
By: **Senator Astle**
Introduced and read first time: January 19, 2005
Assigned to: Finance

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 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)

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 the Commissioner finds
29 the proposed action of the insurer to be unjustified] IF THE COMMISSIONER FINDS
30 THE PROPOSED ACTION OF THE INSURER TO BE UNJUSTIFIED UNSUPPORTED BY
31 THE INSURER'S UNDERWRITING STANDARDS, THAT THE COMMISSIONER, IN THE
32 COMMISSIONER'S SOLE DISCRETION, MAY SHALL ORDER THE INSURER TO PAY
33 REASONABLE ATTORNEY FEES INCURRED BY THE INSURED FOR REPRESENTATION
34 AT THE HEARING IF THE COMMISSIONER FINDS THAT THE INSURER'S CONDUCT IN
35 MAINTAINING OR DEFENDING THE PROCEEDING WAS IN BAD FAITH OR THE
36 INSURER ACTED WILLFULLY IN THE ABSENCE OF A BONA FIDE DISPUTE CONSIDERS
37 THE FEES APPROPRIATE; and

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

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

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

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

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

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

16 (2) If the Commissioner finds the proposed action of the insurer to be
17 ~~justified~~ SUPPORTED BY THE INSURER'S UNDERWRITING STANDARDS, the
18 Commissioner shall:

19 (i) dismiss the protest; and

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

21 1. its proposed effective date; and

22 2. 30 days after the date of the determination.

23 (3) If the Commissioner finds the proposed action OF THE INSURER to be
24 ~~unjustified~~ UNSUPPORTED BY THE INSURER'S UNDERWRITING STANDARDS, the
25 Commissioner SHALL:

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

27 (ii) ~~IN THE COMMISSIONER'S SOLE DISCRETION, may~~ order the
28 insurer to pay reasonable attorney fees incurred by the insured for representation at
29 the hearing [as] IF the Commissioner ~~considers THE FEES appropriate~~ FINDS THAT
30 THE INSURER'S CONDUCT IN MAINTAINING OR DEFENDING THE PROCEEDING WAS
31 IN BAD FAITH OR THE INSURER ACTED WILLFULLY IN THE ABSENCE OF A BONA FIDE
32 DISPUTE.

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

