

# SENATE BILL 851

C4

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By: **Senator Conway**

Introduced and read first time: January 31, 2014

Assigned to: Finance

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## A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Insurance Administration – Individual Sureties – Regulation**

3 FOR the purpose of requiring certain individual sureties to register each year with the  
4 Maryland Insurance Administration in a certain manner and for certain  
5 purposes; specifying the contents of the initial and renewal registration  
6 application forms; establishing a certain registration fee; providing for the  
7 review and approval or denial of a registration application; providing that a  
8 registration is effective as of a certain date; providing for the expiration date of  
9 a registration; prohibiting individual sureties who are not registered from  
10 issuing or soliciting certain surety bonds for certain purposes; providing for the  
11 suspension or revocation of a registration for good cause shown in accordance  
12 with certain provisions of law; requiring certain individual sureties to comply  
13 with a certain provision in order to make issuance or solicitation of certain  
14 surety bonds or insurance under certain circumstances not to be punishable as a  
15 fraudulent insurance act; defining a certain term; altering the termination  
16 provision of certain provisions of law relating to security requirements for  
17 procurement; requiring the Administration to study certain issues relating to  
18 the regulation of individual sureties; requiring the Administration to submit a  
19 report to certain committees of the General Assembly on or before a certain date  
20 containing the results of its study and recommendations; authorizing an  
21 individual surety to solicit and issue surety bonds in accordance with certain  
22 provisions of law without first registering with the Administration until a  
23 certain date; providing for the application of this Act; providing for the  
24 termination of this Act; and generally relating to individual sureties and  
25 security requirements for procurement.

26 BY repealing and reenacting, without amendments,  
27 Article – Insurance  
28 Section 4–205(c)  
29 Annotated Code of Maryland  
30 (2011 Replacement Volume and 2013 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY adding to  
2 Article – Insurance  
3 Section 21–104  
4 Annotated Code of Maryland  
5 (2011 Replacement Volume and 2013 Supplement)

6 BY repealing and reenacting, with amendments,  
7 Article – Insurance  
8 Section 27–406.1  
9 Annotated Code of Maryland  
10 (2011 Replacement Volume and 2013 Supplement)

11 BY repealing and reenacting, with amendments,  
12 Chapter 299 of the Acts of the General Assembly of 2006, as amended by  
13 Chapter 266 of the Acts of the General Assembly of 2008  
14 Section 4

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

17 **Article – Insurance**

18 4–205.

19 (c) Any of the following acts in the State, effected by mail or otherwise, is  
20 considered to be doing an insurance business in the State:

21 (1) making or proposing to make, as an insurer, an insurance contract;

22 (2) making or proposing to make, as guarantor or surety insurer, a  
23 contract of guaranty or suretyship as a vocation and not merely incidental to another  
24 legitimate business or activity of the guarantor or surety insurer;

25 (3) taking or receiving an application for insurance;

26 (4) receiving or collecting premiums, commissions, membership fees,  
27 assessments, dues, or other consideration for insurance;

28 (5) issuing or delivering an insurance contract to a resident of the  
29 State or a person authorized to do business in the State;

30 (6) except as provided in subsection (d) of this section, with respect to  
31 a subject of insurance resident, located, or to be performed in the State, directly or  
32 indirectly acting as an insurance producer for, or otherwise representing or helping on  
33 behalf of another, an insurer or other person to:

- 1 (i) solicit, negotiate, procure, or effect insurance or the renewal  
2 of insurance;
- 3 (ii) disseminate information about coverage or rates;
- 4 (iii) forward an application;
- 5 (iv) deliver a policy or insurance contract;
- 6 (v) inspect risks;
- 7 (vi) fix rates;
- 8 (vii) investigate or adjust claims or losses;
- 9 (viii) transact matters arising out of an insurance contract after  
10 the insurance contract becomes effective; or
- 11 (ix) in any other manner represent or help an insurer or other  
12 person to transact insurance business;
- 13 (7) doing any kind of insurance business specifically recognized as  
14 doing an insurance business under statutes relating to insurance;
- 15 (8) doing or proposing to do any insurance business that is  
16 substantially equivalent to any act listed in this subsection in a manner designed to  
17 evade the statutes relating to insurance; or
- 18 (9) as an insurer transacting any other business in the State.

