
By: Senator Astle

Introduced and read first time: January 17, 1996

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Insurance - Elimination of the Pollution Exclusion for Residential and Commercial**
3 **Property**

4 FOR the purpose of prohibiting certain contracts of insurance for certain property from
5 excluding coverage for bodily injury or property damage arising from discharge,
6 dispersal, release, or escape of pollutants or waste from or associated with heating,
7 ventilation, air-conditioning, or refrigeration systems under certain circumstances;
8 prohibiting exclusions from coverage for losses, costs, or expenses arising from
9 certain governmental directions or requests related to heating, ventilation,
10 air-conditioning, or refrigeration systems; exempting certain intentional discharges
11 of pollutants or waste for the purpose of causing bodily harm or property damage
12 from the provisions of this Act; authorizing the Insurance Commissioner to adopt
13 certain regulations, and requiring the Commissioner to review certain forms and
14 enforce compliance with this Act; defining certain terms; providing for the future
15 codification of certain provisions of this Act; and generally relating to the exclusion
16 from certain insurance contracts for certain property of coverage for certain injury
17 or damage arising from pollution and waste.

18 BY adding to

19 Article 48A - Insurance Code
20 Section 752 through 755, inclusive, to be under the new subtitle "59. Coverage
21 Requirements for Pollution and Waste in Residential and Commercial
22 Property"
23 Annotated Code of Maryland
24 (1994 Replacement Volume and 1995 Supplement)

25 BY adding to

26 Article - Insurance
27 Section 19-801 through 19-804, inclusive, to be under the new subtitle "Subtitle 8.
28 Coverage Requirements for Pollution and Waste in Residential and
29 Commercial Property"
30 Annotated Code of Maryland
31 (1995 Volume)
32 (As enacted by Chapter _____ (H.B. 11) of the Acts of the General Assembly of
33 1996)

2

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

3 **Article 48A - Insurance Code**

4 59. COVERAGE REQUIREMENTS FOR POLLUTION AND WASTE IN RESIDENTIAL AND
5 COMMERCIAL PROPERTY

6 752.

7 (A) IN THIS SUBTITLE THE FOLLOWINGS WORDS HAVE THE MEANINGS
8 INDICATED.

9 (B) (1) "CONTRACTOR" MEANS A HEATING, VENTILATION,
10 AIR-CONDITIONING, AND REFRIGERATION CONTRACTOR.

11 (2) "CONTRACTOR" INCLUDES A HEATING, VENTILATION,
12 AIR-CONDITIONING, AND REFRIGERATION SUBCONTRACTOR.

13 (C) "HEATING, VENTILATION, AIR-CONDITIONING, OR REFRIGERATION
14 SYSTEM" MEANS A SYSTEM THAT IS DEFINED IN § 9A-101 OF THE BUSINESS
15 REGULATION ARTICLE AS A COOLING SYSTEM, FORCED AIR SYSTEM, HEATING
16 SYSTEM, HYDRONIC SYSTEM, REFRIGERATION SYSTEM, OR VENTILATION SYSTEM.

17 (D) (1) "POLLUTANT" MEANS A SOLID, LIQUID, GASEOUS, OR THERMAL
18 IRRITANT OR CONTAMINANT.

19 (2) "POLLUTANT" INCLUDES SMOKE, VAPORS, SOOT, FUMES, ACIDS,
20 ALKALIS, TOXIC CHEMICALS, LIQUIDS, AND GASES.

21 (E) (1) "WASTE" MEANS ALL WASTE MATERIALS, WHETHER SOLID, LIQUID,
22 OR GAS THAT RESULT FROM OPERATION OF, OR WORK PERFORMED ON, A
23 HEATING, VENTILATION, AIR-CONDITIONING, OR REFRIGERATION SYSTEM.

24 (2) "WASTE" INCLUDES WASTE MATERIALS TO BE RECYCLED,
25 RECONDITIONED, OR RECLAIMED.

26 753.

