGREED TO THE SPECIFIC LEVEL OF COMMISSION TO BE PAID ON THE POLICY;
30 or

1 ~~[(2)]~~ **(3)** allowing or returning to its participating policyholders,
2 members, or subscribers lawful dividends, savings, or unabsorbed premium deposits.

3 27-216.

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

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

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

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

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

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

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

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

25 ~~(iv) AN INSURER FROM PAYING COMMISSIONS UNDER POLICIES~~
26 ~~OF COMMERCIAL INSURANCE, AS DEFINED IN § 27-601 OF THIS TITLE, TO LICENSED~~
27 ~~INSURANCE PRODUCERS ON A VARIABLE BASIS IF:~~

28 ~~1. THE PAYMENT IS MADE UNDER THE TERMS OF A~~
29 ~~COMMISSION EXPENSE REDUCTION PLAN FILED WITH AND APPROVED BY THE~~
30 ~~COMMISSIONER UNDER THE APPLICABLE RATING MANUAL; AND~~

31 ~~2. THE INSURANCE PRODUCER HAS AGREED TO THE~~
32 ~~PARTICULAR LEVEL OF COMMISSION TO BE PAID UNDER THE POLICY; or~~

1 (IV) AN INSURER FROM PAYING COMMISSIONS TO LICENSED
 2 INSURANCE PRODUCERS ON A VARIABLE BASIS ON POLICIES ISSUED TO QUALIFIED
 3 EXEMPT COMMERCIAL POLICYHOLDERS, AS DEFINED IN § 11-206 OF THIS ARTICLE,
 4 IF:

5 1. THE PAYMENT OF THE COMMISSION TO THE
 6 INSURANCE PRODUCER ON A VARIABLE BASIS RESULTS IN A LOWER TOTAL COST OF
 7 THE POLICY TO THE QUALIFIED EXEMPT POLICYHOLDER; AND

8 2. THE INSURANCE PRODUCER RECEIVING THE
 9 COMMISSION HAS AGREED TO THE SPECIFIC LEVEL OF COMMISSION TO BE PAID ON
 10 THE POLICY; or

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

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

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

18 27-601.

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

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

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

25 (i) policies issued by the Maryland Automobile Insurance Fund;

26 (ii) policies issued by the Joint Insurance Association;

27 (iii) workers' compensation insurance; or

28 (iv) title insurance.

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all
 30 policies of commercial insurance offered, sold, or issued in the State on or after October 1,
 31 2018.

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

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.