

(PRE-FILED)

By: ~~Delegate Trueschler~~ Delegates Trueschler, Minnick, Burns, D. Davis,
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Parrott, Vaughn, and Walkup

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Assigned to: Economic Matters

Committee Report: Favorable with amendments
House action: Adopted
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CHAPTER _____

1 AN ACT concerning

2 **Homeowner's Insurance - Offer and Summary of Coverage**

3 FOR the purpose of requiring certain insurers to provide certain policyholders with
4 certain annual written statements that summarize certain coverages and
5 exclusions; requiring the statement to be ~~sufficiently clear so that an individual~~
6 ~~of average intelligence can identify the coverages and exclusions~~ clear and
7 specific; describing the information that must be included in the statement;
8 ~~providing that the statement does not create a legal obligation on the part of an~~
9 ~~insurer is not part of the policy or contract of insurance~~; requiring certain
10 ~~insurers or insurance producers to provide certain applicants with a certain~~
11 ~~notice regarding flood insurance; requiring the notice to be in a certain form;~~
12 ~~requiring the notice to include certain information; requiring certain insurers or~~
13 ~~insurance producers to furnish certain applicants with certain contact~~
14 ~~information; providing that the notice does not create a private right of action;~~
15 ~~requiring certain insurers or insurance producers to deliver certain information~~
16 ~~provide a certain written statement to certain applicants; requiring certain~~
17 ~~insurance producers to provide certain itemized statements of certain coverages~~
18 ~~available from an insurer under certain circumstances at a certain time;~~
19 ~~requiring certain insurers or insurance producers to obtain a certain signature~~
20 ~~on the statement; providing that if a certain application is made by telephone or~~
21 ~~using the Internet, an insurer or insurance producer shall be in compliance with~~
22 ~~certain provisions of law if, within a certain period of time, the insurer or~~
23 ~~insurance producer mails a certain statement to an applicant or insured;~~
24 ~~providing that if an applicant or insured does not return a signed statement~~
25 ~~within a certain period of time there is a conclusive presumption that an insurer~~

1 or insurance producer has complied with certain provisions of law; providing
 2 that an insurer or insurance producer has the burden of demonstrating, in
 3 accordance with the Maryland Rules of Evidence or as otherwise provided by
 4 law, that the statement was mailed to an applicant or insured; requiring certain
 5 disclosures and information to be included in the statement; requiring certain
 6 insurance producers to deliver the statement under certain circumstances;
 7 providing for the application of this Act; defining certain terms; providing for a
 8 delayed effective date; and generally relating to homeowner's insurance.

9 BY renumbering

10 Article - Insurance
 11 Section 19-201 through 19-203, respectively
 12 to be Section 19-202 through 19-204, respectively
 13 Annotated Code of Maryland
 14 (2002 Replacement Volume and 2004 Supplement)

15 BY adding to

16 Article - Insurance
 17 ~~Section 19-204 through 19-206~~ 19-201 and 19-205 through 19-207, inclusive
 18 Annotated Code of Maryland
 19 (2002 Replacement Volume and 2004 Supplement)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 21 MARYLAND, That Section(s) 19-201 through 19-203, respectively, of Article -
 22 Insurance of the Annotated Code of Maryland be renumbered to be Section(s) 19-202
 23 through 19-204, respectively.

24 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
 25 read as follows:

26 **Article - Insurance**

27 19-201.

28 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
 29 INDICATED.

30 (B) "ADDITIONAL OPTIONAL COVERAGE" MEANS A COVERAGE OR SERVICE
 31 THAT COVERS THE STRUCTURES, CONTENTS, PROPERTY, OR ACTIVITIES ON
 32 PROPERTY THAT IS AVAILABLE FOR PURCHASE IN CONNECTION WITH A STANDARD
 33 HOMEOWNER'S INSURANCE POLICY.

34 (C) "INSURER" MEANS AN INSURER THAT ISSUES OR DELIVERS A POLICY OF
 35 HOMEOWNER'S INSURANCE IN THE STATE.

1 ~~49-204. 19-205.~~

2 ~~(A) IN THIS SECTION, "INSURER" MEANS AN INSURER THAT ISSUES OR~~
3 ~~DELIVERS A POLICY OF HOMEOWNER'S INSURANCE IN THE STATE.~~

4 ~~(B)~~ (A) (1) AN INSURER SHALL PROVIDE A POLICYHOLDER WITH AN
5 ANNUAL STATEMENT THAT SUMMARIZES THE COVERAGES AND EXCLUSIONS UNDER
6 THE POLICY.

