

HOUSE BILL 413

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2000 Regular Session
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By: **Chairman, Economic Matters Committee (Departmental - Insurance Administration, Maryland)**

Introduced and read first time: February 3, 2000

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 14, 2000

CHAPTER _____

1 AN ACT concerning

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

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

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

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

14 **Article - Insurance**

15 27-601.

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

17 (1) life insurance;

18 (2) health insurance;

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

3 (4) surety insurance.

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

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

12 (i) be in writing;

13 (ii) contain the current address and telephone number of the offices
14 of the appropriate plan; and

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

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

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

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

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

31 27-605.

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

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

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

4 (iii) reduce coverage under the policy.

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

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

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

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

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

17 2. provides that each insured affected by the plan of
18 withdrawal shall be sent by certificate of mailing at least 45 days before the
19 nonrenewal of the policy a written notice that states the date that the policy will be
20 nonrenewed and that the nonrenewal is the result of the withdrawal of the insurer
21 from the market.

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

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

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

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

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

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

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

34 2. for a reduction in coverage, the type of coverage reduced
35 and the extent of the reduction;

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

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

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

6 1. the name of the individual or individuals to be excluded
7 from coverage; and

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

10 (v) the right of the insured to replace the insurance through the
11 Maryland Automobile Insurance Fund and the current address and telephone number
12 of the Fund;

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

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

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

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

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

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

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

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

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

10 [(2)] (3) On receipt of a protest, the Commissioner shall notify the
11 insurer of the filing of the protest.

12 [(3)] (4) A protest filed with the Commissioner stays the proposed action
13 of the insurer pending a final determination by the Commissioner.

14 [(4)] (5) (i) The insurer shall maintain in effect the same coverage
15 and premium that were in effect on the day the notice of proposed action was sent to
16 the insured until a final determination is made, subject to the payment of any
17 authorized premium due or becoming due before the determination.

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

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

23 (i) shall determine whether the protest by the insured has merit;
24 and

25 (ii) either shall dismiss the protest or disallow the proposed action
26 of the insurer.

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

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

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

35 (i) hold a hearing within a reasonable time after the request for a
36 hearing; and

1 (ii) give written notice of the time and place of the hearing at least
2 10 days before the hearing.

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

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

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

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

12 (i) dismiss the protest; and

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

14 1. its proposed effective date; and

15 2. 30 days after the date of the determination.

16 (3) If the Commissioner finds the proposed action to be unjustified, the
17 Commissioner:

18 (i) shall disallow the action; and

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

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

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

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 July 1, 2000.