

# Chapter 383

(House Bill 695)

AN ACT concerning

## Homeowner's Insurance – Anti-Concurrent Causation Clause – ~~Prohibited~~ Notice and Study

FOR the purpose of ~~prohibiting~~ requiring an insurer ~~from issuing~~ that issues a policy of homeowner's insurance in the State that contains a certain anti-concurrent causation clause to provide a policyholder with a certain notice; providing that the notice is not part of the policy or contract of insurance and does not create a private right of action; authorizing the Maryland Insurance Commissioner to adopt certain regulations; requiring a certain committee committees of the General Assembly to conduct a certain study and issue a final report on or before a certain date; requiring the Maryland Insurance Administration to provide certain data for the study; providing for the application of this Act; and generally relating to policies of homeowner's insurance.

BY adding to

Article – Insurance

Section 19-215

Annotated Code of Maryland

(2011 Replacement Volume and 2012 Supplement)

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

### Article – Insurance

#### 19-215.

**(A) AN INSURER ~~MAY NOT ISSUE~~ THAT ISSUES A POLICY OF HOMEOWNER'S INSURANCE IN THE STATE THAT CONTAINS AN ANTI-CONCURRENT CAUSATION (ACC) CLAUSE ~~THAT:~~**

**~~(1) EXCLUDES CLAIMS THAT ARISE OUT OF CONCURRENT CAUSATION; OR~~**

**~~(2) CONTAINS ANY ANTI-CONCURRENT CAUSATION EXCLUSIONARY LANGUAGE.~~ SHALL PROVIDE A POLICYHOLDER EACH YEAR WITH A NOTICE THAT:**

- (1) IS CLEAR AND SPECIFIC;
- (2) DESCRIBES THE ACC CLAUSE;
- ~~(3) DESCRIBES THE MANNER IN WHICH THE ACC CLAUSE MAY BE APPLIED BY PROVIDING AT LEAST ONE EXAMPLE;~~
- ~~(4)~~ INFORMS THE INSURED TO READ THE POLICY FOR COMPLETE INFORMATION ON THE EXCLUSIONS; AND
- ~~(5)~~ (4) STATES THAT THE INSURED SHOULD COMMUNICATE WITH THE INSURANCE PRODUCER OR THE INSURER FOR ADDITIONAL INFORMATION REGARDING THE SCOPE OF THE EXCLUSIONS.
- (B) THE NOTICE UNDER SUBSECTION (A) OF THIS SECTION:*
- (1) IS NOT PART OF THE POLICY OR CONTRACT OF INSURANCE;
- AND
- (2) DOES NOT CREATE A PRIVATE RIGHT OF ACTION.
- ~~(B)~~ (C) THE COMMISSIONER MAY ADOPT REGULATIONS TO IMPLEMENT THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That:

- (a) The House Economic Matters Committee and the Senate Finance Committee shall study the handling by insurers and the National Flood Insurance Program of property insurance claims in cases where there are two or more factors that could affect or cause the loss.
- (b) As part of the study, the ~~Committee~~ Committees shall review:
- (1) the history, nature, scope, and general effect of the anti-concurrent causation ~~clause (ACC)~~ (ACC) clause;
- (2) the number of states that allow or do not allow the use of the ACC clause, whether or not this is done through statute or judicial decision, and the rationale given by states for allowing or disallowing use of the ACC clause;
- (3) the number of complaints involving the ACC clause filed with the Maryland Insurance Administration in each of the past ~~5~~ 3 years and their resolution;
- (4) the interaction between the use of the ACC clause by the insurance industry and the claims practices of the National Flood Insurance Program;

(5) the impact of disallowing the ACC clause in Maryland, including the impact on premium levels, underwriting practices, and competition; and

(6) the cost, fairness, and effectiveness of mediation processes, including the processes set up in the wake of Tropical Storm Sandy, and the likelihood that mediation could lead to regulatory action or class action and bad faith claims; and

(7) the adequacy of the notice required under § 19-215 of the Insurance Article, as enacted by Section 1 of this Act, in informing insureds about exclusions and the ACC clause and whether the notice should:

(i) provide an explanation of how the ACC clause may be applied; or

(ii) state that, if the insured would like an explanation of how the ACC clause may be applied, the insured should communicate with the insurer or the insurance producer, if the insurer has provided the information to the insurance producer.

(c) The study shall be staffed by staff of the House Economic Matters Committee and staff of the Senate Finance Committee.

(d) The Maryland Insurance Administration shall provide all data requested by the Committee the Committees request the Maryland Insurance Administration to provide.

(e) The Committee Committees shall issue a final report on the study on or before December 31, 2013.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall apply to all policies of homeowner's insurance issued, delivered, or renewed in the State on or after ~~October 1, 2013~~ January 1, 2014.

SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ June 1, 2013.

**Approved by the Governor, May 2, 2013.**