7 (2) THE INSURER'S STATEMENT ~~MUST SHALL~~ BE SUFFICIENTLY CLEAR
8 ~~SO THAT AN INDIVIDUAL OF AVERAGE INTELLIGENCE CAN IDENTIFY THE~~
9 ~~COVERAGES AND EXCLUSIONS UNDER THE POLICY~~ CLEAR AND SPECIFIC.

10 (3) THE INSURER'S STATEMENT SHALL STATE ~~WHETHER THE~~
11 ~~COVERAGES UNDER THE POLICY PROVIDE FOR REPLACEMENT VALUE OR ACTUAL~~
12 ~~CASH VALUE OR OTHER METHOD OF LOSS PAYMENT FOR COVERED STRUCTURES~~
13 AND CONTENTS.

14 (4) THE INSURER'S STATEMENT SHALL INCLUDE A DISCLOSURE THAT
15 STATES:

16 (I) THE POLICYHOLDER SHOULD READ THE POLICY FOR
17 COMPLETE INFORMATION ON COVERAGES AND EXCLUSIONS;

18 (II) THE POLICYHOLDER SHOULD REFER TO THE DECLARATIONS
19 PAGE FOR A SUMMARY LISTING OF COVERAGES PURCHASED;

20 (III) THE POLICYHOLDER SHOULD COMMUNICATE WITH THE
21 INSURANCE PRODUCER OR THE INSURER FOR ANY ADDITIONAL INFORMATION
22 REGARDING THE SCOPE OF COVERAGES IN THE POLICY;

23 (IV) THE STATEMENT DOES NOT INCLUDE ~~ADD-ON COVERAGES~~
24 ADDITIONAL OPTIONAL COVERAGE PURCHASED BY THE POLICYHOLDER, IF ANY;
25 ~~AND~~

26 (V) THE STATEMENT IS NOT PART OF THE POLICY OR CONTRACT
27 OF INSURANCE AND DOES NOT CREATE ANY LEGAL OBLIGATION ON THE PART OF
28 ~~THE INSURER~~ A PRIVATE RIGHT OF ACTION; AND

29 (VI) ALL RIGHTS, DUTIES, AND OBLIGATIONS ARE CONTROLLED BY
30 THE POLICY AND CONTRACT OF INSURANCE.

31 ~~(C)~~ (B) THE STATEMENT UNDER SUBSECTION ~~(B)~~ (A) OF THIS SECTION ~~DOES~~
32 ~~NOT CREATE ANY LEGAL OBLIGATION ON THE PART OF AN INSURER~~ IS NOT PART OF
33 THE POLICY OR CONTRACT OF INSURANCE.

34 ~~49-205. 19-206.~~

35 (A) AN INSURER OR AN INSURANCE PRODUCER THAT SELLS OR NEGOTIATES
36 HOMEOWNER'S INSURANCE IN THE STATE SHALL PROVIDE ~~THE~~ AN APPLICANT, AT

1 THE TIME A POLICY OF HOMEOWNER'S INSURANCE IS INITIALLY PURCHASED, WITH
2 A WRITTEN NOTICE THAT STATES THAT A STANDARD HOMEOWNER'S INSURANCE
3 POLICY DOES NOT COVER LOSSES FROM FLOOD.

4 (B) THE NOTICE SHALL STATE THAT FLOOD INSURANCE IS AVAILABLE
5 THROUGH THE NATIONAL FLOOD INSURANCE PROGRAM.

6 (C) (1) IF THE INSURER OR INSURANCE PRODUCER FROM WHOM AN
7 APPLICANT PROCURES HOMEOWNER'S INSURANCE SELLS FLOOD INSURANCE, THE
8 INSURER OR INSURANCE PRODUCER SHALL OFFER TO SELL FLOOD INSURANCE TO
9 THE APPLICANT.

