
By: **Delegates Trueschler and Minnick and D. Davis, Frush, Gaines, Healey, Moe, Parker, Ramirez, Trueschler, F. Turner, V. Turner, and Vaughn Vaughn, Burns, Conroy, Doory, Haddaway, Harrison, Krebs, Krysiak, Love, McHale, Parrott, and Taylor**

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Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted with floor amendments

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CHAPTER _____

1 AN ACT concerning

2 **Homeowner's Insurance - ~~Offer and~~ Summary of Coverage, Notice**
 3 **Regarding Flood Insurance, and Statement of Additional Optional Coverage**

4 FOR the purpose of requiring certain insurers to provide certain policyholders with
 5 certain annual written statements that summarize certain coverages and
 6 exclusions under a certain policy; requiring the statement to be clear and
 7 specific; describing the information that must be included in the statement;
 8 providing that the statement is not part of the policy or contract of insurance
 9 and does not create a private right of action; authorizing the Maryland
 10 Insurance Commissioner to adopt certain regulations; requiring certain insurers
 11 or insurance producers to provide certain applicants with a certain notice
 12 regarding flood insurance; providing that if a certain application is made by
 13 telephone, an insurer or insurance producer is deemed to be in compliance with
 14 certain provisions of this Act if, within a certain period of time, the insurer or
 15 insurance producer sends by certificate of mailing a certain notice regarding
 16 flood insurance to an applicant or insured; providing that if a certain application
 17 is made using the Internet, an insurer or insurance producer is deemed to be in
 18 compliance with certain provisions of this Act if the insurer or insurance
 19 producer provides a certain notice regarding flood insurance to an applicant at a
 20 certain time; requiring the notice to be in a certain form; requiring the notice to
 21 include certain information; requiring certain insurers or insurance producers to
 22 furnish certain applicants with certain contact information; providing that the
 23 notice does not create a private right of action; authorizing a certain notice
 24 required to be sent by certificate of mailing to be sent with a certain statement;
 25 requiring certain insurers or insurance producers to provide a certain written

1 statement listing all additional optional coverage available from the insurer to
 2 certain applicants at a certain time; requiring certain insurers or insurance
 3 producers to obtain a certain signature on the statement; providing that if a
 4 certain application is made by telephone ~~or using the Internet~~, an insurer or
 5 insurance producer shall is deemed to be in compliance with certain provisions
 6 of law this Act if, within a certain period of time, the insurer or insurance
 7 producer mails sends by certificate of mailing a certain statement of additional
 8 optional coverage to an applicant or insured; providing that if an applicant or
 9 insured does not return a signed statement within a certain period of time there
 10 is a conclusive presumption that an insurer or insurance producer has complied
 11 with certain provisions of law; providing that an insurer or insurance producer
 12 has the burden of demonstrating, in accordance with the Maryland Rules of
 13 Evidence or as otherwise provided by law, that the statement was mailed to an
 14 applicant or insured providing that if a certain application is made using the
 15 Internet, an insurer or insurance producer is deemed to be in compliance with
 16 certain provisions of this Act if the insurer or insurance producer provides a
 17 certain statement of additional optional coverage to an applicant at a certain
 18 time; requiring certain disclosures and information to be included in the
 19 statement; authorizing a certain statement required to be sent by certificate of
 20 mailing to be sent with a certain notice; providing for the application of this Act;
 21 defining certain terms; providing for a delayed effective date; and generally
 22 relating to homeowner's insurance.

23 BY renumbering

24 Article - Insurance
 25 Section 19-201 through 19-203, respectively
 26 to be Section 19-202 through 19-204, respectively
 27 Annotated Code of Maryland
 28 (2002 Replacement Volume and 2005 Supplement)

29 BY adding to

30 Article - Insurance
 31 Section 19-201 and 19-205 through 19-207, inclusive
 32 Annotated Code of Maryland
 33 (2002 Replacement Volume and 2005 Supplement)

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

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

1 **Article - Insurance**

2 19-201.

3 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
4 INDICATED.5 (B) "ADDITIONAL OPTIONAL COVERAGE" MEANS A COVERAGE OR SERVICE
6 THAT COVERS THE STRUCTURES, CONTENTS, PROPERTY, OR ACTIVITIES ON
7 PROPERTY THAT IS AVAILABLE FOR PURCHASE IN CONNECTION WITH A STANDARD
8 HOMEOWNER'S INSURANCE POLICY.9 (C) "INSURER" MEANS AN INSURER THAT ISSUES OR DELIVERS A POLICY OF
10 HOMEOWNER'S INSURANCE IN THE STATE.

11 19-205.

12 (A) (1) AN INSURER SHALL PROVIDE A POLICYHOLDER WITH AN ANNUAL
13 STATEMENT THAT SUMMARIZES THE COVERAGES AND EXCLUSIONS UNDER THE
14 POLICY ISSUED BY THE INSURER.

