

ENROLLED BILL
-- Finance/Economic Matters --

Introduced by **Senator Astle**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

President.

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 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~~ shall order an insurer under a policy
8 of motor vehicle liability insurance to pay reasonable attorney fees incurred by
9 the 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)

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

3 **Article - Insurance**

4 27-605.

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

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

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

9 2. for a reduction in coverage, the type of coverage reduced
10 and the extent of the reduction;

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

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

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

16 1. the name of the individual or individuals to be excluded
17 from coverage; and

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

20 (v) the right of the insured to replace the insurance through the
21 Maryland Automobile Insurance Fund and the current address and telephone number
22 of the Fund;

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

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

33 (viii) [the authority of the Commissioner to award reasonable
34 attorney fees to the insured for representation at a hearing if the Commissioner finds
35 the proposed action of the insurer to be unjustified] ~~IF THE COMMISSIONER FINDS~~

1 ~~THE PROPOSED ACTION OF THE INSURER TO BE UNJUSTIFIED UNSUPPORTED BY~~
 2 ~~THE INSURER'S UNDERWRITING STANDARDS, THAT THE COMMISSIONER, IN THE~~
 3 ~~COMMISSIONER'S SOLE DISCRETION, MAY SHALL ORDER THE INSURER TO PAY~~
 4 ~~REASONABLE ATTORNEY FEES INCURRED BY THE INSURED FOR REPRESENTATION~~
 5 ~~AT THE HEARING IF THE COMMISSIONER FINDS THAT THAT THE COMMISSIONER~~
 6 ~~SHALL ORDER THE INSURER TO PAY REASONABLE ATTORNEY FEES INCURRED BY~~
 7 ~~THE INSURED FOR REPRESENTATION AT THE HEARING IF THE COMMISSIONER~~
 8 ~~FINDS THAT:~~

9 1. THE ACTUAL REASON FOR THE PROPOSED ACTION IS NOT
 10 STATED IN THE NOTICE OR THE PROPOSED ACTION IS NOT IN ACCORDANCE WITH §
 11 27-501 OF THIS ARTICLE, THE INSURER'S FILED RATING PLAN, ITS UNDERWRITING
 12 STANDARDS, OR THE LAWFUL TERMS AND CONDITIONS OF THE POLICY RELATED TO
 13 A CANCELLATION, NONRENEWAL, PREMIUM INCREASE, OR REDUCTION IN
 14 COVERAGE; AND

15 2. THE INSURER'S CONDUCT IN MAINTAINING OR
 16 DEFENDING THE PROCEEDING WAS IN BAD FAITH OR THE INSURER ACTED
 17 WILLFULLY IN THE ABSENCE OF A BONA FIDE DISPUTE CONSIDERS THE FEES
 18 APPROPRIATE; and

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

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

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

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

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

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

36 (2) If the Commissioner finds the proposed action of the insurer to be
 37 ~~justified SUPPORTED BY THE INSURER'S UNDERWRITING STANDARDS IN~~
 38 ACCORDANCE WITH THE INSURER'S FILED RATING PLAN, ITS UNDERWRITING
 39 STANDARDS, OR THE LAWFUL TERMS AND CONDITIONS OF THE POLICY RELATED TO
 40 A CANCELLATION, NONRENEWAL, PREMIUM INCREASE, OR REDUCTION IN

1 COVERAGE, AS APPLICABLE, AND NOT IN VIOLATION OF § 27-501 OF THIS ARTICLE,

2 the Commissioner shall:

3 (i) dismiss the protest; and

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

5 1. its proposed effective date; and

6 2. 30 days after the date of the determination.

7 (3) If the Commissioner finds ~~the proposed action OF THE INSURER to be~~

8 THAT THE ACTUAL REASON FOR THE PROPOSED ACTION IS NOT STATED IN THE

9 NOTICE OR THE PROPOSED ACTION IS NOT IN ACCORDANCE WITH § 27-501 OF THIS

10 ARTICLE, THE INSURER'S FILED RATING PLAN, ITS UNDERWRITING STANDARDS, OR

11 THE LAWFUL TERMS AND CONDITIONS OF THE POLICY RELATED TO A

12 CANCELLATION, NONRENEWAL, PREMIUM INCREASE, OR REDUCTION IN COVERAGE,

13 THE unjustified UNSUPPORTED BY THE INSURER'S UNDERWRITING STANDARDS, the

14 Commissioner SHALL:

15 (i) ~~shall~~ disallow the action; and

16 (ii) ~~IN THE COMMISSIONER'S SOLE DISCRETION, may~~ order the

17 insurer to pay reasonable attorney fees incurred by the insured for representation at

18 the hearing [as] IF the Commissioner ~~considers THE FEES appropriate~~ FINDS THAT

19 THE INSURER'S CONDUCT IN MAINTAINING OR DEFENDING THE PROCEEDING WAS

20 IN BAD FAITH OR THE INSURER ACTED WILLFULLY IN THE ABSENCE OF A BONA FIDE

21 DISPUTE.

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

23 October 1, 2005.