10 (2) AN OFFER TO SELL FLOOD INSURANCE SHALL:

11 (I) BE IN WRITING;

12 (II) STATE THAT THE COST OF FLOOD INSURANCE IS NOT PART OF
13 THE PREMIUM FOR THE STANDARD HOMEOWNER'S INSURANCE POLICY; ~~AND~~

14 (III) STATE THE TYPE AND COST OF FLOOD INSURANCE COVERAGE
15 TO BE SOLD, INCLUDING COVERAGE FOR:

16 1. ~~STRUCTURE~~ STRUCTURES; AND

17 2. CONTENTS; ~~AND~~

18 (IV) ADVISE THE APPLICANT TO CONFIRM THE NEED FOR FLOOD
19 INSURANCE WITH THE NATIONAL FLOOD INSURANCE PROGRAM OR THE
20 APPLICANT'S MORTGAGE LENDER.

21 (D) (1) AN INSURER OR INSURANCE PRODUCER SHALL DELIVER TO THE
22 APPLICANT THE OFFER TO SELL FLOOD INSURANCE.

23 (2) THE OFFER TO SELL FLOOD INSURANCE SHALL INCLUDE A SPACE TO
24 INDICATE THE APPLICANT'S ACCEPTANCE OR REJECTION OF FLOOD INSURANCE.

25 (E) IF THE INSURER OR INSURANCE PRODUCER FROM WHOM THE APPLICANT
26 PROCURES HOMEOWNER'S INSURANCE DOES NOT SELL FLOOD INSURANCE, THE
27 INSURER OR INSURANCE PRODUCER SHALL FURNISH THE APPLICANT WITH THE
28 CONTACT INFORMATION FOR THE NATIONAL FLOOD INSURANCE PROGRAM.

29 (F) A NOTICE PROVIDED UNDER THIS SECTION DOES NOT CREATE A PRIVATE
30 RIGHT OF ACTION.

31 ~~19-206.~~ 19-207.

32 (A) ~~IN THIS SECTION, "ADD-ON COVERAGE" MEANS COVERAGES OR SERVICES~~
33 ~~SOLD IN CONNECTION WITH A STANDARD HOMEOWNER'S INSURANCE POLICY FOR~~
34 ~~ADDITIONAL COVERAGES OFFERED BY AN INSURER.~~

1 ~~(B) AT THE TIME AN INSURANCE PRODUCER INITIALLY SELLS OR~~
2 ~~NEGOTIATES HOMEOWNER'S INSURANCE IN THE STATE, THE INSURANCE PRODUCER~~

3 ~~(A) (1) AN INSURER OR AN INSURANCE PRODUCER THAT SELLS OR~~
4 ~~NEGOTIATES HOMEOWNER'S INSURANCE IN THE STATE SHALL PROVIDE AN~~
5 ~~APPLICANT, AT THE TIME OF APPLICATION FOR HOMEOWNER'S INSURANCE, SHALL~~
6 ~~PROVIDE AN APPLICANT WITH AN ITEMIZED WITH A WRITTEN STATEMENT THAT~~
7 ~~LISTS ALL ADD-ON ADDITIONAL OPTIONAL COVERAGE AVAILABLE FROM THE~~
8 ~~INSURER TO THE APPLICANT.~~

9 ~~(2) THE INSURER OR INSURANCE PRODUCER SHALL OBTAIN THE~~
10 ~~APPLICANT'S SIGNATURE ON THE STATEMENT.~~

11 ~~(C) THE STATEMENT SHALL:~~

12 ~~(1) BE IN WRITING;~~

13 ~~(2) STATE THAT THE COST OF ADD-ON COVERAGE IS NOT PART OF THE~~
14 ~~PREMIUM FOR THE STANDARD HOMEOWNER'S INSURANCE POLICY;~~

15 ~~(3) STATE THE TYPE AND COST OF EACH ADD-ON COVERAGE~~
16 ~~AVAILABLE; AND~~

17 ~~(4) STATE THAT ADD-ON COVERAGE IS OPTIONAL.~~

18 ~~(D) (1) AN INSURANCE PRODUCER SHALL DELIVER TO THE APPLICANT THE~~
19 ~~ITEMIZED STATEMENT THAT LISTS ALL ADD-ON COVERAGE AVAILABLE FROM THE~~
20 ~~INSURER.~~

21 ~~(2) THE STATEMENT SHALL INCLUDE A SPACE TO INDICATE THE~~
22 ~~APPLICANT'S ACCEPTANCE OR REJECTION OF THE ADD-ON COVERAGE.~~

