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By: **Senator Astle**  
Introduced and read first time: February 6, 2004  
Assigned to: Finance

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Committee Report: Favorable with amendments  
Senate action: Adopted  
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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Motor Vehicle Liability Insurance - Hearings on Proposed Actions by**  
3 **Insurers - Attorney Fees**

4 FOR the purpose of altering certain information an insurer must include in a certain  
5 notice to an insured under a policy of motor vehicle liability insurance; clarifying  
6 the circumstances under which the Insurance Commissioner, after a certain  
7 hearing, may disallow a certain proposed action of an insurer under a policy of  
8 motor vehicle liability insurance and order the insurer to pay reasonable  
9 attorney fees incurred by the insured for representation at the hearing; and  
10 generally relating to the awarding of attorney fees after hearings on proposed  
11 actions of insurers with respect to motor vehicle liability insurance.

12 BY repealing and reenacting, with amendments,  
13 Article - Insurance  
14 Section 27-605(c)(3) and (h)  
15 Annotated Code of Maryland  
16 (2002 Replacement Volume and 2003 Supplement)

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

19 **Article - Insurance**

20 27-605.

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

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

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

3 2. for a reduction in coverage, the type of coverage reduced  
4 and the extent of the reduction;

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

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

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

10 1. the name of the individual or individuals to be excluded  
11 from coverage; and

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

14 (v) the right of the insured to replace the insurance through the  
15 Maryland Automobile Insurance Fund and the current address and telephone number  
16 of the Fund;

17 (vi) the right of the insured to protest the proposed action of the  
18 insurer and, except in the case of a premium increase of 15% or less for the entire  
19 policy, request a hearing before the Commissioner on the proposed action by signing  
20 two copies of the notice and sending them to the Commissioner within 30 days after  
21 the mailing date of the notice;

22 (vii) except for a premium increase of 15% or less for the entire  
23 policy, that if a protest is filed by the insured, the insurer must maintain the current  
24 insurance in effect until a final determination is made by the Commissioner, subject  
25 to the payment of any authorized premium due or becoming due before the  
26 determination;

27 (viii) ~~the authority of the Commissioner to award reasonable~~  
28 ~~attorney fees to the insured for representation at a hearing if:~~

29 1. ~~the Commissioner finds the proposed action of the insurer~~  
30 ~~to be unjustified; AND~~

31 2. ~~THE COMMISSIONER MAKES A SEPARATE FINDING THAT~~  
32 ~~ATTORNEY FEES ARE APPROPRIATE, REASONABLE, AND NECESSARY IF THE~~  
33 ~~COMMISSIONER FINDS THE PROPOSED ACTION OF THE INSURER TO BE~~  
34 ~~UNJUSTIFIED, THAT THE COMMISSIONER MAY, IN THE COMMISSIONER'S SOLE~~  
35 ~~DISCRETION, ORDER THE INSURER TO PAY REASONABLE ATTORNEY FEES INCURRED~~  
36 ~~BY THE INSURED FOR REPRESENTATION AT THE HEARING IF THE COMMISSIONER~~  
37 ~~CONSIDERS SUCH FEES APPROPRIATE; and~~

1 (ix) if the proposed action is based wholly or partly on a credit score  
2 or information from a credit report:

3 1. the name, address, and telephone number of the consumer  
4 reporting agency that furnished the credit report to the insurer, including the  
5 toll-free telephone number established by the agency if the agency compiles and  
6 maintains files on consumers on a nationwide basis;

7 2. that the consumer reporting agency did not make the  
8 decision to take the proposed action and is unable to provide the insured the specific  
9 reasons why the action is proposed to be taken;

10 3. that the insured may obtain, under § 1681 of the federal  
11 Fair Credit Reporting Act, a free copy of the credit report of the insured from the  
12 consumer reporting agency within 60 days after receipt of the notice; and

13 4. that the insured may dispute, under § 1681I of the federal  
14 Fair Credit Reporting Act, with the consumer reporting agency the accuracy or  
15 completeness of any information in the credit report furnished by the agency.

16 (h) (1) The Commissioner shall issue an order within 30 days after the  
17 conclusion of the hearing.

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

20 (i) dismiss the protest; and

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

22 1. its proposed effective date; and

23 2. 30 days after the date of the determination.

24 (3) If the Commissioner finds the proposed action to be unjustified, the  
25 Commissioner:

26 (i) shall disallow the action; and

27 (ii) may, IN THE COMMISSIONER'S SOLE DISCRETION, order the  
28 insurer to pay reasonable attorney fees incurred by the insured for representation at  
29 the hearing ~~as IF the Commissioner considers SUCH FEES appropriate~~ ~~IF THE~~  
30 ~~COMMISSIONER MAKES A SEPARATE FINDING THAT ATTORNEY FEES ARE~~  
31 ~~APPROPRIATE, REASONABLE, AND NECESSARY.~~

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
33 October 1, 2004.

