

# HOUSE BILL 563

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CF 2lr0770

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By: **Delegate Carey**

Introduced and read first time: January 31, 2022

Assigned to: Economic Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Insurance – Surplus Lines Brokers – Policy Fees**

3 FOR the purpose of repealing limitations on amounts that a surplus lines broker may  
4 charge as a policy fee for policies issued by surplus lines insurers or authorized  
5 providers; and generally relating to fees charged by surplus lines brokers.

6 BY repealing and reenacting, without amendments,  
7 Article – Insurance  
8 Section 27–216(a)  
9 Annotated Code of Maryland  
10 (2017 Replacement Volume and 2021 Supplement)

11 BY repealing and reenacting, with amendments,  
12 Article – Insurance  
13 Section 27–216(d)  
14 Annotated Code of Maryland  
15 (2017 Replacement Volume and 2021 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 27–216.

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

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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

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

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

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

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

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

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

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

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

31 (i) the inspection is required by the authorized insurer;

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

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

1 (6) Regardless of the number of insurers participating on a risk:

2 (i) only one inspection fee may be charged to recoup the actual cost  
3 of an inspection under paragraph (4) or (5) of this subsection for each policy or certificate  
4 of coverage; and

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

7 (7) (i) Subject to subparagraph (ii) of this paragraph, a surplus lines  
8 broker that holds a certificate of qualification under Title 3, Subtitle 3 of this article may  
9 charge and collect from an insured actual expenses incurred by the surplus lines broker for  
10 payment of the premium, policy fee, and any other fees and taxes relating to the policy by  
11 use of a credit card.

12 (ii) Any point of service credit card expenses may not be considered  
13 premium for any purpose under this paragraph.

14 (8) On a form approved by the Commissioner, the surplus lines broker  
15 shall:

16 (i) make a clear and conspicuous written disclosure of:

17 1. any inspection fee;

18 2. the total amount of the policy fee;

19 3. the premium tax on the policy;

20 4. any financial interest in the person performing the  
21 inspection, if applicable;

22 5. whether the surplus lines broker will receive  
23 compensation from the person that performs the inspection; and

24 6. any charge for actual expenses incurred by the surplus  
25 lines broker for payment of the premium, policy fee, and any other fees and taxes relating  
26 to the policy by use of a credit card; and

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

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
31 October 1, 2022.