23 ~~(3) (I) IF AN APPLICATION IS MADE BY TELEPHONE OR USING THE~~
24 ~~INTERNET, THE INSURER OR INSURANCE PRODUCER IS DEEMED TO BE IN~~
25 ~~COMPLIANCE WITH THIS SECTION IF, WITHIN 3 BUSINESS DAYS AFTER THE DATE OF~~
26 ~~APPLICATION, THE INSURER OR INSURANCE PRODUCER MAILES THE STATEMENT TO~~
27 ~~THE APPLICANT OR INSURED AND REQUESTS THE APPLICANT OR INSURED TO SIGN~~
28 ~~THE STATEMENT.~~

29 ~~(II) IF THE APPLICANT OR INSURED DOES NOT RETURN A SIGNED~~
30 ~~STATEMENT WITHIN 60 DAYS AFTER THE DATE THE STATEMENT WAS MAILED,~~
31 ~~THERE IS A CONCLUSIVE PRESUMPTION THAT THE INSURER OR INSURANCE~~
32 ~~PRODUCER HAS COMPLIED WITH THE REQUIREMENTS OF THIS SECTION.~~

33 ~~(III) THE INSURER OR INSURANCE PRODUCER SHALL HAVE THE~~
34 ~~BURDEN OF DEMONSTRATING, IN ACCORDANCE WITH THE MARYLAND RULES OF~~
35 ~~EVIDENCE, OR AS OTHERWISE REQUIRED BY LAW, THAT THE STATEMENT WAS~~
36 ~~MAILED TO THE APPLICANT OR INSURED.~~

37 ~~(B) THE STATEMENT SHALL:~~

1 (1) BE ON A SEPARATE FORM;

2 (2) BE TITLED, IN AT LEAST 12 POINT TYPE, "ADDITIONAL OPTIONAL
3 COVERAGE NOT INCLUDED IN THE STANDARD HOMEOWNER'S INSURANCE POLICY";

4 (3) CONTAIN THE FOLLOWING DISCLOSURE IN AT LEAST 10 POINT TYPE:

5 "YOUR STANDARD HOMEOWNER'S INSURANCE POLICY DOES NOT COVER ALL
6 RISKS. YOU MAY NEED TO OBTAIN ADDITIONAL INSURANCE TO COVER LOSS OR
7 DAMAGE TO YOUR HOME, PROPERTY, AND THE CONTENTS OF YOUR HOME OR TO
8 COVER RISKS RELATED TO BUSINESS OR PERSONAL ACTIVITIES ON YOUR PROPERTY.

9 THIS STATEMENT PROVIDES A LIST OF THE TYPES OF ADDITIONAL INSURANCE
10 COVERAGE THAT ARE AVAILABLE. CONTACT YOUR INSURANCE COMPANY,
11 INSURANCE PRODUCER, OR INSURANCE AGENT TO DISCUSS THESE ADDITIONAL
12 COVERAGES.";

13 (4) CONTAIN A LIST OF ADDITIONAL OPTIONAL COVERAGE; AND

14 (5) CONTAIN THE FOLLOWING DISCLOSURE ABOVE THE LINE
15 DESIGNATED FOR THE APPLICANT'S SIGNATURE:

16 "I UNDERSTAND THAT THE TYPES OF ADDITIONAL INSURANCE COVERAGE
17 LISTED IN THIS STATEMENT ARE NOT INCLUDED IN THE STANDARD HOMEOWNER'S
18 INSURANCE POLICY. I UNDERSTAND THAT I MUST CONTACT MY INSURANCE
19 COMPANY, INSURANCE PRODUCER, OR INSURANCE AGENT IF I WANT TO DISCUSS OR
20 PURCHASE ADDITIONAL INSURANCE. I ALSO UNDERSTAND THAT THIS STATEMENT
21 OF ADDITIONAL COVERAGES, OR ANY DEFICIENCY IN IT, CANNOT BE USED BY ME OR
22 ANY OTHER PERSON TO BRING A PRIVATE LAWSUIT AGAINST THE INSURANCE
23 COMPANY, ITS INSURANCE PRODUCERS, OR ITS AGENTS."

24 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall apply to
25 all personal lines homeowner's insurance policies and contracts issued, delivered, or
26 renewed on or after January 1, 2006.

27 SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take
28 effect January 1, 2006.