

SENATE BILL 436

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CF HB 554

By: ~~Senators Feldman and Hershey~~, Hershey, Astle, Benson, Jennings, Kelley, Klausmeier, Mathias, Middleton, Pugh, and Reilly

Introduced and read first time: February 1, 2016

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 10, 2016

CHAPTER _____

1 AN ACT concerning

2 **Insurance – Surplus Lines – Short-Term Medical Insurance**

3 FOR the purpose of altering the scope of certain provisions of law governing surplus lines
4 insurance to authorize the use of surplus lines insurance for certain short-term
5 medical insurance coverage; authorizing the procurement of short-term medical
6 insurance from a nonadmitted insurer under certain circumstances; specifying the
7 conditions under which short-term medical insurance may be procured from a
8 nonadmitted insurer; prohibiting the inclusion of certain provisions in a short-term
9 medical insurance policy procured from a nonadmitted insurer; requiring the
10 Maryland Insurance Commissioner to develop and make available on the Web site
11 of the Maryland Insurance Administration a certain consumer guide; requiring a
12 certain affidavit to include certain information; altering a certain requirement for an
13 applicant for a certain certificate of qualification; providing for the application of this
14 Act; and generally relating to surplus lines insurance and short-term medical
15 insurance.

16 BY repealing and reenacting, without amendments,
17 Article – Insurance
18 Section 3–301(a), (c), and (g)
19 Annotated Code of Maryland
20 (2011 Replacement Volume and 2015 Supplement)

21 BY repealing and reenacting, with amendments,
22 Article – Insurance

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Section 3-302 ~~and~~, 3-306.2, 3-307, and 3-311
2 Annotated Code of Maryland
3 (2011 Replacement Volume and 2015 Supplement)

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

6 **Article – Insurance**

7 3-301.

8 (a) In this subtitle the following words have the meanings indicated.

9 (c) “Admitted insurer” means an insurer that is authorized to engage in the
10 business of insurance in the State.

11 (g) (1) “Nonadmitted insurer” means an insurer that is not authorized to
12 engage in the business of insurance in the State.

13 (2) “Nonadmitted insurer” does not include a risk retention group.

14 3-302.

15 (a) This subtitle does not apply to:

16 (1) life insurance;

17 (2) health insurance, except as provided in subsection (c) of this section;

18 (3) annuities;

19 (4) reinsurance;

20 (5) wet marine and transportation insurance, except as provided in
21 subsection (b) of this section;

22 (6) insurance on a subject that is located, resident, or to be performed
23 wholly outside the State;

24 (7) insurance on vehicles or aircraft owned and principally garaged outside
25 the State;

26 (8) insurance on property or operation of railroads engaged in interstate
27 commerce;

28 (9) insurance:

1 (i) on aircraft owned or operated by aircraft manufacturers or
2 operated in scheduled interstate flight;

3 (ii) on cargo of the aircraft described in subitem (i) of this item; or

4 (iii) against liability arising out of the ownership, maintenance, or
5 use of the aircraft described in subitem (i) of this item, other than workers' compensation
6 or employer's liability; or

7 (10) medical stop-loss insurance, as defined in § 15-129 of this article.

8 (b) This subtitle applies to wet marine and transportation insurance on:

9 (1) a pleasure craft under 60 feet in length that is owned and used for
10 pleasure and not for business, hire, or other commercial use;

11 (2) fishing vessels under 50 gross tons that are not part of a fleet of 3 or
12 more vessels; and

13 (3) charter or head boats under 50 gross tons that are not part of a fleet of
14 3 or more vessels.

