

Chapter 626

(Senate Bill 938)

AN ACT concerning

~~Property and Casualty~~ Personal Automobile Insurance – Rescission of Policy or Binder – Authorized

FOR the purpose of authorizing an insurer to rescind a policy or binder of personal automobile insurance, ~~commercial property insurance, or commercial liability insurance~~ if the applicant's initial premium payment is made by a check or other remittance that is ~~dishonored and returned by~~ not honored on presentation to a financial institution for a certain reason under certain circumstances; requiring an insurer to continue or reinstate a certain policy or binder without a lapse of coverage under certain circumstances; requiring that an insurer, to rescind the policy or binder, send a certain notice to ~~the applicant~~ certain persons within a certain period of time, in a certain manner, and to ~~a certain address~~ certain addresses; requiring the notice to contain certain statements; providing for the application of this Act; providing for a delayed effective date; and generally relating to the rescission of policies and binders of ~~property and casualty~~ personal automobile insurance.

BY repealing and reenacting, without amendments,

Article – Insurance
Section 12–106(a) and (b)
Annotated Code of Maryland
(2011 Replacement Volume)

BY adding to

Article – Insurance
Section 12–106(j)
Annotated Code of Maryland
(2011 Replacement Volume)

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

Article – Insurance

12–106.

(a) In this section, “personal insurance” means property insurance or casualty insurance issued to an individual, trust, estate, or similar entity that is

intended to insure against loss arising principally from the personal, noncommercial activities of the insured.

(b) This section applies only to a binder or policy, other than a renewal policy, of personal insurance, commercial property insurance, and commercial liability insurance.

(J) (1) ~~AN~~ SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, AN INSURER MAY RESCIND A POLICY OR BINDER OF PERSONAL AUTOMOBILE INSURANCE IF:

(I) THE APPLICANT'S INITIAL PREMIUM PAYMENT FOR THE POLICY OR BINDER IS MADE BY A CHECK OR OTHER REMITTANCE THAT IS ~~DISHONORED AND RETURNED BY A~~ NOT HONORED ON PRESENTATION TO THE FINANCIAL INSTITUTION ~~AS UNPAID BECAUSE OF INSUFFICIENT FUNDS IN THE ACCOUNT ON WHICH~~ WHERE THE CHECK OR OTHER REMITTANCE IS DRAWN; AND

(II) THE INSURER HAS DISCLOSED TO THE APPLICANT AT THE TIME OF APPLICATION THAT NO COVERAGE WILL BE IN EFFECT IF THE INITIAL PREMIUM PAYMENT IS NOT HONORED ON PRESENTATION TO THE FINANCIAL INSTITUTION.

(2) AN INSURER SHALL CONTINUE OR REINSTATE A POLICY OR BINDER UNDER PARAGRAPH (1) OF THIS SUBSECTION WITHOUT A LAPSE IN COVERAGE IF:

(I) 1. THE FINANCIAL INSTITUTION ERRONEOUSLY FAILED TO HONOR THE CHECK OR OTHER REMITTANCE; AND

2. THE APPLICANT:

A. PROMPTLY NOTIFIES THE INSURER OF THE ERROR; AND

B. PROVIDES DOCUMENTATION OF THE ERROR TO THE INSURER AS IT BECOMES AVAILABLE AND ON REQUEST OF THE INSURER; OR

(II) THE APPLICANT OR ANY SECURED CREDITOR PAYS THE INSURER THE AMOUNT OF THE INITIAL PREMIUM WITHIN 5 BUSINESS DAYS AFTER THE INSURER HAS SENT NOTICE, AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, TO THE APPLICANT AND ANY SECURED CREDITOR THAT THE CHECK OR OTHER REMITTANCE FOR THE INITIAL PREMIUM PAYMENT WAS NOT HONORED.

~~(2)~~ **(3)** TO RESCIND A POLICY OR BINDER, AN INSURER SHALL SEND, WITHIN 10 DAYS IMMEDIATELY OR THE NEXT BUSINESS DAY AFTER RECEIPT OF A NOTICE OF INSUFFICIENT FUNDS THAT THE CHECK OR OTHER REMITTANCE FOR THE INITIAL PREMIUM PAYMENT WAS NOT HONORED ON PRESENTATION TO THE FINANCIAL INSTITUTION, WRITTEN NOTICE TO THE APPLICANT AND ANY SECURED CREDITOR, BY CERTIFICATE OF MAIL AND, IF AVAILABLE, BY ELECTRONIC MAIL OR OTHER ELECTRONIC MEANS, TO THE APPLICANT'S AND ANY SECURED CREDITOR'S LAST KNOWN ADDRESS, STATING THAT:

(I) 1. THE POLICY OR BINDER IS RESCINDED AS OF ITS PROPOSED EFFECTIVE DATE BECAUSE THE APPLICANT'S CHECK OR OTHER REMITTANCE FOR THE INITIAL PREMIUM PAYMENT WAS DISHONORED AND RETURNED BECAUSE OF INSUFFICIENT FUNDS NOT HONORED ON PRESENTATION TO THE FINANCIAL INSTITUTION; AND

~~(H)~~ **2.** NO COVERAGE IS IN EFFECT UNDER THE POLICY OR BINDER; BUT

~~(HH)~~ **(II)** IF THE FINANCIAL INSTITUTION FAILED TO HONOR THE CHECK OR OTHER REMITTANCE IN ERROR, THE INSURER SHALL CONTINUE OR REINSTATE THE POLICY OR BINDER WITHOUT A LAPSE IN COVERAGE IF:

1. THE FINANCIAL INSTITUTION ERRONEOUSLY FAILED TO HONOR THE CHECK OR OTHER REMITTANCE AND THE APPLICANT:

~~1.A.~~ **PROMPTLY NOTIFIES THE INSURER OF THE ERROR; AND**

~~2.B.~~ **PROVIDES DOCUMENTATION OF THE FINANCIAL INSTITUTION'S ERROR TO THE INSURER AS IT BECOMES AVAILABLE AND ON REQUEST OF THE INSURER; OR**

2. THE APPLICANT OR ANY SECURED CREDITOR PAYS THE INSURER THE AMOUNT OF THE INITIAL PREMIUM WITHIN 5 BUSINESS DAYS AFTER THE INSURER HAS SENT NOTICE TO THE APPLICANT AND ANY SECURED CREDITOR THAT THE CHECK OR OTHER REMITTANCE FOR THE INITIAL PREMIUM PAYMENT WAS NOT HONORED.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all policies and binders of ~~personal insurance, commercial property insurance, and~~

~~commercial liability insurance issued, delivered, or renewed~~ *personal automobile insurance issued or delivered* in the State on or after ~~October 1, 2012~~ *January 1, 2013*.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October 1, 2012~~ *January 1, 2013*.

Approved by the Governor, May 22, 2012.