

HOUSE BILL 634

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HB 273/98 - JUD

1999 Regular Session  
9r1309

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By: **Delegates Vallario and Dembrow**  
Introduced and read first time: February 11, 1999  
Assigned to: Judiciary

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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 had applicable insurance coverage at a certain  
5 time; requiring an insurer to appoint the Insurance Commissioner as the  
6 attorney for substituted service of process under this Act; providing that this Act  
7 does not apply in certain actions; requiring an insurer under certain  
8 circumstances to provide certain information known to the insurer; requiring a  
9 plaintiff to make certain efforts to locate and actually serve a defendant if the  
10 insurer provides certain information to the plaintiff; specifying that an insurer,  
11 and its employees and agents, who provide certain information are not subject to  
12 certain liability; providing that certain judgments shall be limited to the limits  
13 of any applicable insurance under certain circumstances; providing an  
14 exception; authorizing applicable defenses notwithstanding substituted service  
15 of process; authorizing the Insurance Commissioner to adopt certain  
16 regulations; providing for the application of this Act; making provisions of this  
17 Act severable; and generally relating to substituted service of process.

18 BY adding to  
19 Article - Courts and Judicial Proceedings  
20 Section 6-311  
21 Annotated Code of Maryland  
22 (1998 Replacement Volume)

23 BY repealing and reenacting, with amendments,  
24 Article - Insurance  
25 Section 4-107(a)  
26 Annotated Code of Maryland  
27 (1997 Volume and 1998 Supplement)

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

1 **Article - Courts and Judicial Proceedings**

2 6-311.

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

6 (1) THAT THE DEFENDANT HAD APPLICABLE INSURANCE COVERAGE AT  
7 THE TIME THE ALLEGED LIABILITY WAS INCURRED;

8 (2) THAT THE DEFENDANT IS EVADING SERVICE OF PROCESS OR THE  
9 WHEREABOUTS OF THE DEFENDANT ARE UNKNOWN TO THE PLAINTIFF AND THAT  
10 REASONABLE EFFORTS HAVE BEEN MADE, IN GOOD FAITH, TO LOCATE THE  
11 DEFENDANT; AND

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

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

18 (2) THIS SECTION DOES NOT APPLY TO AN ACTION FOR DAMAGES FILED  
19 UNDER:

20 (I) TITLE 3, SUBTITLE 2A OF THIS ARTICLE;

21 (II) TITLE 5, SUBTITLE 3 OF THIS ARTICLE; OR

22 (III) TITLE 12, SUBTITLE 1 OF THE STATE GOVERNMENT ARTICLE.

23 (C) (1) IF PROCESS IS SERVED ON THE INSURANCE COMMISSIONER UNDER  
24 SUBSECTION (A)(3) OF THIS SECTION:

25 (I) THE INSURANCE COMMISSIONER SHALL FORWARD A COPY OF  
26 THE PROCESS TO THE LAST KNOWN BUSINESS ADDRESS OF THE INSURER; AND

27 (II) THE INSURER, ON WRITTEN REQUEST OF A PLAINTIFF, SHALL  
28 PROVIDE TO THE PLAINTIFF INFORMATION KNOWN TO THE INSURER CONCERNING  
29 THE DEFENDANT'S WHEREABOUTS, INCLUDING THE DEFENDANT'S CURRENT HOME  
30 ADDRESS.

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

35 (3) AN INSURER AND ITS EMPLOYEES AND AGENTS ARE NOT CIVILLY OR  
36 CRIMINALLY LIABLE FOR THE DISCLOSURE OF INFORMATION UNDER THIS SECTION.

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

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

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

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

12 **Article - Insurance**

13 4-107.

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

17 (I) AGAINST the insurer in the State; OR

18 (II) AS SUBSTITUTED SERVICE OF PROCESS UNDER § 6-311 OF THE  
19 COURTS ARTICLE.

20 (2) AN INSURED IS DEEMED TO HAVE CONSENTED TO SUBSTITUTED  
21 SERVICE OF PROCESS AS PROVIDED UNDER ITEM (1)(II) OF THIS SUBSECTION AND §  
22 6-311 OF THE COURTS ARTICLE.

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

27 SECTION 2. AND BE IT FURTHER ENACTED, That the provisions of this  
28 Act shall apply to any case pending or filed on or after the effective date of this Act.

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

35 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take  
36 effect October 1, 1999.