15 (c) Subject to § 3-306.2 of this subtitle, this subtitle applies to:

16 (1) disability insurance that:

17 [(1)] (I) provides for lost income, revenue, or proceeds in the event that
18 an illness, accident, or injury results in a disability that impairs an insured's ability to work
19 or otherwise generate income, revenue, or proceeds that the insurance is intended to
20 replace; and

21 [(2)] (II) does not include payment for medical expenses, dismemberment,
22 or accidental death; AND

23 (2) **SHORT-TERM MEDICAL INSURANCE THAT PROVIDES LIMITED**
24 **HEALTH INSURANCE BENEFITS FOR A LIMITED PERIOD OF TIME TO:**

25 (I) **RESIDENTS OF THE UNITED STATES WHO TRAVEL TO**
26 **ANOTHER COUNTRY WITHIN 30 DAYS AFTER THE EFFECTIVE DATE OF COVERAGE;**
27 **AND**

28 (II) **RESIDENTS OF ANOTHER COUNTRY WHO:**

29 **1. TRAVEL TO THE UNITED STATES WITHIN 30 DAYS**
30 **AFTER THE EFFECTIVE DATE OF COVERAGE; AND**

1 **2. ARE NOT TRAVELING TO THE UNITED STATES FOR**
2 **THE PURPOSE OF ATTENDING AN INSTITUTION OF HIGHER EDUCATION, AS DEFINED**
3 **IN § 10-101 OF THE EDUCATION ARTICLE.**

4 3-306.2.

5 (a) ~~Disability~~ **SUBJECT TO SUBSECTIONS (B) THROUGH (E) OF THIS**
6 **SECTION, DISABILITY** insurance AND SHORT-TERM MEDICAL INSURANCE under §
7 3-302(c) of this subtitle may be procured from a nonadmitted insurer if the coverage
8 procured is in excess of coverage available from, or is not available from, an admitted
9 insurer that writes that particular kind and class of insurance in the State.

10 (b) Procurement of disability insurance under this section from a nonadmitted
11 insurer is subject to:

12 (1) the diligent search requirements of §§ 3-306 and 3-306.1 of this
13 subtitle; and

14 (2) all other requirements of this subtitle.

15 (c) **PROCUREMENT OF SHORT-TERM MEDICAL INSURANCE UNDER THIS**
16 **SECTION FROM A NONADMITTED INSURER IS SUBJECT TO:**

17 (1) **A POLICY TERM THAT:**

18 (I) **MAY NOT EXCEED 11 MONTHS; AND**

19 (II) **MAY NOT BE EXTENDED OR RENEWED;**

20 (2) **THE PROVISION OF WRITTEN NOTICE TO THE APPLICANT, ON A**
21 **FORM APPROVED BY THE COMMISSIONER:**

22 (I) **STATING THAT COVERAGE MAY BE AVAILABLE UNDER THE**
23 **AFFORDABLE CARE ACT WITHOUT MEDICAL UNDERWRITING; ~~AND~~**

24 (II) **PROVIDING CONTACT INFORMATION FOR THE MARYLAND**
25 **HEALTH BENEFIT EXCHANGE;**

26 (III) **STATING THAT THE SHORT-TERM MEDICAL INSURANCE**
27 **MAY BE AVAILABLE FROM AN ADMITTED INSURER;**

28 (IV) **STATING THAT SIMILAR COVERAGE MAY BE AVAILABLE**
29 **FROM AN ADMITTED INSURER OFFERING TRAVEL INSURANCE, AS DEFINED IN §**
30 **10-101 OF THIS ARTICLE; AND**

1 (V) STATING THAT:

2 1. THE SHORT-TERM MEDICAL INSURANCE DOES NOT
3 MEET THE REQUIREMENTS FOR MINIMUM ESSENTIAL COVERAGE UNDER THE
4 AFFORDABLE CARE ACT; AND

5 2. A PURCHASER OF THE SHORT-TERM MEDICAL
6 INSURANCE MAY BE SUBJECT TO TAX PENALTIES FOR NOT HAVING MINIMUM
7 ESSENTIAL COVERAGE;

8 (3) THE DILIGENT SEARCH REQUIREMENTS OF §§ 3-306 AND 3-306.1
9 OF THIS SUBTITLE; AND

10 (4) ALL OTHER REQUIREMENTS OF THIS SUBTITLE.

