

HOUSE BILL 413

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2000 Regular Session
(01r0175)

ENROLLED BILL
-- Economic Matters/Finance --

Introduced by **Chairman, Economic Matters Committee (Departmental -
Insurance Administration, Maryland)**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Insurance - Cancellation of Policies - Required Notice**

3 FOR the purpose of requiring certain insurers to ~~provide send~~ *provide* a certain notice
4 ~~to by certificate of mailing to the last known address of~~ an insured before the
5 cancellation of an insurance policy; *altering the mailing requirment for a certain*
6 *workers' compensation policy*; and generally relating to insurance policies and
7 notice provisions.

8 BY repealing and reenacting, with amendments,
9 Article - Insurance
10 Section *19-406(a)*, 27-601, and 27-605
11 Annotated Code of Maryland
12 (1997 Volume and 1999 Supplement)

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

1

Article - Insurance2 19-406.

3 (a) An insurer may not cancel a workers' compensation insurance policy before
4 its expiration unless, at least 30 days before the date of cancellation, the insurer:

5 (1) serves on the employer, by personal service or [registered mail]
6 CERTIFIED MAIL addressed to the last known address of the employer, a notice of
7 intention to cancel the policy; and

8 (2) files a copy of the notice with the State Workers' Compensation
9 Commission.

10 27-601.

11 (a) This section does not apply to policies of:

12 (1) life insurance;

13 (2) health insurance;

14 (3) motor vehicle liability insurance issued to a resident of a household
15 in the State as set forth in § 27-605 of this subtitle; or

16 (4) surety insurance.

17 (b) (1) Whenever an insurer, as required by subsection (c) of this section,
18 gives notice of its intention to cancel or not to renew a policy subject to this section
19 issued in the State or before an insurer cancels a policy subject to this section issued
20 in the State for a reason other than nonpayment of premium, the insurer shall notify
21 the insured of the possible right of the insured to replace the insurance under the
22 Maryland Property Insurance Availability Act or through another plan for which the
23 insured may be eligible.

24 (2) The notice required by paragraph (1) of this subsection must:

25 (i) be in writing;

26 (ii) contain the current address and telephone number of the offices
27 of the appropriate plan; and

28 (iii) be sent to the insured in the same manner and at the same time
29 as the first written notice of cancellation or of intention not to renew given or required
30 by law, regulation, or contract.

31 (c) (1) At least 45 days before the date of the proposed cancellation or
32 expiration of the policy, the insurer shall cause to be sent to the ~~LAST KNOWN~~
33 ~~ADDRESS OF THE~~ insured, BY CERTIFICATE OF MAILING, a written notice of intention
34 to cancel for a reason other than nonpayment of premium or notice of intention not to
35 renew a policy issued in the State.

1 (2) Notice given to the insured by a broker or an agent on behalf of the
2 insurer is deemed to have been given by the insurer for purposes of this subsection.

3 (3) Notwithstanding paragraph (2) of this subsection, no notice is
4 required under this section if the agent or broker has replaced the insurance.

5 (D) AT LEAST 10 DAYS BEFORE THE DATE AN INSURER PROPOSES TO CANCEL
6 A POLICY FOR NONPAYMENT OF PREMIUM, THE INSURER SHALL CAUSE TO BE SENT
7 TO THE ~~LAST KNOWN ADDRESS OF THE~~ INSURED, BY CERTIFICATE OF MAILING, A
8 WRITTEN NOTICE OF INTENTION TO CANCEL FOR NONPAYMENT OF PREMIUM.

9 27-605.

10 (a) (1) Except in accordance with this article, with respect to a policy of
11 motor vehicle liability insurance or a binder of motor vehicle liability insurance, if the
12 binder has been in effect for at least 45 days, issued in the State to any resident of the
13 household of the named insured, an insurer other than the Maryland Automobile
14 Insurance Fund may not:

15 (i) cancel or fail to renew the policy or binder for a reason other
16 than nonpayment of premium;

17 (ii) increase a premium for any coverage on the policy; or

18 (iii) reduce coverage under the policy.

19 (2) Notwithstanding paragraph (1) of this subsection, the requirements
20 of this section do not apply if:

21 (i) the premium increase described in paragraph (1)(ii) of this
22 subsection is part of a general increase in premiums approved by the Commissioner
23 and does not result from a reclassification of the insured;

24 (ii) the reduction in coverage described in paragraph (1)(iii) of this
25 subsection is part of a general reduction in coverage approved by the Commissioner or
26 satisfies the requirements of Title 19, Subtitle 5 of this article; or

27 (iii) the failure to renew the policy takes place under a plan of
28 withdrawal that:

29 1. is approved by the Commissioner under § 27-603 of this
30 subtitle; and

31 2. provides that each insured affected by the plan of
32 withdrawal shall be sent by certificate of mailing at least 45 days before the
33 nonrenewal of the policy a written notice that states the date that the policy will be
34 nonrenewed and that the nonrenewal is the result of the withdrawal of the insurer
35 from the market.

1 (b) (1) At least 45 days before the proposed effective date of the action, an
2 insurer that intends to take an action subject to this section must send written notice
3 of its proposed action to the insured at the last known address of the insured:

4 (i) for notice of cancellation or nonrenewal, by certified mail; and

5 (ii) for all other notices of actions subject to this section, by
6 certificate of mailing.

7 (2) The notice must be in triplicate and on a form approved by the
8 Commissioner.

