

2002 Maryland Legislation – Insurance

Home Builders

Regulation/Consumer Protection

Under [House Bill 79](#) (*passed*), the responsibility for holding surety bonds and letters of credit - and for the approval and monitoring of third-party warranty plans relating to home builders - is transferred from the Department of Labor, Licensing, and Regulation to the Consumer Protection Division (CPD) of the Office of the Attorney General. The bill centralizes within CPD all regulatory functions involving homebuilders. [House Bill 79](#) also requires a homebuilder to disclose to a buyer that the homebuilder must be registered with the CPD.

Insurance

Insurance Administration and Regulation

Evaluation of the Maryland Insurance Administration under the Program Evaluation Act

During the 2001 interim, the Department of Legislative Services (DLS) conducted a full evaluation of the Maryland Insurance Administration (MIA) under the Program Evaluation Act. [Senate Bill 472](#) (*passed*) embodies some of the statutory recommendations developed by DLS during the evaluation. [Senate Bill 472](#) requires the next review of MIA to be completed on or before July 1, 2012.

MIA's Annual Report: [Senate Bill 472](#) requires MIA's annual report to be completed by December 31 of each year. The bill requires the report to include information on MIA's operations and on the complaints and cases filed with the Insurance Fraud Division in the previous fiscal year.

Fees and Financing of MIA: [Senate Bill 472](#) repeals the fees charged for appointments and terminations of insurance producers. The bill increases from 40 to 60 percent the percentage of MIA's annual budget that is funded by an industry assessment and alters the formula for allocating this assessment among the various lines of insurance. The bill changes: (1) the health insurer portion to 40 percent of the assessment; (2) the life insurer portion to 26 percent of the assessment; and (3) the property and casualty portion to 34 percent of the assessment. The bill requires that the annual assessment be paid by a date determined by the Insurance Commissioner. The bill authorizes MIA to establish a reserve equal to 5 percent of its budget and to impose an additional assessment if MIA's revenues are insufficient to cover MIA's expenditures because of an unforeseen emergency. MIA is allowed to recoup administrative costs associated with collecting the State's insurance premium tax by retaining a portion of the tax revenues collected each quarter.

Reporting Requirement: In addition to its statutory recommendations, DLS made various nonstatutory recommendations, including maintaining a high-quality staff to perform MIA's functions, addressing the lack of an appropriate MIA administrative hearing room, and enhancing communication with licensees. [Senate Bill 472](#) requires MIA to report to

the House Economic Matters Committee and the Senate Finance Committee by October 1, 2002, on the implementation of recommendations from the evaluation report prepared by DLS.

Certificates of Authority

[*House Bill 1456 \(passed\)*](#) repeals the mandatory forfeiture requirements imposed by the Insurance Commissioner when an insurer fails to renew its certificate of authority by June 30 each year. Instead, [*House Bill 1456*](#) <http://mlis.state.md.us/2002rs/billfile/HB1456.htm> gives the commissioner discretion to impose a penalty or a forfeiture requirement.

Subpoenas

[*Senate Bill 158 \(passed\)*](#) authorizes a subpoena issued by the Insurance Commissioner to be served in the same manner as a service of process in a civil action in a circuit court (certified mail/restricted delivery). Current law requires a subpoena issued by the commissioner to be served in the same manner as a subpoena of a circuit court (private process server).

Budget Reconciliation and Financing Act

[*Senate Bill 323 \(passed\)*](#), the Budget Reconciliation and Financing Act (BRFA), transfers \$2 million from the Insurance Regulation Fund to the State general fund. These funds will be transferred despite current law that provides that any fund balance attributable to the regulatory assessment must be returned to the insurance companies by MIA through a lower assessment fee the following year. In a recent audit report, the Office of Legislative Audits identified \$4.4 million in the fund balance as attributable to the assessment fee. MIA has approved budget amendments for computer system enhancements and expenses related to the CareFirst conversion of \$1.7 million, which would reduce this excess to \$2.7 million. The transfer is intended by MIA to reflect \$1 million of the \$2.7 million balance attributable to the assessment fee and \$1 million of licensing fees collected in July 1999 and inadvertently deposited to the Insurance Regulation Fund instead of the general fund. Under statute, the \$2.7 million should be used to reduce the assessment fee for fiscal 2003. After the transfer, only \$1.7 million will be available for an assessment fee reduction. For a more detailed discussion of BRFA, see the subpart "Operating Budget" under Part A - Budget and State Aid of this *90-Day Report*.