11 (D) SHORT-TERM MEDICAL INSURANCE MAY NOT BE PROCURED FROM A
12 NONADMITTED INSURER UNLESS:

13 (1) THE INSURANCE IS PROCURED THROUGH A QUALIFIED SURPLUS
14 LINES BROKER;

15 (2) IF THE INSURANCE IS OFFERED ON A WEB SITE ON THE INTERNET,
16 THE WEB SITE IDENTIFIES THE QUALIFIED SURPLUS LINES BROKER THROUGH
17 WHOM THE INSURANCE MAY BE PROCURED; AND

18 (3) THE DILIGENT SEARCH REQUIRED UNDER §§ 3-306 AND 3-306.1
19 OF THIS SUBTITLE INCLUDES A SEARCH OF THE SHORT-TERM MEDICAL INSURANCE
20 POLICIES OFFERED FOR SALE BY ADMITTED INSURERS.

21 (E) A SHORT-TERM MEDICAL INSURANCE POLICY PROCURED FROM A
22 NONADMITTED INSURER MAY NOT INCLUDE:

23 (1) A PREEXISTING CONDITION EXCLUSION, UNLESS THE EXCLUSION
24 RELATES TO A CONDITION THAT WAS FIRST MANIFESTED, TREATED, OR DIAGNOSED
25 BEFORE THE EFFECTIVE DATE OF THE POLICY; OR

26 (2) A DEFINITION OF SICKNESS OR ILLNESS THAT EXCLUDES ANY
27 SICKNESS OR ILLNESS THAT BEGAN, EXISTED, OR HAD ITS ORIGIN BEFORE THE
28 EFFECTIVE DATE OF THE POLICY, UNLESS THE SICKNESS OR ILLNESS WAS FIRST
29 MANIFESTED, TREATED, OR DIAGNOSED BEFORE THE EFFECTIVE DATE OF THE
30 POLICY.

1 **(F) THE COMMISSIONER SHALL DEVELOP AND MAKE AVAILABLE ON THE**
 2 **ADMINISTRATION'S WEB SITE A CONSUMER GUIDE ON SHORT-TERM MEDICAL**
 3 **INSURANCE THAT INCLUDES INFORMATION ON:**

4 **(1) THE AVAILABILITY OF COVERAGE FROM ADMITTED INSURERS;**
 5 **AND**

6 **(2) THE TYPES OF COVERAGE AND PROVISIONS IN SHORT-TERM**
 7 **MEDICAL INSURANCE POLICIES THAT MAY BE IMPORTANT TO CONSUMERS.**

8 3-307.

9 **(a) An affidavit that sets forth the facts referred to in § 3-306 of this subtitle and**
 10 **any other facts required by the Commissioner must be personally executed by the surplus**
 11 **lines broker or the originating insurance producer at the time the surplus lines insurance**
 12 **is placed.**

13 **(b) The affidavit must be filed with the Commissioner on or before the 45th day**
 14 **after the last day of the calendar quarter in which the surplus lines insurance was placed.**

15 **(C) FOR SHORT-TERM MEDICAL INSURANCE PROCURED FROM A**
 16 **NONADMITTED INSURER UNDER THIS SUBTITLE, THE AFFIDAVIT SHALL INCLUDE,**
 17 **FOR EACH DECLINING AUTHORIZED INSURER, THE REASON FOR THE DECLINATION.**

18 3-311.

19 An applicant for a certificate of qualification [must be] SHALL:

20 **(1) BE qualified as an insurance producer [for property insurance and**
 21 **casualty insurance];**

22 **(2) HOLD AN INSURANCE PRODUCER'S LICENSE FOR THE KIND OF**
 23 **INSURANCE BEING SOLICITED OR SOLD; and**

24 **[(2)] (3) BE competent and trustworthy, as determined by the**
 25 **Commissioner.**

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all
 27 policies and contracts of surplus lines insurance for short-term medical insurance issued,
 28 delivered, or renewed in the State on or after October 1, 2016.

29 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
 30 October 1, 2016.