

SENATE BILL 278

C4

2lr0489
CF 2lr2200

By: **Senator McCray**

Introduced and read first time: January 19, 2022

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Automobile Insurance Fund – Installment Payment Plans**

3 FOR the purpose of altering certain restrictions and requirements related to the authority
4 of the Maryland Automobile Insurance Fund to accept premiums on an installment
5 payment basis for motor vehicle liability insurance policies; authorizing the Fund to
6 charge and collect, if approved by the Maryland Insurance Commissioner, reasonable
7 installment fees or reasonable fees for late payment of premiums by policyholders;
8 and generally relating to the Maryland Automobile Insurance Fund and installment
9 payment plans.

10 BY repealing and reenacting, with amendments,
11 Article – Insurance
12 Section 20–507 and 27–216(b)
13 Annotated Code of Maryland
14 (2017 Replacement Volume and 2021 Supplement)

15 BY repealing and reenacting, without amendments,
16 Article – Insurance
17 Section 27–216(a) and (c)
18 Annotated Code of Maryland
19 (2017 Replacement Volume and 2021 Supplement)

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

22 **Article – Insurance**

23 20–507.

24 (a) Subject to the authority of the Commissioner to determine whether rates are
25 excessive, inadequate, or unfairly discriminatory, as provided in Title 11, Subtitle 3 of this

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 article, the Executive Director shall determine the premiums to be charged on policies
2 issued by the Fund.

3 (b) (1) Except as provided in subsection (c) of this section, the provisions of
4 Title 11, Subtitle 3 of this article apply to the determination of premiums by the Executive
5 Director and the filing of rates with the Commissioner.

6 (2) Notwithstanding Title 11, Subtitle 3 of this article or any other
7 provision of this title, the Executive Director may base premiums on one or both of the
8 following items:

9 (i) the number of points accumulated by an insured or applicant for
10 insurance under the point system provided for in Title 16, Subtitle 4 of the Transportation
11 Article; or

12 (ii) the prior claims experience of an insured or applicant for
13 insurance.

14 (c) (1) Premiums for all commercial coverage shall be determined in
15 accordance with this section and § 20–508 of this subtitle.

16 (2) Notwithstanding paragraph (1) of this subsection, the rating principles
17 under subsection (d) of this section may not be used to determine the premium for
18 commercial coverage.

19 (d) In reviewing rates filed by the Fund, the Commissioner shall consider not only
20 the rating principles under Title 11, Subtitle 3 of this article but also the statutory purpose
21 of the Fund under § 20–301 of this title.

22 (e) (1) The Motor Vehicle Administration and Executive Director may arrange
23 for the Motor Vehicle Administration to collect premiums on policies issued by the Fund
24 when the Motor Vehicle Administration issues a driver's license or certificate of
25 registration.

26 (2) A premium collected under this subsection shall be paid to the State
27 Treasurer for the account of the Fund.

28 (f) (1) The Fund may not[:

29 (i)] provide directly or indirectly for the financing of premiums[: or

30 (ii) except as provided in subsection (g) of this section, accept
31 premiums on an installment basis].

32 (2) A premium may be financed only by a premium finance company
33 registered with the Commissioner in accordance with § 23–201 of this article.

1 (3) If a prospective insured's initial payment to the Fund, a fund producer,
2 or premium finance company is not honored, a policy or endorsement issued in reliance on
3 that payment is void.

4 (g) (1) (i) Subject to the approval of the Commissioner and in accordance
5 with this subsection, the Fund may accept premiums on an installment payment basis [only
6 on 12-month personal lines policies].

7 (ii) In approving the Fund's plan for accepting premiums on an
8 installment payment basis, the Commissioner shall:

9 **1. CONSIDER AS FACTORS:**

10 **A. THE PERCENTAGE OF THE INITIAL PREMIUM**
11 **PAYMENT IN COMPARISON TO THE TOTAL PREMIUM UNDER THE POLICY;**

12 **B. THE NUMBER OF INSTALLMENT PREMIUM PAYMENTS**
13 **ACCEPTED ON A POLICY UNDER THE INSTALLMENT PAYMENT PLAN; AND**

14 **C. THE OVERALL AFFORDABILITY OF THE INSTALLMENT**
15 **PAYMENT PLAN IN COMPARISON TO OTHER PAYMENT OPTIONS AVAILABLE TO THE**
16 **POLICYHOLDER; AND**

17 **2. ensure that the Fund's installment payment plan[:**

18 1. requires an insured's initial premium payment to be no
19 less than:

20 A. for a total annual premium of less than \$3,000, 25% of the
21 total annual premium; and

22 B. for a total annual premium of \$3,000 or more, 20% of the
23 total annual premium;

24 2. adjusts the amount of the total annual premium used to
25 determine the initial premium payment under item 1 of this subparagraph on October 1 of
26 each year using data from the U.S. Government Bureau of Labor Statistics motor vehicle
27 insurance expenditure category of the Consumer Price Index for all urban consumers;

28 3. is structured and administered to ensure that the Fund at
29 no time provides insurance coverage to an insured for a period during which the Fund has
30 not received the actuarially justified premium payment;

31 4. offers no more than:

32 A. for a policy under item 1A of this subparagraph, six

1 installment payments on the 12-month policy; and

2 B. for a policy under item 1B of this subparagraph, eight
3 installment payments on the 12-month policy;

4 5. allows insureds to make an initial premium payment and
5 installment payments in any commercially acceptable form; and

6 6. allows the Fund to impose an administrative processing
7 fee on insureds participating in the installment plan of no more than \$8 per installment
8 payment] **MEETS THE REQUIREMENTS OF § 27-216 OF THIS ARTICLE.**

9 (2) The Fund may not discriminate among insureds by charging different
10 premiums to insureds who select, as a payment option, the Fund's installment payment
11 plan instead of a premium finance agreement.