15 (2) THE INSURER'S STATEMENT SHALL BE CLEAR AND SPECIFIC.

16 (3) THE INSURER'S STATEMENT SHALL STATE WHETHER THE
17 COVERAGES UNDER THE POLICY PROVIDE FOR REPLACEMENT COST, ACTUAL CASH
18 VALUE, OR OTHER METHOD OF LOSS PAYMENT FOR COVERED STRUCTURES AND
19 CONTENTS.20 (4) THE INSURER'S STATEMENT SHALL INCLUDE A DISCLOSURE THAT
21 STATES:22 (I) THE POLICYHOLDER SHOULD READ THE POLICY FOR
23 COMPLETE INFORMATION ON COVERAGES AND EXCLUSIONS;24 (II) THE POLICYHOLDER SHOULD REFER TO THE DECLARATIONS
25 PAGE FOR A LISTING OF COVERAGES PURCHASED;26 (III) THE POLICYHOLDER SHOULD COMMUNICATE WITH THE
27 INSURANCE PRODUCER OR THE INSURER FOR ANY ADDITIONAL INFORMATION
28 REGARDING THE SCOPE OF COVERAGES IN THE POLICY;29 (IV) THE STATEMENT DOES NOT INCLUDE ADDITIONAL OPTIONAL
30 COVERAGE PURCHASED BY THE POLICYHOLDER, IF ANY;31 (V) THE STATEMENT IS NOT PART OF THE POLICY OR CONTRACT
32 OF INSURANCE AND DOES NOT CREATE A PRIVATE RIGHT OF ACTION; ~~AND~~33 (VI) ALL RIGHTS, DUTIES, AND OBLIGATIONS ARE CONTROLLED BY
34 THE POLICY AND CONTRACT OF INSURANCE; AND

1 (VII) THE STANDARD HOMEOWNER'S INSURANCE POLICY DOES NOT
2 COVER LOSSES FROM FLOOD.

3 (B) THE STATEMENT UNDER SUBSECTION (A) OF THIS SECTION;

4 ~~(A)~~ (1) IS NOT PART OF THE POLICY OR CONTRACT OF INSURANCE; AND

5 (2) DOES NOT CREATE A PRIVATE RIGHT OF ACTION.

6 (C) THE COMMISSIONER MAY ADOPT REGULATIONS TO IMPLEMENT THE
7 PROVISIONS OF THIS SECTION.

8 19-206.

9 (A) (1) AN INSURER OR AN INSURANCE PRODUCER THAT SELLS OR
10 NEGOTIATES HOMEOWNER'S INSURANCE IN THE STATE SHALL PROVIDE AN
11 APPLICANT, AT THE TIME A POLICY OF HOMEOWNER'S INSURANCE IS INITIALLY
12 PURCHASED, WITH A WRITTEN NOTICE THAT STATES THAT A STANDARD
13 HOMEOWNER'S INSURANCE POLICY DOES NOT COVER LOSSES FROM FLOOD.

14 (2) IF AN APPLICATION IS MADE BY TELEPHONE, THE INSURER OR
15 INSURANCE PRODUCER IS DEEMED TO BE IN COMPLIANCE WITH THIS SECTION IF,
16 WITHIN 7 CALENDAR DAYS AFTER THE DATE OF APPLICATION, THE INSURER OR
17 INSURANCE PRODUCER SENDS BY CERTIFICATE OF MAILING THE NOTICE TO THE
18 APPLICANT OR INSURED.

19 (3) IF AN APPLICATION IS MADE USING THE INTERNET, THE INSURER
20 OR INSURANCE PRODUCER IS DEEMED TO BE IN COMPLIANCE WITH THIS SECTION IF
21 THE INSURER OR INSURANCE PRODUCER PROVIDES THE NOTICE TO THE APPLICANT
22 PRIOR TO THE SUBMISSION OF THE APPLICATION.

23 (B) THE NOTICE SHALL;

24 ~~(A)~~ (1) STATE THAT FLOOD INSURANCE ~~IS~~ MAY BE AVAILABLE THROUGH
25 THE NATIONAL FLOOD INSURANCE PROGRAM- OR OTHER SOURCES;

26 (2) PROVIDE THE APPLICANT WITH THE CONTACT INFORMATION FOR
27 THE NATIONAL FLOOD INSURANCE PROGRAM;

28 (3) ADVISE THE APPLICANT TO CONFIRM THE NEED FOR FLOOD
29 INSURANCE WITH THE NATIONAL FLOOD INSURANCE PROGRAM OR THE
30 APPLICANT'S MORTGAGE LENDER;

31 (4) ADVISE THE APPLICANT TO CONTACT THE NATIONAL FLOOD
32 INSURANCE PROGRAM, THE APPLICANT'S INSURER, OR THE APPLICANT'S INSURANCE
33 PRODUCER FOR INFORMATION ABOUT FLOOD INSURANCE;

