

BY: House Judiciary Committee

AMENDMENTS TO HOUSE BILL NO. 273
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 4, strike “has” and substitute “had”; in line 4, strike “insurance;” and substitute “insurance coverage at a certain time; requiring an insurer to appoint the Maryland Insurance Commissioner as the attorney for substituted service of process under this Act;”; in line 5, strike “under certain circumstances;” and substitute “in certain actions; requiring an insurer under certain circumstances to provide certain information known to the insurer; requiring a plaintiff to make certain efforts to locate and actually serve a defendant if the insurer provides certain information to the plaintiff; specifying that an insurer who provides certain information is not subject to certain liability;”; in line 8, after the semicolon insert “authorizing the Maryland Insurance Commissioner to adopt certain regulations;”; in line 9, after the semicolon insert “making provisions of this Act severable;”; and after line 14, insert:

“BY repealing and reenacting, with amendments,

Article - Insurance

Section 4-107(a)

Annotated Code of Maryland

(1997 Volume)”.

AMENDMENT NO. 2

On page 1, in line 22, strike “HAS AN” and substitute “HAD”; in the same line, after “INSURANCE” insert “COVERAGE AT THE TIME THE ALLEGED LIABILITY WAS INCURRED”; in line 23, after the first “THE” insert “DEFENDANT IS EVADING SERVICE OF PROCESS OR THE”; in line 23, after “UNKNOWN” insert “TO THE PLAINTIFF”; and strike beginning with the comma in line 25 down through “EST” in line 26.

AMENDMENT NO. 3

On page 1, strike in its entirety line 27.

(Over)

On page 2, strike in their entirety lines 1 through 4, inclusive, and substitute:

“(3) SERVICE ON THE INSURER HAS BEEN MADE BY SERVING THE MARYLAND INSURANCE COMMISSIONER PURSUANT TO §§ 2-112 AND 4-107 OF THE INSURANCE ARTICLE.”

AMENDMENT NO. 4

On page 2, strike in their entirety lines 5 through 9, inclusive, and substitute:

“(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THIS SECTION APPLIES TO AN ACTION AGAINST A DEFENDANT WHO HAD APPLICABLE INSURANCE COVERAGE UNDER A PROPERTY OR CASUALTY INSURANCE POLICY.

(2) THIS SECTION DOES NOT APPLY TO AN ACTION FOR DAMAGES FILED UNDER TITLE 3, SUBTITLE 2A OF THIS ARTICLE.”

AMENDMENT NO. 5

On page 2, in line 10, after “(C)” insert “(1)”; in line 11 strike “(A)(3)(II)” and substitute “(A)(3)”; in line 11, strike the comma and substitute “;”

(I)”;

and in line 13, after “INSURER” insert “; AND”

(II) THE INSURER, ON REQUEST OF A PLAINTIFF, SHALL PROVIDE TO THE PLAINTIFF INFORMATION KNOWN TO THE INSURER CONCERNING THE DEFENDANT’S WHEREABOUTS, INCLUDING THE DEFENDANT’S CURRENT HOME ADDRESS.

(2) IF AN INSURER PROVIDES TO A PLAINTIFF INFORMATION CONCERNING THE DEFENDANT’S WHEREABOUTS AS REQUIRED IN THIS SUBSECTION, THE PLAINTIFF SHALL MAKE REASONABLE EFFORTS, BASED ON THE INFORMATION PROVIDED, TO LOCATE AND ACTUALLY SERVE THE DEFENDANT.

(3) THE PROVIDING OF INFORMATION CONCERNING THE DEFENDANT’S WHEREABOUTS, BY AN INSURER UNDER THIS SECTION, MAY NOT FORM THE BASIS OF LIABILITY OF THE INSURER TO ITS INSURED FOR BREACH OF CONTRACT”.

AMENDMENT NO. 6

On page 2, after line 21, insert:

“(G) THE METHOD OF SERVICE PROVIDED IN THIS SECTION IS IN ADDITION TO AND NOT EXCLUSIVE OF ANY OTHER MEANS OF SERVICE THAT MAY BE PROVIDED BY STATUTE OR RULE FOR OBTAINING JURISDICTION OVER A DEFENDANT.”.

AMENDMENT NO. 7

On page 2, before line 22, insert:

“Article - Insurance

4-107.

(a) (1) On the form that the Commissioner provides, each insurer applying for a certificate of authority must appoint the Commissioner as attorney for service of process issued [against]:

(I) AGAINST the insurer in the State; OR

(II) AS SUBSTITUTED SERVICE OF PROCESS UNDER § 6-311 OF THE COURTS AND JUDICIAL PROCEEDINGS ARTICLE.

(2) AN INSURED IS DEEMED TO HAVE CONSENTED TO SUBSTITUTED SERVICE OF PROCESS AS PROVIDED UNDER ITEM (1)(II) OF THIS SUBSECTION AND § 6-311 OF THE COURTS AND JUDICIAL PROCEEDINGS ARTICLE.

(3) THE INSURANCE COMMISSIONER MAY ADOPT REGULATIONS TO REQUIRE THAT EACH PROPERTY OR CASUALTY INSURANCE POLICY CONTAIN A PROVISION THAT STATES THAT AN INSURED IS SUBJECT TO SUBSTITUTED SERVICE OF PROCESS UNDER THIS SUBSECTION AND § 6-311 OF THE COURTS AND JUDICIAL PROCEEDINGS ARTICLE.”;

and in line 22, strike “that” and substitute “That”.

(Over)

AMENDMENT NO. 8

On page 2, in line 23, after “case” insert “pending or”.

AMENDMENT NO. 9

On page 2, after line 23, insert:

“SECTION 3. AND BE IT FURTHER ENACTED, That if any provision of this Act or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Act which can be given effect without the invalid provision or application, and for this purpose the provisions of this Act are declared severable.”;

and in line 24, strike “3.” and substitute “4.”.