12 (3) In determining commissions paid to a fund producer, the Fund may not
13 consider whether the fund producer placed an insured in an installment payment plan.

14 (4) (i) In accordance with this paragraph, written and electronic
15 communications, including the Fund's Web site, affecting the placement of coverage by the
16 Fund or a fund producer shall include a statement, on a form approved by the
17 Commissioner, advising an applicant or an insured of the payment options available to the
18 applicant or insured.

19 (ii) The statement shall state that the applicant or insured has the
20 following payment options:

21 1. the Fund's installment payment plan;

22 2. a premium finance agreement; or

23 3. payment of the policy in full.

24 (iii) The statement shall be included on written or electronic
25 communications at the time the applicant or insured:

26 1. is issued a new policy; or

27 2. is issued a reissuance, rewrite, or renewal of an existing
28 policy.

29 (iv) The statement shall state that the applicant or insured should
30 consult a fund producer who will fully describe the terms of each payment option.

31 **(H) (1) IF THE FUND MAKES A CHANGE TO ITS PLAN FOR ACCEPTING**
32 **PREMIUMS ON AN INSTALLMENT PAYMENT BASIS, WITHIN 90 DAYS AFTER THE**

1 CHANGE, THE COMMISSIONER SHALL SUBMIT A REPORT TO THE GENERAL
2 ASSEMBLY PROVIDING THE REASON FOR THE CHANGE.

3 (2) THE REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS
4 SUBSECTION SHALL:

5 (I) INCLUDE THE EFFECT THE CHANGE WILL HAVE ON THE
6 REQUIRED FACTORS FOR CONSIDERATION UNDER (G)(1)(II)1 OF THIS SECTION; AND

7 (II) BE SUBMITTED IN ACCORDANCE WITH § 2-1257 OF THE
8 STATE GOVERNMENT ARTICLE.

9 27-216.

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

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

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

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

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

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

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

28 (iii) an insurance producer from charging a fee, not exceeding 15% of
29 the premium, for services rendered in placing insurance in an insurer if commissions are
30 not payable by the insurer;

31 (iv) an insurer from paying commissions to licensed insurance
32 producers on a variable basis on policies issued to qualified exempt commercial
33 policyholders, as defined in § 11-206 of this article, if:

1 1. the payment of the commission to the insurance producer
2 on a variable basis results in a lower total cost of the policy to the qualified exempt
3 policyholder; and

4 2. the insurance producer receiving the commission has
5 agreed to the specific level of commission to be paid on the policy; or

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

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

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

12 (3) (i) Subject to subparagraphs (ii), (iii), (iv), and (v) of this paragraph,
13 paragraph (1) of this subsection does not prohibit an authorized insurer **OR THE**
14 **MARYLAND AUTOMOBILE INSURANCE FUND** from charging and collecting, if approved
15 by the Commissioner, reasonable installment fees or reasonable fees for late payment of
16 premiums by policyholders or both.

17 (ii) The Commissioner:

18 1. shall review administrative expenses submitted by an
19 authorized insurer **OR THE MARYLAND AUTOMOBILE INSURANCE FUND** that are
20 associated with late payments or installment payments, including the cost incurred by an
21 authorized insurer or a vendor of the authorized insurer to accept late payments or
22 installment payments by credit card, debit card, electronic funds transfer, or electronic
23 check payment; and

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

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

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

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

30 (iv) An authorized insurer **OR THE MARYLAND AUTOMOBILE**
31 **INSURANCE FUND** shall credit each payment received from an insured to the premium
32 owed by the insured before crediting the payment to a late fee or installment fee owed by
33 the insured.

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

3 (4) (i) Subject to subparagraphs (ii) and (iii) of this paragraph,
4 paragraph (1) of this subsection does not prohibit an insurance producer from charging and
5 collecting from an insured actual expenses incurred by the insurance producer for payment
6 of the premium for a policy by use of a credit card.

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

9 (iii) An insurance producer that accepts alternative payment
10 methods for premiums shall disclose fully to the insured or prospective insured:

11 1. the availability of all payment methods accepted by the
12 insurer or insurance producer; and

13 2. any charge for actual expenses incurred by the insurance
14 producer for payment of a premium by use of a credit card.

15 (5) (i) Paragraph (1) of this subsection does not prohibit an authorized
16 motor vehicle insurer or the Maryland Automobile Insurance Fund from charging and
17 collecting a reasonable fee approved by the Commissioner under subparagraph (iii) of this
18 paragraph for the reinstatement of a private passenger motor vehicle liability insurance
19 policy in accordance with § 19–519 of this article.

20 (ii) Paragraph (1) of this subsection does not prohibit a licensed
21 insurance producer or a fund producer from charging and collecting a reasonable fee
22 approved by the Commissioner under subparagraph (iii) of this paragraph for the
23 reinstatement of a private passenger motor vehicle liability insurance policy in accordance
24 with § 19–519 of this article.

25 (iii) The Commissioner:

26 1. shall review the administrative expenses submitted by an
27 authorized motor vehicle insurer or the Maryland Automobile Insurance Fund that are
28 associated with reinstatements under § 19–519 of this article; and

29 2. may approve a reinstatement fee not to exceed:

30 A. \$10 to be charged and collected by the insurer or the Fund;
31 and

32 B. \$15 to be charged and collected by the insurance producer
33 or the fund producer.

34 (c) An insurer may not raise the policy limits of coverage, if the effect could be an

1 increase in the premium without the prior consent of the insured.

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