27 A CONTRACT OF INSURANCE FOR RESIDENTIAL OR COMMERCIAL PROPERTY
28 THAT IS ISSUED OR RENEWED ON OR AFTER OCTOBER 1, 1996 MAY NOT EXCLUDE
29 COVERAGE FOR:

30 (1) BODILY INJURY OR PROPERTY DAMAGE ARISING OUT OF ACTUAL,
31 ALLEGED, OR THREATENED DISCHARGE, DISPERSAL, RELEASE, OR ESCAPE OF
32 POLLUTANTS OR WASTE FROM OR ASSOCIATED WITH A HEATING, VENTILATION,
33 AIR-CONDITIONING, OR REFRIGERATION SYSTEM ON:

34 (I) THE PREMISES OWNED, RENTED, OR OCCUPIED BY THE
35 INSURED;

36 (II) A LOCATION USED BY THE INSURED OR OTHERS FOR
37 HANDLING, STORAGE, DISPOSAL, PROCESSING, OR TREATMENT OF POLLUTANTS OR
38 WASTE; OR

3

1 (III) A LOCATION ON WHICH THE INSURED OR A CONTRACTOR
2 WORKING DIRECTLY OR INDIRECTLY FOR THE INSURED PERFORMS OPERATIONS IF:

3 1. THE POLLUTANTS ARE BROUGHT TO THE LOCATION IN
4 CONNECTION WITH THE OPERATIONS;

5 2. THE WASTE IS CREATED AS A RESULT OF THE
6 OPERATIONS; OR

7 3. THE OPERATIONS ARE TO TEST FOR, MONITOR, CLEANUP,
8 REMOVE, CONTAIN, TREAT, DETOXIFY, OR NEUTRALIZE THE POLLUTANTS OR
9 WASTE; OR

10 (2) A LOSS, COST, OR EXPENSE ARISING OUT OF A GOVERNMENTAL
11 DIRECTION OR REQUEST THAT THE INSURED TEST FOR, MONITOR, CLEANUP,
12 REMOVE, CONTAIN, TREAT, DETOXIFY, OR NEUTRALIZE POLLUTANTS OR WASTE
13 FROM OR ASSOCIATED WITH THE HEATING, VENTILATION, AIR-CONDITIONING, OR
14 REFRIGERATION SYSTEM.

15 754.

16 THIS SUBTITLE MAY NOT BE CONSTRUED TO REQUIRE AN INSURER TO COVER
17 AN INTENTIONAL DISCHARGE, DISPERSAL, RELEASE, OR ESCAPE OF POLLUTANTS
18 OR WASTE FROM OR ASSOCIATED WITH A HEATING, VENTILATION,
19 AIR-CONDITIONING, OR REFRIGERATION SYSTEM FOR THE PURPOSE OF CAUSING
20 BODILY INJURY OR PROPERTY DAMAGE.

21 755.

22 (A) THE COMMISSIONER MAY ADOPT REGULATIONS TO CARRY OUT THE
23 PURPOSES OF THIS SUBTITLE.

24 (B) THE COMMISSIONER SHALL REVIEW POLICY FORMS AND
25 ENDORSEMENTS TO IMPLEMENT AND ENFORCE COMPLIANCE WITH THE
26 PROVISIONS OF THIS SUBTITLE.

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

29 **Article - Insurance**

30 SUBTITLE 8. COVERAGE REQUIREMENTS FOR POLLUTION AND WASTE IN
31 RESIDENTIAL AND COMMERCIAL PROPERTY.

32 19-801.

33 (A) IN THIS SUBTITLE THE FOLLOWINGS WORDS HAVE THE MEANINGS
34 INDICATED.

35 (B) (1) "CONTRACTOR" MEANS A HEATING, VENTILATION,
36 AIR-CONDITIONING, AND REFRIGERATION CONTRACTOR.

37 (2) "CONTRACTOR" INCLUDES A HEATING, VENTILATION,
38 AIR-CONDITIONING, AND REFRIGERATION SUBCONTRACTOR.

4

1 (C) "HEATING, VENTILATION, AIR-CONDITIONING, OR REFRIGERATION
2 SYSTEM" MEANS A SYSTEM THAT IS DEFINED IN § 9A-101 OF THE BUSINESS
3 REGULATION ARTICLE AS A COOLING SYSTEM, FORCED AIR SYSTEM, HEATING
4 SYSTEM, HYDRONIC SYSTEM, REFRIGERATION SYSTEM, OR VENTILATION SYSTEM.