19 **21-104.**

20 **(A) IN THIS SECTION, "INDIVIDUAL SURETY" MEANS A PERSON THAT:**

21 **(1) ISSUES SURETY BONDS OR CONTRACTS OF SURETY**  
22 **INSURANCE; AND**

23 **(2) DOES NOT HAVE A CERTIFICATE OF AUTHORITY ISSUED BY**  
24 **THE COMMISSIONER.**

25 **(B) THIS SECTION APPLIES TO AN INDIVIDUAL SURETY THAT ISSUES OR**  
26 **SOLICITS A BID, PERFORMANCE, OR PAYMENT BOND UNDER § 13-207, § 13-216,**  
27 **OR § 17-104 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.**

1           **(C) (1) EACH INDIVIDUAL SURETY SHALL REGISTER EACH YEAR WITH**  
2 **THE ADMINISTRATION UNDER THIS SECTION ON A FORM THE ADMINISTRATION**  
3 **PROVIDES.**

4           **(2) THE INITIAL REGISTRATION FORM SHALL INCLUDE:**

5                   **(I) THE NAME, ADDRESS, TELEPHONE NUMBER, AND OTHER**  
6 **CONTACT INFORMATION FOR THE INDIVIDUAL SURETY;**

7                   **(II) THE TYPES OF SURETY BONDS AND CONTRACTS OF**  
8 **SURETY INSURANCE THE INDIVIDUAL SURETY INTENDS TO WRITE AND THE**  
9 **AGGREGATE VALUE OF EACH TYPE OF BOND AND CONTRACT;**

10                   **(III) THE TYPES OF PROCUREMENT PROJECTS,**  
11 **CONTRACTORS, AND SUBCONTRACTORS FOR WHICH THE INDIVIDUAL SURETY**  
12 **INTENDS TO PROVIDE SURETY BONDS AND CONTRACTS OF SURETY INSURANCE;**  
13 **AND**

14                   **(IV) ANY OTHER INFORMATION THE ADMINISTRATION**  
15 **CONSIDERS NECESSARY FOR REGULATION OF INDIVIDUAL SURETIES.**

16           **(3) THE RENEWAL REGISTRATION FORM SHALL INCLUDE:**

17                   **(I) THE INFORMATION REQUIRED UNDER PARAGRAPH (2)**  
18 **OF THIS SUBSECTION;**

19                   **(II) THE TYPES OF SURETY BONDS AND CONTRACTS OF**  
20 **SURETY INSURANCE THE INDIVIDUAL SURETY WROTE DURING THE PRECEDING**  
21 **YEAR AND THE AGGREGATE VALUE OF EACH TYPE OF BOND AND CONTRACT;**

22                   **(III) THE TYPES OF PROCUREMENT PROJECTS,**  
23 **CONTRACTORS, AND SUBCONTRACTORS FOR WHICH THE INDIVIDUAL SURETY**  
24 **PROVIDED SURETY BONDS AND CONTRACTS OF SURETY INSURANCE DURING**  
25 **THE PRECEDING YEAR;**

26                   **(IV) THE TYPES AND AGGREGATE VALUE OF CAPITAL THE**  
27 **INDIVIDUAL SURETY HAS RESERVED FOR USE AS SECURITY FOR SURETY BONDS**  
28 **AND CONTRACTS OF SURETY INSURANCE DURING THE PRECEDING YEAR; AND**

29                   **(V) ANY OTHER FINANCIAL INFORMATION THAT THE**  
30 **ADMINISTRATION REQUIRES PERTINENT TO THE CAPACITY OF THE INDIVIDUAL**  
31 **SURETY TO SECURE SURETY BONDS AND CONTRACTS OF SURETY INSURANCE.**

