
By: **Delegates Vallario, Dembrow, Montague, Turner, and R. Baker**
Introduced and read first time: January 28, 1998
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Civil Actions - Substituted Service of Process**

3 FOR the purpose of authorizing certain substituted service of process under certain
4 circumstances when a defendant has applicable insurance; providing that this
5 Act does not apply under certain circumstances; providing that certain
6 judgments shall be limited to the limits of any applicable insurance under
7 certain circumstances; providing an exception; authorizing applicable defenses
8 notwithstanding substituted service of process; providing for the application of
9 this Act; and generally relating to substituted service of process.

10 BY adding to

11 Article - Courts and Judicial Proceedings
12 Section 6-311
13 Annotated Code of Maryland
14 (1995 Replacement Volume and 1997 Supplement)

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

17 **Article - Courts and Judicial Proceedings**

18 6-311.

19 (A) SUBSTITUTED SERVICE OF PROCESS MAY BE MADE UNDER THIS SECTION
20 AND ANY JUDGMENT SUBSEQUENTLY RENDERED SHALL BE LIMITED TO THE LIMITS
21 OF ANY APPLICABLE INSURANCE IF THE PLAINTIFF HAS SHOWN BY AFFIDAVIT:

22 (1) THAT THE DEFENDANT HAS AN APPLICABLE INSURANCE;

23 (2) THAT THE WHEREABOUTS OF THE DEFENDANT ARE UNKNOWN AND
24 THAT REASONABLE EFFORTS HAVE BEEN MADE, IN GOOD FAITH, TO LOCATE THE
25 DEFENDANT, AND THERE HAVE BEEN THREE UNSUCCESSFUL ATTEMPTS AT
26 SERVICE WHICH HAVE BEEN RETURNED NON EST; AND

27 (3) SERVICE HAS BEEN MADE ON:

1 (I) THE RESIDENT AGENT OF THE INSURER BY CERTIFIED MAIL,
2 RETURN RECEIPT REQUESTED; OR

3 (II) IF THERE IS NO RESIDENT AGENT OF THE INSURER IN THIS
4 STATE, THE MARYLAND INSURANCE COMMISSIONER.

5 (B) THIS SECTION DOES NOT APPLY IF:

6 (1) THE DEFENDANT HAS NO ACTUAL KNOWLEDGE OF THE LAWSUIT;
7 AND

8 (2) THE INSURER HAS VALIDLY DISCLAIMED INSURANCE COVERAGE
9 FOR NONCOOPERATION OR OTHERWISE.

10 (C) IF PROCESS IS SERVED ON THE MARYLAND INSURANCE COMMISSIONER
11 UNDER SUBSECTION (A)(3)(II) OF THIS SECTION, THE MARYLAND INSURANCE
12 COMMISSIONER SHALL FORWARD A COPY OF THE PROCESS TO THE LAST KNOWN
13 BUSINESS ADDRESS OF THE INSURER.

14 (D) IF PROCESS IS SERVED ON THE DEFENDANT AT ANY TIME BEFORE THE
15 COMMENCEMENT OF THE TRIAL, THE LIMITATION ON JUDGMENTS PROVIDED
16 UNDER SUBSECTION (A) OF THIS SECTION DOES NOT APPLY.

17 (E) NOTWITHSTANDING ANY SUBSTITUTED SERVICE AUTHORIZED UNDER
18 THIS SECTION, ALL DEFENSES UNDER THE TERMS OF THE APPLICABLE INSURANCE,
19 INCLUDING NONCOOPERATION, SHALL BE AVAILABLE TO THE INSURER.

20 (F) EXCEPT AS LIMITED UNDER SUBSECTIONS (A) AND (B) OF THIS SECTION,
21 SERVICE UNDER THIS SECTION IS AS EFFECTIVE AS ACTUAL PERSONAL SERVICE.

22 SECTION 2. AND BE IT FURTHER ENACTED, that the provisions of this Act
23 shall apply to any case filed on or after the effective date of this Act.

24 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take
25 effect October 1, 1998.