Property and Casualty Insurance

Delinquency and Collection Charges (Late Fees)

[*Senate Bill 335/House Bill 229 \(both passed\)*](#) increase, from \$5 to \$8, the allowable delinquency and collection charge (late fee) that a premium finance company may charge an insured under a premium finance agreement for private passenger motor vehicle or personal fire or liability insurance. [*Senate Bill 335/House Bill 229*](#) increase the maximum allowable cancellation charge that a premium finance company may charge an insured for private passenger motor vehicle or personal fire or liability insurance to the difference between \$15 and the amount of the late fee for the installment in default.

Insurance Rates Based on the Insured's Credit History

The use of an insured's credit history in underwriting and rating policies of homeowner's insurance or private passenger motor vehicle insurance is an increasingly common practice among insurance companies and continues to be the subject of much public policy debate. [House Bill 521](#) (*passed*) prohibits the use of an individual's credit history in underwriting and rating homeowner's insurance and allows the use of credit for motor vehicle insurance rating under certain circumstances.

Homeowner's Insurance: For homeowner's insurance, [House Bill 521](#) prohibits an insurer from refusing to underwrite, canceling, refusing to renew, rating a risk, or requiring a particular payment plan based on the credit history of an applicant or insured.

Motor Vehicle Insurance: For private passenger motor vehicle insurance, [House Bill 521](#) prohibits an insurer from refusing to underwrite, canceling, refusing to renew, increasing the renewal premium, or requiring a particular payment plan based on the credit history of an applicant or insured. However, a private passenger motor vehicle insurer may rate a new policy based on the credit history of the applicant if the following criteria are met:

The insurer may not use a factor on the credit history that occurred more than five years prior to the issuance of the new policy.

The insurer must advise the applicant that credit history is used to rate a new policy and provide a premium quote identifying the portion of the premium affected by the applicant's credit history.

The insurer may not consider a lack of credit history ("no hit") in rating the policy.

If an applicant is adversely impacted by the use of credit history, the insurer must review the credit history of the applicant every two years, or upon the request of the insured, and must adjust the premium to reflect any improvement.

An insurer that rates a new policy based on the credit history of the applicant may provide a premium discount of up to 40 percent or impose a premium surcharge of up to 40 percent. This provision terminates in two years.

[House Bill 521](#) also requires the Insurance Commissioner to conduct a study on whether the use of credit scoring in the State has an adverse impact on any demographic group defined by race or socio-economic status. The commissioner must also study the impact of premium rates for policies issued by MAIF on the insurance market. The bill requires the commissioner to report the results of these studies to the Governor and General Assembly by January 1, 2004.

Premium Increases and Policy Cancellations

Notice to Policy Holders: An insurer other than the Maryland Automobile Insurance Fund (MAIF) must provide a private passenger motor vehicle insurance policyholder, at the time of issuance or renewal of the policy, a statement that: (1) defines the

policyholder's rate classifications; and (2) includes a summary of the insurer's approved surcharge plan or driver record point plan for the policy. [House Bill 1002](#) (*passed*) requires non-MAIF insurers, in the statement they are required to give to policyholders at the time of issuance or renewal of a private passenger motor vehicle insurance policy, to include a section that provides a general description of the factors, including credit information, that may contribute to an increase in a policy premium. The bill requires an insurer that markets private passenger motor vehicle insurance through insurance producers to make a copy of the statement available to its producers.

An insurer that intends to cancel, not renew, increase a premium for, or reduce coverage under a policy of private passenger motor vehicle insurance is required to send a notice to the insured at least 45 days before the proposed effective date of the action. [House Bill 1002](#) requires that a notice of premium increase include the amount of the increase in the premium for any coverage on the policy. The bill restricts the requirement that a private passenger motor vehicle insurer maintain the current insurance coverage and rate pending the resolution of a protest of a premium increase to increases of more than 15 percent. If a proposed increase is based on a credit score or information from a credit report, the bill requires an insurer to include specified information about the consumer reporting agency, including contact information for the consumer reporting agency. For a premium increase of 15 percent or less for the entire policy that is disallowed by the Insurance Commissioner, the bill requires the insurer to return all disallowed premiums received from the insured, with interest. The bill authorizes the commissioner to adopt regulations that exclude certain premium increases from the requirements applicable to premium increases.

