

Chapter 723

(House Bill 563)

AN ACT concerning

Insurance – Surplus Lines Brokers – Policy Fees

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

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

BY repealing and reenacting, with amendments,
Article – Insurance
Section 27–216(d)
Annotated Code of Maryland
(2017 Replacement Volume and 2021 Supplement)

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

Article – Insurance

27–216.

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

(d) (1) NOTWITHSTANDING SUBSECTION (A) OF THIS SECTION, A SURPLUS LINES BROKER THAT HOLDS A CERTIFICATE OF QUALIFICATION UNDER TITLE 3, SUBTITLE 3 OF THIS ARTICLE MAY CHARGE A REASONABLE POLICY FEE ON A POLICY ISSUED BY A SURPLUS LINES INSURER TO AN EXEMPT COMMERCIAL POLICYHOLDER, AS DEFINED IN § 11–206(J) OF THIS ARTICLE.

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

(i) ~~\$100~~ **\$200** on each personal lines policy procured by a licensed insurance producer not affiliated with or controlled by the surplus lines broker and to whom the surplus lines broker pays a commission; or

(ii) ~~\$250~~ **\$500 OR 7% OF THE POLICY PREMIUM, WHICHEVER IS GREATER**, on each commercial lines policy procured by a licensed insurance producer not affiliated with or controlled by the surplus lines broker and to whom the surplus lines broker pays a commission~~†~~.

~~(2)~~ **(3)** A surplus lines broker that holds a certificate of qualification under Title 3, Subtitle 3 of this article and a license as an insurance producer under Title 10, Subtitle 1 of this article may charge a reasonable policy fee on a policy issued by an authorized insurer ~~[not exceeding \$250]~~ **NOT EXCEEDING \$500 OR 7% OF THE POLICY PREMIUM, WHICHEVER IS GREATER**, on each commercial lines policy procured by a licensed insurance producer not affiliated with or controlled by the surplus lines broker and to whom the surplus lines broker pays a commission.

~~(3)~~ **(4)** The policy fee charged in accordance with this subsection must be reasonably related to the cost of underwriting, issuing, processing, and servicing the policy by the surplus lines broker for the surplus lines insurer or the authorized insurer.

~~(4)~~ **(5)** Notwithstanding subsection (a) of this section, a surplus lines broker that holds a certificate of qualification under Title 3, Subtitle 3 of this article may recoup from the prospective insured the actual cost of an inspection required for the placement of surplus lines insurance with a surplus lines insurer if:

- (i) the inspection is required by the surplus lines insurer;
- (ii) the cost of the inspection is actually incurred by the surplus lines broker and not retained by the surplus lines broker; and
- (iii) the cost of the inspection is documented and verifiable.

~~(5)~~ **(6)** A surplus lines broker that holds a certificate of qualification under Title 3, Subtitle 3 of this article and a license as an insurance producer under Title 10, Subtitle 1 of this article may recoup from the prospective insured the actual cost of an inspection required for the placement of insurance with an authorized insurer if:

- (i) the inspection is required by the authorized insurer;
- (ii) the cost of the inspection is actually incurred by the surplus lines broker and not retained by the surplus lines broker; and
- (iii) the cost of the inspection is documented and verifiable.

~~(6)~~ **(7)** Regardless of the number of insurers participating on a risk:

(i) only one inspection fee may be charged to recoup the actual cost of an inspection under paragraph ~~(4) or (5)~~ **(5) AND (6)** of this subsection for each policy or certificate of coverage; and

(ii) only one policy fee may be charged under paragraph ~~(1) or (2)~~ **(2) OR (3)** of this subsection for each policy or certificate of coverage.

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

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

~~(8)~~ **(9)** On a form approved by the Commissioner, the surplus lines broker shall:

- (i) make a clear and conspicuous written disclosure of:
1. any inspection fee;
 2. the total amount of the policy fee;
 3. the premium tax on the policy;
 4. any financial interest in the person performing the inspection, if applicable;
 5. whether the surplus lines broker will receive compensation from the person that performs the inspection; and
 6. any charge for actual expenses incurred by the surplus lines broker for payment of the premium, policy fee, and any other fees and taxes relating to the policy by use of a credit card; and

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

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

Enacted under Article II, § 17(c) of the Maryland Constitution, May 29, 2022.