34 (5) ADVISE THE APPLICANT THAT FLOOD INSURANCE MAY BE
35 AVAILABLE FOR COVERED STRUCTURES AND THEIR CONTENTS;

1 (6) ADVISE THE APPLICANT THAT A CLAIM UNDER A FLOOD INSURANCE
2 POLICY MAY BE ADJUSTED AND PAID ON A DIFFERENT BASIS THAN A CLAIM UNDER
3 A HOMEOWNER'S INSURANCE POLICY; AND

4 (7) ADVISE THE APPLICANT THAT A SEPARATE APPLICATION MUST BE
5 COMPLETED TO PURCHASE FLOOD INSURANCE.

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;~~

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

16 ~~1. 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 (C) A NOTICE REQUIRED TO BE SENT BY CERTIFICATE OF MAILING UNDER
30 THIS SECTION MAY BE SENT WITH THE STATEMENT REQUIRED UNDER § 19-207 OF
31 THIS ARTICLE.

32 ~~(F)~~ (D) A NOTICE PROVIDED UNDER THIS SECTION DOES NOT CREATE A
33 PRIVATE RIGHT OF ACTION.

1 19-207.

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

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

9 (3) ~~(4) IF AN APPLICATION IS MADE BY TELEPHONE OR USING THE~~
10 ~~INTERNET, THE INSURER OR INSURANCE PRODUCER IS DEEMED TO BE IN~~
11 ~~COMPLIANCE WITH THIS SECTION IF, WITHIN 3 BUSINESS 7 CALENDAR DAYS AFTER~~
12 ~~THE DATE OF APPLICATION, THE INSURER OR INSURANCE PRODUCER MAILED SENDS~~
13 ~~BY CERTIFICATE OF MAILING THE STATEMENT TO THE APPLICANT OR INSURED AND~~
14 ~~REQUESTS THE APPLICANT OR INSURED TO SIGN THE STATEMENT.~~

15 (H) ~~IF THE APPLICANT OR INSURED DOES NOT RETURN A SIGNED~~
16 ~~STATEMENT WITHIN 60 DAYS AFTER THE DATE THE STATEMENT WAS MAILED,~~
17 ~~THERE IS A CONCLUSIVE PRESUMPTION THAT THE INSURER OR INSURANCE~~
18 ~~PRODUCER HAS COMPLIED WITH THE REQUIREMENTS OF THIS SECTION.~~

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

23 (3) IF AN APPLICATION IS MADE USING THE INTERNET, THE INSURER
24 OR INSURANCE PRODUCER IS DEEMED TO BE IN COMPLIANCE WITH THIS SECTION IF
25 THE INSURER OR INSURANCE PRODUCER PROVIDES THE STATEMENT TO THE
26 APPLICANT PRIOR TO SUBMISSION OF THE APPLICATION.

27 (B) THE STATEMENT SHALL:

28 (1) BE ON A SEPARATE FORM;

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

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

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

36 THIS STATEMENT PROVIDES A LIST OF THE TYPES OF ADDITIONAL INSURANCE
37 COVERAGE THAT ARE AVAILABLE. CONTACT YOUR INSURANCE COMPANY,

1 INSURANCE PRODUCER, OR INSURANCE AGENT TO DISCUSS THESE ADDITIONAL
2 COVERAGES."; AND

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

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

6 ~~"I UNDERSTAND THAT THE TYPES OF ADDITIONAL INSURANCE COVERAGE~~
7 ~~LISTED IN THIS STATEMENT ARE NOT INCLUDED IN THE STANDARD HOMEOWNER'S~~
8 ~~INSURANCE POLICY. I UNDERSTAND THAT I MUST CONTACT MY INSURANCE~~
9 ~~COMPANY, INSURANCE PRODUCER, OR INSURANCE AGENT IF I WANT TO DISCUSS OR~~
10 ~~PURCHASE ADDITIONAL INSURANCE. I ALSO UNDERSTAND THAT THIS STATEMENT~~
11 ~~OF ADDITIONAL COVERAGES, OR ANY DEFICIENCY IN IT, CANNOT BE USED BY ME OR~~
12 ~~ANY OTHER PERSON TO BRING A PRIVATE LAWSUIT AGAINST THE INSURANCE~~
13 ~~COMPANY, ITS INSURANCE PRODUCERS, OR ITS AGENTS."~~

14 (C) A STATEMENT REQUIRED TO BE SENT BY CERTIFICATE OF MAILING
15 UNDER THIS SECTION MAY BE SENT WITH THE NOTICE REQUIRED UNDER § 19-206 OF
16 THIS ARTICLE.

17 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall apply to all
18 personal lines homeowner's insurance policies and contracts issued, delivered, or
19 renewed on or after January 1, 2007.

20 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 January 1, 2007.