Study by the Insurance Commissioner: The bill also requires the commissioner to study the feasibility of establishing an internal grievance process for resolving complaints about proposed adverse actions by private passenger motor vehicle insurers. The bill requires the commissioner to report on the study's findings to the Governor and General Assembly by December 15, 2002.

Payment Plans: [House Bill 1002](#) also prohibits an insurer from requiring a particular payment plan for a private passenger motor vehicle insurance or homeowner's insurance policy based on the insured's credit history.

Homeowner's Insurance

[Senate Bill 807/House Bill 1236](#) (*both passed*) authorize an insurer to cancel a homeowner's insurance policy that requires a one-time deposit for a stated amount of coverage (perpetual insurance) if the cancellation: (1) takes effect on the anniversary of the policy's inception; (2) is not based on a claim that occurred more than three years before the anniversary date of the policy on which the proposed cancellation would take effect; and (3) is otherwise in accordance with other anti-discrimination insurance laws.

Motor Clubs

[House Bill 812](#) (*Ch. 88*) authorizes an applicant for a motor club service license, in addition to other types of security instruments, to deposit a letter of credit in the same

amount as other authorized forms of security. The letter of credit must be in favor of the State for the applicant's members who reside in the State. [House Bill 812](#) specifies that the total liability of a bank under a letter of credit may not exceed the amount of the letter. The issuing bank may cancel the letter of credit after notifying the Insurance Commissioner at least 30 days before the effective date of the cancellation. Under [House Bill 812](#), a motor club licensee may substitute any type of authorized security for any other type of authorized security, subject to the commissioner's approval.

Surplus Lines Brokers

[House Bill 726](http://mlis.state.md.us/2002rs/billfile/SB0366.htm) (*Ch. 80*) repeals the requirement that a surplus lines broker, in order to recoup the cost of an inspection required for the placement of surplus lines insurance, not have a financial interest in or receive compensation from the person who performs the inspection. Under the Act, a surplus lines broker is instead required to provide written disclosure of (1) any financial interest in the person performing the inspection; and (2) whether the broker will receive compensation from the person who performs the inspection. The broker must also notify the prospective insured that the insured has the option to obtain the inspection from another person, subject to the approval of the surplus lines insurer.

Title Insurers

A title insurer must conduct an on-site review of the underwriting, claims, and escrow practices of each producer appointed as a principal agent. [House Bill 441](#) (*passed*) repeals the requirement that a title insurance producer or agency that is appointed with a title insurer have on file with the insurer an annual statement of financial condition. Chapter 209 of 2001 exempted law firms and attorneys practicing in law firms from the filing requirement.

Other Legislation of Note:

[SB 158](#) Maryland Insurance Administration -- Subpoenas -- Issuance

Allowing specified subpoenas issued by the Insurance Commissioner to be served in the same manner as a service of process in a civil action in a circuit court.

Chairman FIN (Dept)

[SB 371](#) Injured Workers' Insurance Fund -- Phase--In of Regulatory Requirements

Subjecting the Injured Workers' Insurance Fund to specified provisions of the Insurance Article; requiring the Insurance Commissioner to ensure that the Fund has a specified level of excess capital; establishing a specified phase--in schedule for the Fund to comply with specified excess capital requirements; establishing the applicability of specified sections of the Insurance Article to the Fund; requiring specified reports under specified circumstances; etc.

EFFECTIVE JUNE 1, 2002

[SB 807](#) Homeowner's Insurance -- Cancellation

Authorizing an insurer to cancel a specified policy of homeowner's insurance under which a one-time guaranteed fully refundable deposit is required for a stated amount of coverage, if the

cancellation takes effect on the anniversary date of the inception of the policy, is not based on a claim that occurred more than 3 years before the anniversary date of the policy, and is in accordance with specified provisions of law.