

SENATE BILL 805

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C4

2004 Regular Session  
4r2850  
CF 4r2765

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By: **Senator Klausmeier, Middleton, and Stone**  
Introduced and read first time: February 16, 2004  
Assigned to: Rules

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A BILL ENTITLED

1 AN ACT concerning

2 **Homeowner's Insurance Premiums - Escrow - Substantial Property Damage**

3 FOR the purpose of authorizing a consumer to request the Insurance Commissioner  
4 to review the amount of a certain premium that the consumer has paid or will  
5 pay for certain residential real property under a homeowner's insurance policy;  
6 requiring the Commissioner, based on the condition of the property to determine  
7 if the premium may need to be decreased to reflect the loss of value of the  
8 property; requiring the Commissioner, in making a certain determination, to  
9 consider whether certain claims have been denied or approved for an amount  
10 that is less than the amount needed to return the property to the condition it  
11 was in prior to the event; requiring the Commissioner, if certain claims have not  
12 been resolved within a certain period, to order certain insurers to transfer to an  
13 escrow account the portion of premium applicable to the loss of value of the  
14 property; requiring certain escrow accounts to be separate and apart from  
15 certain regular funds; requiring certain insurers to notify the Commissioner  
16 when a certain claim has been resolved; requiring the Commissioner to make a  
17 certain determination; requiring the Commissioner to provide a certain  
18 notification; requiring the Commissioner to adopt certain regulations; defining a  
19 certain term; providing that the Act may not be construed to impair or effect the  
20 obligation of any insurance contract; and generally relating to substantial  
21 property damage and homeowner's insurance premiums.

22 BY adding to  
23 Article - Insurance  
24 Section 27-304.2  
25 Annotated Code of Maryland  
26 (2002 Replacement Volume and 2003 Supplement)

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

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**Article - Insurance**

2 27-304.2.

3 (A) IN THIS SECTION, "SUBSTANTIAL PROPERTY DAMAGE" MEANS A  
4 CONDITION OF A RESIDENTIAL REAL PROPERTY WHICH:

5 (1) CONSTITUTES A FIRE HAZARD OR A SERIOUS AND SUBSTANTIAL  
6 THREAT TO THE LIFE, HEALTH, OR SAFETY OF OCCUPANTS;

7 (2) REDUCES THE ASSESSED VALUE OF THE PROPERTY BY 50%; AND

8 (3) PREVENTS OCCUPANTS FROM LIVING IN THE PROPERTY.

9 (B) THIS SECTION APPLIES TO RESIDENTIAL REAL PROPERTY THAT:

10 (1) IS INSURED UNDER A HOMEOWNER'S INSURANCE POLICY THAT, IN  
11 ACCORDANCE WITH TITLE 12, SUBTITLE 10 OF THE COMMERCIAL LAW ARTICLE, A  
12 CREDIT GRANTOR REQUIRES A CONSUMER BORROWER TO SECURE AS A CONDITION  
13 OF A LOAN AGREEMENT; AND

14 (2) HAS SUBSTANTIAL PROPERTY DAMAGE DUE TO AN EVENT FOR  
15 WHICH THE GOVERNOR DECLARED A STATE OF EMERGENCY UNDER § 3-401 OF THE  
16 STATE GOVERNMENT ARTICLE AND WHICH INVOLVED DIRECT FLOOD AND  
17 FLOOD-RELATED DAMAGES.

18 (C) A CONSUMER MAY REQUEST THE COMMISSIONER IN WRITING TO REVIEW  
19 THE AMOUNT OF PREMIUM THAT THE CONSUMER HAS PAID OR WILL PAY FOR  
20 RESIDENTIAL REAL PROPERTY UNDER A HOMEOWNER'S INSURANCE POLICY AS  
21 REQUIRED AS A CONDITION OF THE LOAN AGREEMENT FOR THE PROPERTY AND  
22 WHICH IS APPLICABLE FROM THE DATE OF AN EVENT THAT CAUSED SUBSTANTIAL  
23 PROPERTY DAMAGE ON THE PROPERTY.