1           **(4) THE ANNUAL REGISTRATION FEE IS \$100.**

2           **(D) (1) THE ADMINISTRATION SHALL REVIEW THE APPLICATION FOR**  
3 **REGISTRATION BASED ON INFORMATION IN THE APPLICATION AND OTHER**  
4 **AVAILABLE INFORMATION.**

5           **(2) BEFORE APPROVING OR DENYING AN APPLICATION FOR**  
6 **REGISTRATION, THE ADMINISTRATION MAY REQUEST ADDITIONAL**  
7 **INFORMATION FROM THE APPLICANT.**

8           **(3) (I) THE ADMINISTRATION SHALL APPROVE OR DENY THE**  
9 **APPLICATION FOR REGISTRATION WITHIN 60 DAYS AFTER RECEIVING THE**  
10 **APPLICATION AND ANY REQUIRED ADDITIONAL INFORMATION.**

11           **(II) IF THE ADMINISTRATION DOES NOT APPROVE OR DENY**  
12 **AN APPLICATION FOR REGISTRATION OR REQUEST ADDITIONAL INFORMATION**  
13 **WITHIN THE 60-DAY PERIOD, THE APPLICATION IS DEEMED APPROVED.**

14           **(4) A REGISTRATION IS EFFECTIVE AS OF THE DATE AN**  
15 **APPLICATION FOR REGISTRATION IS:**

16           **(I) APPROVED BY THE ADMINISTRATION UNDER**  
17 **PARAGRAPH (3)(I) OF THIS SUBSECTION; OR**

18           **(II) DEEMED APPROVED UNDER PARAGRAPH (3)(II) OF THIS**  
19 **SUBSECTION.**

20           **(E) UNLESS A REGISTRATION IS RENEWED, THE REGISTRATION**  
21 **EXPIRES ON THE FIRST ANNIVERSARY OF ITS EFFECTIVE DATE.**

22           **(F) AN INDIVIDUAL SURETY MAY NOT ISSUE OR SOLICIT A BID,**  
23 **PERFORMANCE, OR PAYMENT BOND UNDER § 13-207, § 13-216, OR § 17-104 OF**  
24 **THE STATE FINANCE AND PROCUREMENT ARTICLE IF THE INDIVIDUAL SURETY**  
25 **HAS NOT REGISTERED WITH THE ADMINISTRATION UNDER THIS SECTION.**

26           **(G) THE ADMINISTRATION MAY REVOKE OR SUSPEND A REGISTRATION**  
27 **FOR GOOD CAUSE SHOWN IN ACCORDANCE WITH TITLE 4 OF THIS ARTICLE.**

28 27-406.1.

29           (a) In this section, “individual surety” means a person that:

30           (1) issues surety bonds or contracts of surety insurance; and



1           (c) On or before January 14, 2015, the Administration, in accordance with §  
2 2–1246 of the State Government Article, shall submit a report of its study and  
3 recommendations, including proposed legislative and regulatory changes to accomplish  
4 the recommendations, to the Senate Finance Committee, the Senate Education,  
5 Health, and Environmental Affairs Committee, the House Economic Matters  
6 Committee, and the House Health and Government Operations Committee.

7           SECTION 3. AND BE IT FURTHER ENACTED, That, notwithstanding the  
8 provisions of §§ 21–104 and 27–406.1(b)(1) of the Insurance Article, as enacted by  
9 Section 1 of this Act, until January 1, 2015, an individual surety may continue to  
10 solicit and issue surety bonds in accordance with §§ 13–207, 13–216, and 17–104 of the  
11 State Finance and Procurement Article without first registering with the Maryland  
12 Insurance Administration.

13           SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect  
14 July 1, 2014. It shall remain effective for a period of 5 years and 3 months and, at the  
15 end of September 30, 2019, with no further action required by the General Assembly,  
16 this Act shall be abrogated and of no further force and effect.