

SENATE BILL 173

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

Introduced and read first time: January 24, 2000

Assigned to: Finance

Committee Report: Favorable with amendments

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CHAPTER _____

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

1 (4) surety insurance.

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

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

10 (i) be in writing;

11 (ii) contain the current address and telephone number of the offices
12 of the appropriate plan; and

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

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

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

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

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

29 27-605.

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

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

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

1 (iii) reduce coverage under the policy.

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

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

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

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

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

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

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

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

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

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

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

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

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

31 2. for a reduction in coverage, the type of coverage reduced
32 and the extent of the reduction;

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

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

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

3 1. the name of the individual or individuals to be excluded
4 from coverage; and

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

7 (v) the right of the insured to replace the insurance through the
8 Maryland Automobile Insurance Fund and the current address and telephone number
9 of the Fund;

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

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

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

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

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

30 (C) AT LEAST 10 DAYS BEFORE THE DATE AN INSURER PROPOSES TO CANCEL
31 A POLICY FOR NONPAYMENT OF PREMIUM, THE INSURER SHALL CAUSE TO BE SENT
32 TO THE INSURED, BY ~~CERTIFIED MAIL~~ CERTIFICATE OF MAILING, A WRITTEN NOTICE
33 OF INTENTION TO CANCEL FOR NONPAYMENT OF PREMIUM.

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

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

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

4 [(2)] (3) On receipt of a protest, the Commissioner shall notify the
5 insurer of the filing of the protest.

6 [(3)] (4) A protest filed with the Commissioner stays the proposed action
7 of the insurer pending a final determination by the Commissioner.

8 [(4)] (5) (i) The insurer shall maintain in effect the same coverage
9 and premium that were in effect on the day the notice of proposed action was sent to
10 the insured until a final determination is made, subject to the payment of any
11 authorized premium due or becoming due before the determination.

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

15 [(e) (F) (1) Based on the information contained in the notice, the
16 Commissioner:

17 (i) shall determine whether the protest by the insured has merit;
18 and

19 (ii) either shall dismiss the protest or disallow the proposed action
20 of the insurer.

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

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

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

29 (i) hold a hearing within a reasonable time after the request for a
30 hearing; and

31 (ii) give written notice of the time and place of the hearing at least
32 10 days before the hearing.

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

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

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

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

8 (i) dismiss the protest; and

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

10 1. its proposed effective date; and

11 2. 30 days after the date of the determination.

12 (3) If the Commissioner finds the proposed action to be unjustified, the
13 Commissioner:

14 (i) shall disallow the action; and

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

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

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

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