24 (D) BASED ON THE CONDITION OF THE PROPERTY, THE COMMISSIONER  
25 SHALL DETERMINE IF THE PREMIUM THE CONSUMER HAS PAID OR WILL PAY UNDER  
26 A HOMEOWNER'S INSURANCE POLICY MAY NEED TO BE DECREASED TO REFLECT  
27 THE LOSS OF VALUE OF THE PROPERTY.

28 (E) (1) IN DETERMINING WHETHER THE PREMIUM THE CONSUMER HAS  
29 PAID OR WILL PAY UNDER A HOMEOWNER'S INSURANCE POLICY NEEDS TO BE  
30 DECREASED, THE COMMISSIONER SHALL CONSIDER WHETHER ANY CLAIM FOR  
31 SUBSTANTIAL PROPERTY DAMAGE FILED UNDER A HOMEOWNER'S INSURANCE  
32 POLICY OR THE NATIONAL FLOOD INSURANCE PROGRAM HAS BEEN:

33 (I) DENIED; OR

34 (II) APPROVED FOR AN AMOUNT THAT IS LESS THAN THE AMOUNT  
35 NEEDED TO RETURN THE PROPERTY TO THE CONDITION IT WAS IN PRIOR TO THE  
36 EVENT.

1           (2)     IF ANY CLAIM FOR SUBSTANTIAL PROPERTY DAMAGE FILED UNDER  
2 A HOMEOWNER'S INSURANCE POLICY OR THE NATIONAL FLOOD INSURANCE  
3 PROGRAM HAS NOT BEEN RESOLVED WITHIN 45 DAYS OF THE FILING OF THE CLAIM,  
4 THE COMMISSIONER SHALL ORDER THE INSURER THAT ISSUES OR DELIVERS THE  
5 HOMEOWNER'S INSURANCE POLICY TO TRANSFER TO AN ESCROW ACCOUNT THE  
6 PORTION OF PREMIUM APPLICABLE TO THE LOSS OF VALUE OF THE PROPERTY.

7     (F)     AN ESCROW ACCOUNT THAT HAS HOMEOWNER'S INSURANCE PREMIUMS  
8 SHALL BE SEPARATE AND APART FROM THE REGULAR FUNDS OF THE INSURER.

9     (G)     (1)     THE INSURER SHALL NOTIFY THE COMMISSIONER WHEN ANY CLAIM  
10 UNDER SUBSECTION (E)(2) OF THIS SECTION HAS BEEN RESOLVED.

11           (2)     IN ACCORDANCE WITH SUBSECTION (E), THE COMMISSIONER SHALL  
12 DETERMINE WHETHER THE PREMIUM THE CONSUMER HAS PAID OR WILL PAY  
13 UNDER A HOMEOWNER'S INSURANCE POLICY NEEDS TO BE DECREASED TO REFLECT  
14 THE LOSS OF VALUE OF THE PROPERTY.

15     (H)     (1)     WITHIN 10 DAYS OF THE COMMISSIONER'S DETERMINATION UNDER  
16 SUBSECTIONS (D) AND (G) OF THIS SECTION, THE COMMISSIONER SHALL NOTIFY THE  
17 INSURER WHETHER THE INSURER IS REQUIRED TO DECREASE THE PREMIUM TO  
18 REFLECT THE LOSS OF VALUE OF THE PROPERTY.

19           (2)     THE NOTIFICATION SHALL INFORM THE INSURER THAT THE  
20 INSURER MAY TRANSFER PREMIUM FROM THE ESCROW ACCOUNT TO THE INSURER'S  
21 ACCOUNT.

22     (I)     THE COMMISSIONER SHALL ADOPT REGULATIONS TO CARRY OUT THIS  
23 SUBTITLE.

24     SECTION 2. AND BE IT FURTHER ENACTED, That nothing in this Act may  
25 be construed to impair or effect the obligation of any insurance contract.

26     SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
27 October 1, 2004.