

---

By: **Chairman, Finance Committee (By Request - Departmental - Insurance  
Administration, Maryland)**

Introduced and read first time: January 20, 2005

Rules suspended

Assigned to: Finance

---

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Insurance Administration - Enforcement of Subpoenas**

3 FOR the purpose of altering the procedures for enforcing a subpoena issued by the  
4 Maryland Insurance Commissioner; authorizing the Commissioner to commence  
5 an enforcement action in a certain court; specifying the manner in which the  
6 enforcement action must be commenced; requiring the circuit court to take  
7 certain action in a certain time period; prohibiting a circuit court from taking  
8 certain actions in ruling on a petition to enforce or a motion to quash a  
9 subpoena; and generally relating to subpoenas issued by the Maryland  
10 Insurance Commissioner.

11 BY repealing and reenacting, with amendments,  
12 Article - Insurance  
13 Section 2-203(b)  
14 Annotated Code of Maryland  
15 (2003 Replacement Volume and 2004 Supplement)

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

18 **Article - Insurance**

19 2-203.

20 (b) (1) A subpoena issued under this section shall be served:

21 (i) in the same manner as a subpoena of a circuit court may be  
22 served; or

23 (ii) in the same manner as a service of process in a civil action in a  
24 circuit court may be served.

25 (2) (I) If a person fails to comply with a lawfully served subpoena, the  
26 Commissioner [immediately shall file a complaint and a copy of the subpoena and

1 proof of service with] MAY COMMENCE AN ENFORCEMENT ACTION IN THE CIRCUIT  
2 COURT FOR BALTIMORE CITY OR AT THE COMMISSIONER'S DISCRETION, IN the  
3 circuit court for the county where the person was required to appear or produce  
4 evidence.

5 (II) THE COMMISSIONER'S ENFORCEMENT ACTION SHALL BE  
6 COMMENCED BY FILING:

7 1. A PETITION TOGETHER WITH A COPY OF THE SUBPOENA;  
8 AND

9 2. PROOF THAT THE PETITION HAS BEEN SERVED ON THE  
10 SUBJECT OF THE SUBPOENA BY A METHOD AUTHORIZED BY MARYLAND RULE 2-121.

11 (3) On receipt of a [complaint and a copy of the subpoena and proof of  
12 service,] PETITION TO ENFORCE BY THE COMMISSIONER OR A MOTION TO QUASH BY  
13 THE PERSON TO WHOM A SUBPOENA HAS BEEN DIRECTED, the circuit court shall:

14 (i) WITHIN 10 DAYS AFTER RECEIPT OF THE PETITION OR MOTION,  
15 issue an order directing compliance with the subpoena or compelling testimony  
16 WITHIN 5 BUSINESS DAYS AFTER THE DATE ON WHICH THE COURT'S ORDER HAS  
17 BEEN ISSUED; and

18 (ii) impose penalties as if the person had failed to comply with a  
19 subpoena of the court.

20 (4) IN RULING ON THE COMMISSIONER'S PETITION TO ENFORCE OR A  
21 MOTION TO QUASH, THE CIRCUIT COURT MAY NOT QUASH OR OTHERWISE FAIL TO  
22 ENFORCE THE COMMISSIONER'S SUBPOENA FOR ANY REASON OTHER THAN A  
23 DETERMINATION THAT:

24 (I) THE COMMISSIONER LACKED JURISDICTION OVER THE  
25 SUBJECT MATTER OF THE EXAMINATION, INVESTIGATION, OR HEARING IN WHICH  
26 THE SUBPOENA WAS ISSUED; OR

27 (II) THE MATERIALS OR SUBJECT MATTER AS TO WHICH  
28 TESTIMONY OR PRODUCTION OF DOCUMENTS WAS REQUESTED ARE SUBJECT TO A  
29 PRIVILEGE THAT PROTECTS THEM FROM THE COMMISSIONER.

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