

HOUSE BILL 413

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2000 Regular Session
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CF 0lr0097

By: **Chairman, Economic Matters Committee (Departmental - Insurance Administration, Maryland)**

Introduced and read first time: February 3, 2000

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

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

3 FOR the purpose of requiring certain insurers to provide a certain notice to an
4 insured before the cancellation of an insurance policy; and generally relating to
5 insurance policies and notice provisions.

6 BY repealing and reenacting, with amendments,
7 Article - Insurance
8 Section 27-601 and 27-605
9 Annotated Code of Maryland
10 (1997 Volume and 1999 Supplement)

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

13 **Article - Insurance**

14 27-601.

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

16 (1) life insurance;

17 (2) health insurance;

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

20 (4) surety insurance.

21 (b) (1) Whenever an insurer, as required by subsection (c) of this section,
22 gives notice of its intention to cancel or not to renew a policy subject to this section
23 issued in the State or before an insurer cancels a policy subject to this section issued
24 in the State for a reason other than nonpayment of premium, the insurer shall notify
25 the insured of the possible right of the insured to replace the insurance under the

1 Maryland Property Insurance Availability Act or through another plan for which the
2 insured may be eligible.

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

4 (i) be in writing;

5 (ii) contain the current address and telephone number of the offices
6 of the appropriate plan; and

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

10 (c) (1) At least 45 days before the date of the proposed cancellation or
11 expiration of the policy, the insurer shall cause to be sent to the insured a written
12 notice of intention to cancel for a reason other than nonpayment of premium or notice
13 of intention not to renew a policy issued in the State.

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

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

18 (D) AT LEAST 10 DAYS BEFORE THE DATE AN INSURER PROPOSES TO CANCEL
19 A POLICY FOR NONPAYMENT OF PREMIUM, THE INSURER SHALL CAUSE TO BE SENT
20 TO THE INSURED A WRITTEN NOTICE OF INTENTION TO CANCEL FOR NONPAYMENT
21 OF PREMIUM.

22 27-605.

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

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

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

31 (iii) reduce coverage under the policy.

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

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

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

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

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

8 2. provides that each insured affected by the plan of
9 withdrawal shall be sent by certificate of mailing at least 45 days before the
10 nonrenewal of the policy a written notice that states the date that the policy will be
11 nonrenewed and that the nonrenewal is the result of the withdrawal of the insurer
12 from the market.

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

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

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

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

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

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

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

25 2. for a reduction in coverage, the type of coverage reduced
26 and the extent of the reduction;

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

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

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

32 1. the name of the individual or individuals to be excluded
33 from coverage; and

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

1 (v) the right of the insured to replace the insurance through the
2 Maryland Automobile Insurance Fund and the current address and telephone number
3 of the Fund;

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

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

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

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

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

24 (C) AT LEAST 10 DAYS BEFORE THE DATE AN INSURER PROPOSES TO CANCEL
25 A POLICY FOR NONPAYMENT OF PREMIUM, THE INSURER SHALL CAUSE TO BE SENT
26 TO THE INSURED, BY CERTIFIED MAIL, A WRITTEN NOTICE OF INTENTION TO
27 CANCEL FOR NONPAYMENT OF PREMIUM.

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

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

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

37 [(2)] (3) On receipt of a protest, the Commissioner shall notify the
38 insurer of the filing of the protest.

1 [(3)] (4) A protest filed with the Commissioner stays the proposed action
2 of the insurer pending a final determination by the Commissioner.

3 [(4)] (5) (i) The insurer shall maintain in effect the same coverage
4 and premium that were in effect on the day the notice of proposed action was sent to
5 the insured until a final determination is made, subject to the payment of any
6 authorized premium due or becoming due before the determination.

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

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

12 (i) shall determine whether the protest by the insured has merit;
13 and

14 (ii) either shall dismiss the protest or disallow the proposed action
15 of the insurer.

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

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

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

24 (i) hold a hearing within a reasonable time after the request for a
25 hearing; and

26 (ii) give written notice of the time and place of the hearing at least
27 10 days before the hearing.

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

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

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

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

- 1 (i) dismiss the protest; and
- 2 (ii) allow the proposed action to be taken on the later of:
- 3 1. its proposed effective date; and
- 4 2. 30 days after the date of the determination.
- 5 (3) If the Commissioner finds the proposed action to be unjustified, the
6 Commissioner:
- 7 (i) shall disallow the action; and
- 8 (ii) may order the insurer to pay reasonable attorney fees incurred
9 by the insured for representation at the hearing as the Commissioner considers
10 appropriate.
- 11 [(g)] (H) The Commissioner may delegate the powers and duties of the
12 Commissioner under this section to one or more employees or hearing examiners.
- 13 [(h)] (I) A party to a proceeding under this section may appeal the decision of
14 the Commissioner in accordance with § 2-215 of this article.
- 15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
16 July 1, 2000.