
By: **Delegate Moe**
Introduced and read first time: January 26, 2005
Assigned to: Economic Matters

A BILL ENTITLED

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 under a policy of motor
5 vehicle liability insurance must include in a certain notice to the insured;
6 clarifying the circumstances under which the Maryland Insurance
7 Commissioner, after a certain hearing, may order an insurer under a policy of
8 motor vehicle liability insurance to pay reasonable attorney fees incurred by the
9 insured for representation at the hearing; and generally relating to the
10 awarding of attorney fees after hearings on proposed actions of insurers with
11 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 2004 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:

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

25 2. for a reduction in coverage, the type of coverage reduced
26 and the extent of the reduction;

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

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

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

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

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

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

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

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

22 (viii) [the authority of the Commissioner to award reasonable
23 attorney fees to the insured for representation at a hearing if the Commissioner finds
24 the proposed action of the insurer to be unjustified] IF THE COMMISSIONER FINDS
25 THE PROPOSED ACTION OF THE INSURER TO BE UNJUSTIFIED, THAT THE
26 COMMISSIONER, IN THE COMMISSIONER'S SOLE DISCRETION, MAY ORDER THE
27 INSURER TO PAY REASONABLE ATTORNEY FEES INCURRED BY THE INSURED FOR
28 REPRESENTATION AT THE HEARING IF THE COMMISSIONER CONSIDERS THE FEES
29 APPROPRIATE; and

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

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

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

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

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

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

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

11 (i) dismiss the protest; and

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

13 1. its proposed effective date; and

14 2. 30 days after the date of the determination.

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

17 (i) shall disallow the action; and

18 (ii) IN THE COMMISSIONER'S SOLE DISCRETION, may order the
19 insurer to pay reasonable attorney fees incurred by the insured for representation at
20 the hearing [as] IF the Commissioner considers THE FEES appropriate.

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
22 October 1, 2005.