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**By: Delegate Kach**

Introduced and read first time: January 17, 1996

Assigned to: Economic Matters

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A BILL ENTITLED

1 AN ACT concerning

2 **Motor Vehicle Insurance - Personal Injury Protection Benefits - Insurer's Right of**  
3 **Subrogation**

4 FOR the purpose of extending a right of subrogation to insurers on payment of certain  
5 motor vehicle insurance benefits under certain circumstances; limiting the right of  
6 subrogation under this Act; providing for the future codification of certain  
7 provisions of this Act; and generally relating to payment of motor vehicle insurance  
8 benefits.

9 BY repealing and reenacting, with amendments,  
10 Article 48A - Insurance Code  
11 Section 540  
12 Annotated Code of Maryland  
13 (1994 Replacement Volume and 1995 Supplement)

14 BY repealing and reenacting, with amendments,  
15 Article - Insurance  
16 Section 19-507(d)  
17 Annotated Code of Maryland  
18 (1995 Volume)  
19 (As enacted by Chapter \_\_\_\_\_ (H.B. 11) of the Acts of the General Assembly of  
20 1996)

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

23 **Article 48A - Insurance Code**

24 540.

25 (a) The benefits described under § 539 of this subtitle shall be payable without  
26 regard to:

27 (1) The fault or nonfault of the named insured or the recipient in causing or  
28 contributing to the accident; and

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1 (2) Any collateral source of medical, hospital, or wage continuation  
2 benefits.

3 (b) (1) Subject to paragraph (2) of this subsection, where the insured has  
4 coverage for both the benefits described under § 539 of this subtitle and the collateral  
5 benefits, the insurer or insurers may coordinate the policies to provide for nonduplication  
6 of the benefits, subject to appropriate reductions in premiums for one or both of said  
7 coverages approved by the Commissioner.

8 (2) (i) The named insured shall have the right to elect or reject the  
9 coordination of policies and nonduplication of benefits.

10 (ii) If the insured elects to coordinate policies, the insured shall  
11 indicate in writing which policy is to become primary.

12 (c) [An insurer paying benefits under § 539 of this subtitle shall have no right of  
13 subrogation and no claim against any other person or insurer to recover any benefits paid  
14 by reason of the alleged fault of such other person in causing or contributing to the  
15 accident.

16 (d) Upon the issuance of a policy containing coverage described under § 539 of  
17 this subtitle, the insurer shall notify the policyholder in writing that a surcharge may not  
18 be imposed on the policyholder for any claim or payment made pursuant to the coverage  
19 provided under § 539 of this subtitle.

20 (D) WHEN AN INSURER PAYS BENEFITS UNDER § 539 OF THIS SUBTITLE TO A  
21 PERSON WHO IS INJURED IN AN ACCIDENT AND THE PERSON ALSO EXERCISES A  
22 RIGHT OF RECOVERY AGAINST ANOTHER PERSON WHO WAS LEGALLY  
23 RESPONSIBLE FOR THE ACCIDENT, THE INSURER IS ENTITLED TO THE PROCEEDS OF  
24 ANY SETTLEMENT OR JUDGMENT TO THE EXTENT OF BENEFITS PAID UNDER § 539  
25 OF THIS SUBTITLE LESS THE INSURER'S SHARE OF EXPENSES, COSTS, OR ATTORNEY  
26 FEES INCURRED TO OBTAIN THE SETTLEMENT OR JUDGMENT.

27 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland  
28 read as follows:

29 **Article - Insurance**

30 19-507.

31 (d) [An insurer that provides the benefits described in § 19-505 of this subtitle  
32 does not have a right of subrogation and does not have a claim against any other person  
33 or insurer to recover any benefits paid because of the alleged fault of the other person in  
34 causing or contributing to a motor vehicle accident] WHEN AN INSURER PAYS BENEFITS  
35 UNDER § 19-505 OF THIS SUBTITLE TO AN INDIVIDUAL WHO IS INJURED IN A MOTOR  
36 VEHICLE ACCIDENT AND THE INDIVIDUAL ALSO EXERCISES A RIGHT OF RECOVERY  
37 AGAINST THE PERSON THAT WAS LEGALLY RESPONSIBLE FOR THE MOTOR VEHICLE  
38 ACCIDENT, THE INSURER IS ENTITLED TO THE PROCEEDS OF ANY SETTLEMENT OR  
39 JUDGMENT TO THE EXTENT OF BENEFITS PAID UNDER § 19-505 OF THIS SUBTITLE  
40 LESS THE INSURER'S SHARE OF EXPENSES, COSTS, OR ATTORNEY FEES INCURRED  
41 TO OBTAIN THE SETTLEMENT OR JUDGMENT.

HOUSE BILL 179

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1           SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall  
2 take effect October 1, 1996.

3           SECTION 4. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall  
4 take effect October 1, 1997.