5 (D) (1) "POLLUTANT" MEANS A SOLID, LIQUID, GASEOUS, OR THERMAL
6 IRRITANT OR CONTAMINANT.

7 (2) "POLLUTANT" INCLUDES SMOKE, VAPORS, SOOT, FUMES, ACIDS,
8 ALKALIS, TOXIC CHEMICALS, LIQUIDS, AND GASES.

9 (E) (1) "WASTE" MEANS ALL WASTE MATERIALS, WHETHER SOLID, LIQUID,
10 OR GAS THAT RESULT FROM OPERATION OF, OR WORK PERFORMED ON, A
11 HEATING, VENTILATION, AIR-CONDITIONING, OR REFRIGERATION SYSTEM.

12 (2) "WASTE" INCLUDES WASTE MATERIALS TO BE RECYCLED,
13 RECONDITIONED, OR RECLAIMED.

14 19-802.

15 A CONTRACT OF INSURANCE FOR RESIDENTIAL OR COMMERCIAL PROPERTY
16 THAT IS ISSUED OR RENEWED ON OR AFTER OCTOBER 1, 1996 MAY NOT EXCLUDE
17 COVERAGE FOR:

18 (1) BODILY INJURY OR PROPERTY DAMAGE ARISING OUT OF ACTUAL,
19 ALLEGED, OR THREATENED DISCHARGE, DISPERSAL, RELEASE, OR ESCAPE OF
20 POLLUTANTS OR WASTE FROM OR ASSOCIATED WITH A HEATING, VENTILATION,
21 AIR-CONDITIONING, OR REFRIGERATION SYSTEM ON:

22 (I) THE PREMISES OWNED, RENTED, OR OCCUPIED BY THE
23 INSURED;

24 (II) A LOCATION USED BY THE INSURED OR OTHERS FOR
25 HANDLING, STORAGE, DISPOSAL, PROCESSING, OR TREATMENT OF POLLUTANTS OR
26 WASTE; OR

27 (III) A LOCATION ON WHICH THE INSURED OR A CONTRACTOR
28 WORKING DIRECTLY OR INDIRECTLY FOR THE INSURED PERFORMS OPERATIONS IF:

29 1. THE POLLUTANTS ARE BROUGHT TO THE LOCATION IN
30 CONNECTION WITH THE OPERATIONS;

31 2. THE WASTE IS CREATED AS A RESULT OF THE
32 OPERATIONS; OR

33 3. THE OPERATIONS ARE TO TEST FOR, MONITOR, CLEANUP,
34 REMOVE, CONTAIN, TREAT, DETOXIFY, OR NEUTRALIZE THE POLLUTANTS OR
35 WASTE; OR

36 (2) A LOSS, COST, OR EXPENSE ARISING OUT OF A GOVERNMENTAL
37 DIRECTION OR REQUEST THAT THE INSURED TEST FOR, MONITOR, CLEANUP,
38 REMOVE, CONTAIN, TREAT, DETOXIFY, OR NEUTRALIZE POLLUTANTS OR WASTE
39 FROM OR ASSOCIATED WITH THE HEATING, VENTILATION, AIR-CONDITIONING, OR
40 REFRIGERATION SYSTEM.

5

1 19-803.

2 THIS SUBTITLE MAY NOT BE CONSTRUED TO REQUIRE AN INSURER TO COVER
3 AN INTENTIONAL DISCHARGE, DISPERSAL, RELEASE, OR ESCAPE OF POLLUTANTS
4 OR WASTE FROM OR ASSOCIATED WITH A HEATING, VENTILATION,
5 AIR-CONDITIONING, OR REFRIGERATION SYSTEM FOR THE PURPOSE OF CAUSING
6 BODILY INJURY OR PROPERTY DAMAGE.

7 19-804.

8 (A) THE COMMISSIONER MAY ADOPT REGULATIONS TO CARRY OUT THE
9 PURPOSES OF THIS SUBTITLE.

10 (B) THE COMMISSIONER SHALL REVIEW POLICY FORMS AND
11 ENDORSEMENTS TO IMPLEMENT AND ENFORCE COMPLIANCE WITH THE
12 PROVISIONS OF THIS SUBTITLE.

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

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