

SENATE BILL 57

C3, C4

(PRE-FILED)

9lr1043

CF 9lr0431

By: **Senator Forehand**

Requested: November 17, 2008

Introduced and read first time: January 14, 2009

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Insurance – Violation of Genetic Nondiscrimination Laws – Private Cause of**
3 **Action**

4 FOR the purpose of authorizing an individual who is injured by an insurer's violation
5 of certain provisions of law that prohibit discrimination based on genetic tests,
6 the results of genetic tests, or genetic information to recover certain equitable
7 relief, monetary damages, court costs, and attorney's fees in an action brought
8 in a court of competent jurisdiction; and generally relating to remedies for
9 violations of genetic nondiscrimination laws.

10 BY repealing and reenacting, with amendments,
11 Article – Insurance
12 Section 2–202(a)
13 Annotated Code of Maryland
14 (2003 Replacement Volume and 2008 Supplement)

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 2–202.

19 (a) (1) Notwithstanding any other law and except as provided in
20 [paragraph (2)] **PARAGRAPHS (2) AND (3)** of this subsection, the Commissioner has
21 exclusive jurisdiction to enforce by administrative action the laws of the State that
22 relate to the underwriting or rate-setting practices of an insurer.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2) The Human Relations Commission has concurrent jurisdiction
2 with the Commissioner over alleged discrimination on the basis of race, creed, color, or
3 national origin.

4 **(3) AN INDIVIDUAL WHO IS INJURED BY AN INSURER'S VIOLATION**
5 **OF A PROVISION OF THIS ARTICLE PROHIBITING DISCRIMINATION BASED ON**
6 **GENETIC TESTS, THE RESULTS OF GENETIC TESTS, OR GENETIC INFORMATION**
7 **MAY RECOVER IN AN ACTION BROUGHT IN A COURT OF COMPETENT**
8 **JURISDICTION:**

9 **(I) EQUITABLE RELIEF, WHICH MAY INCLUDE AN ORDER**
10 **DIRECTING THE INSURER TO PROVIDE INSURANCE COVERAGE TO THE INJURED**
11 **INDIVIDUAL UNDER THE SAME TERMS AND CONDITIONS THAT WOULD HAVE**
12 **APPLIED IF THE VIOLATION HAD NOT OCCURRED;**

13 **(II) DAMAGES EQUAL TO THE GREATER OF:**

14 **1. THE ACTUAL DAMAGES SUSTAINED BY THE**
15 **INDIVIDUAL AS A RESULT OF THE VIOLATION; OR**

16 **2. \$10,000 PER VIOLATION; AND**

17 **(III) IF THE INDIVIDUAL PREVAILS IN THE ACTION, COURT**
18 **COSTS AND REASONABLE ATTORNEY'S FEES.**

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
20 October 1, 2009.