9 (3) The notice must state in clear and specific terms:

10 (i) the proposed action to be taken, including:

11 1. for a premium increase, the amount of the increase and
12 the type of coverage to which it is applicable; and

13 2. for a reduction in coverage, the type of coverage reduced
14 and the extent of the reduction;

15 (ii) the proposed effective date of the action;

16 (iii) subject to paragraph (4) of this subsection, the actual reason of
17 the insurer for proposing to take the action;

18 (iv) if there is coupled with the notice an offer to continue or renew
19 the policy in accordance with § 27-606 of this subtitle:

20 1. the name of the individual or individuals to be excluded
21 from coverage; and

22 2. the premium amount if the policy is continued or renewed
23 with the named individual or individuals excluded from coverage;

24 (v) the right of the insured to replace the insurance through the
25 Maryland Automobile Insurance Fund and the current address and telephone number
26 of the Fund;

27 (vi) the right of the insured to protest the proposed action of the
28 insurer and, except in the case of a premium increase that is consistent with the
29 insurer's surcharge plan as filed with the Commissioner and authorized under the
30 applicable provisions of Title 11 of this article, request a hearing before the
31 Commissioner on the proposed action by signing two copies of the notice and sending
32 them to the Commissioner within 30 days after the mailing date of the notice;

33 (vii) that if a protest is filed by the insured, the insurer must
34 maintain the current insurance in effect until a final determination is made by the
35 Commissioner, subject to the payment of any authorized premium due or becoming
36 due before the determination; and

1 (viii) the authority of the Commissioner to award reasonable
2 attorney fees to the insured for representation at a hearing if the Commissioner finds
3 the proposed action of the insurer to be unjustified.

4 (4) (i) The insurer's statement of actual reason for proposing to take
5 an action subject to this section must be sufficiently clear and specific so that an
6 individual of average intelligence can identify the basis for the insurer's decision
7 without making further inquiry.

8 (ii) The use of generalized terms such as "personal habits", "living
9 conditions", "poor morals", or "violation or accident record" does not meet the
10 requirements of this paragraph.

11 (C) AT LEAST 10 DAYS BEFORE THE DATE AN INSURER PROPOSES TO CANCEL
12 A POLICY FOR NONPAYMENT OF PREMIUM, THE INSURER SHALL CAUSE TO BE SENT
13 TO THE ~~LAST KNOWN ADDRESS OF THE~~ INSURED, BY ~~CERTIFIED MAIL CERTIFICATE~~
14 OF MAILING, A WRITTEN NOTICE OF INTENTION TO CANCEL FOR NONPAYMENT OF
15 PREMIUM.

16 [(c)] (D) A statement of actual reason contained in the notice given under
17 subsection (b) of this section is privileged and does not constitute grounds for an
18 action against the insurer, its representatives, or another person that in good faith
19 provides to the insurer information on which the statement is based.

20 (E) (1) THIS SUBSECTION DOES NOT APPLY TO AN ACTION OF AN INSURER
21 TAKEN UNDER SUBSECTION (C) OF THIS SECTION.

22 [(d) (1)] (2) An insured may protest a proposed action of the insurer under
23 this section by signing two copies of the notice and sending them to the Commissioner
24 within 30 days after the mailing date of the notice.

25 [(2)] (3) On receipt of a protest, the Commissioner shall notify the
26 insurer of the filing of the protest.

27 [(3)] (4) A protest filed with the Commissioner stays the proposed action
28 of the insurer pending a final determination by the Commissioner.

29 [(4)] (5) (i) The insurer shall maintain in effect the same coverage
30 and premium that were in effect on the day the notice of proposed action was sent to
31 the insured until a final determination is made, subject to the payment of any
32 authorized premium due or becoming due before the determination.

33 (ii) In the case of a premium increase, a dismissal of the protest is
34 deemed to be a final determination of the Commissioner 20 days after the mailing
35 date of the Commissioner's notice of action.

36 [(e)] (F) (1) Based on the information contained in the notice, the
37 Commissioner:

1 (i) shall determine whether the protest by the insured has merit;
2 and

3 (ii) either shall dismiss the protest or disallow the proposed action
4 of the insurer.

5 (2) The Commissioner shall notify the insurer and the insured of the
6 action of the Commissioner promptly in writing.

7 (3) Subject to paragraph (4) of this subsection, within 30 days after the
8 mailing date of the Commissioner's notice of action, the aggrieved party may request
9 a hearing.

10 (4) Except in the case of a premium increase that is consistent with the
11 insurer's surcharge plan as filed with the Commissioner and authorized under the
12 applicable provisions of Title 11 of this article, the Commissioner shall:

13 (i) hold a hearing within a reasonable time after the request for a
14 hearing; and

15 (ii) give written notice of the time and place of the hearing at least
16 10 days before the hearing.

17 (5) A hearing held under this subsection shall be conducted in
18 accordance with Title 10, Subtitle 2 of the State Government Article.

19 (6) At the hearing the insurer has the burden of proving its proposed
20 action to be justified and, in doing so, may rely only on the reasons set forth in its
21 notice to the insured.

22 [(f)] (G) (1) The Commissioner shall issue an order within 30 days after the
23 conclusion of the hearing.

24 (2) If the Commissioner finds the proposed action of the insurer to be
25 justified, the Commissioner shall:

26 (i) dismiss the protest; and

27 (ii) allow the proposed action to be taken on the later of:

28 1. its proposed effective date; and

29 2. 30 days after the date of the determination.

30 (3) If the Commissioner finds the proposed action to be unjustified, the
31 Commissioner:

32 (i) shall disallow the action; and

1 (ii) may order the insurer to pay reasonable attorney fees incurred
2 by the insured for representation at the hearing as the Commissioner considers
3 appropriate.

4 [(g)] (H) The Commissioner may delegate the powers and duties of the
5 Commissioner under this section to one or more employees or hearing examiners.

6 [(h)] (I) A party to a proceeding under this section may appeal the decision of
7 the Commissioner in accordance with § 2-215 of this article.

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 ~~July 1~~ October 1, 2000.