

fiduciaries as to certain ~~premium moneys received by them on behalf of~~ moneys received by them in connection with certain policies or applications for policies issued by, to be issued by, or to be bound in the Maryland Automobile Insurance Fund; requiring certain insurance agents and brokers to deposit in ~~an escrow a premium~~ account certain moneys received by them in a fiduciary capacity; and generally relating to certain insurance agents and brokers ~~under~~ doing business with the Maryland Automobile Insurance Fund.

BY repealing and reenacting, with amendments,

Article 48A – Insurance Code

Section 243B(f)

Annotated Code of Maryland

(1986 Replacement Volume and 1989 Supplement)

BY repealing and reenacting, without amendments,

Article 48A – Insurance Code

Section 243L(l)

Annotated Code of Maryland

(1986 Replacement Volume and 1989 Supplement)

Preamble

WHEREAS, Certain producers under the Maryland Automobile Insurance Fund, who are defined as certain insurance agents and brokers, who owe premium money to the Maryland Automobile Insurance Fund and to certain premium finance companies have filed, or have threatened to file, for bankruptcy in order to be discharged of their debt to the Fund and to others; and

WHEREAS, The decisions of the various Bankruptcy Courts generally have allowed these debts to be discharged in bankruptcy unless there is an actual or statutory trust clearly imposed on the agent or broker with respect to the moneys received on behalf of the Fund; and

WHEREAS, The Fund's statutory scheme is unique, does not authorize the Fund to enter into agency agreements with producers, and imposes no clear trust on the premium or return premium paid to producers; and

WHEREAS, The General Assembly finds it important to establish clearly that producers are fiduciaries for the benefit of the Fund and others with respect to all premium or other moneys that the producers receive on behalf of the Fund; now, therefore,

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

Article 48A – Insurance Code