

unauthorized insurer concerning certain insurance under certain circumstances; and defining a "fronting" agreement

BY adding to

Article 48A - Insurance Code
Section 274A 436P
Annotated Code of Maryland
(1979 Replacement Volume and 1979 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That section(s) of the Annotated Code of Maryland be repealed, amended, or enacted to read as follows:

Article 48A - Insurance Code

274A 436P.

(A) AFTER THE EFFECTIVE DATE OF THIS SECTION, AN AUTHORIZED INSURER ISSUING COVERAGE UNDER THIS SUBTITLE MAY NOT ENGAGE IN ANY "FRONTING" AGREEMENT WITH AN UNAUTHORIZED INSURER WITH RESPECT TO ANY INSURANCE WRITTEN OR ISSUED IN THIS STATE. A "FRONTING" AGREEMENT IS AN AGREEMENT BY REINSURANCE OR OTHERWISE UNDER WHICH AN AUTHORIZED INSURER TRANSFERS TO ONE OR MORE UNAUTHORIZED INSURERS:

(1) SUBSTANTIALLY THE ENTIRE RISK OF LOSS UNDER SUBSTANTIALLY ALL OF THE INSURANCE WRITTEN BY THE AUTHORIZED INSURER IN THIS STATE;

(2) ALL OR ONE OR MORE KINDS, LINES, TYPES, OR CLASSES OF INSURANCE;

(3) ALL OF THE BUSINESS PRODUCED THROUGH ONE OR MORE AGENTS OR AGENCIES;

(4) ALL OF THE BUSINESS IN A DESIGNATED GEOGRAPHICAL AREA; OR

(5) ALL OF THE BUSINESS WRITTEN ON ONE OR MORE POLICY FORMS.

(B) FOR PURPOSES OF THIS SECTION, AN UNAUTHORIZED INSURER DOES NOT INCLUDE AN INSURER ON WHOSE BEHALF IS MAINTAINED SECURITY ON DEPOSIT WITH THE COMMISSIONER IN AN AMOUNT, WHICH WHEN ADDED TO THE ACTUAL CAPITAL AND SURPLUS OF THE INSURER, IS EQUAL TO THE CAPITAL AND SURPLUS REQUIRED OF AN AUTHORIZED INSURER UNDER SECTIONS 48 AND 49 OF THIS ARTICLE. THE SECURITY MAY CONSIST OF THE FOLLOWING:

1. CASH;

2. GENERAL OBLIGATIONS OF, OR OBLIGATIONS GUARANTEED BY, THE FEDERAL GOVERNMENT, THIS STATE OR ANY OF ITS POLITICAL SUBDIVISIONS. THESE OBLIGATIONS SHALL BE VALUED AT THE LOWER OF MARKET VALUE OR PAR VALUE; OR