

HOUSE BILL 425

D3

(71r1724)

ENROLLED BILL

— Judiciary/Judicial Proceedings —

Introduced by ~~Delegate Simmons~~ Delegates Simmons, Olszewski, Vallario, Rosenberg, Anderson, Barnes, Carter, Conaway, Dumais, Dwyer, Frank, Kelly, Kramer, Lee, Levi, McComas, Ramirez, Schuler, Smigiel, Valderrama, and Waldstreicher

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.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Civil Actions – Liability of Insurer – Failure to Act in Good Faith**

3 FOR the purpose of authorizing the recovery ~~by an insured, in certain civil actions~~
4 ~~between an insured and an insurer,~~ of actual damages, expenses, litigation
5 costs, and interest in first-party claims against property and casualty insurers
6 under certain circumstances; requiring the court to make certain findings before
7 ~~the insured may recover certain damages, expenses, costs, and interest from the~~
8 ~~insurer,~~ providing that the interest is to be computed at a certain rate and from

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber / conference committee amendments.



1 a certain date; requiring a clerk of a court to file a copy of certain verdicts and
 2 other dispositions with the Maryland Insurance Administration; providing that
 3 a failure to act in good faith under certain circumstances constitutes an unfair
 4 claim settlement practice for certain purposes; providing for certain penalties;
 5 providing for certain restitution in certain proceedings under certain
 6 circumstances; providing for certain procedures; providing for a certain appeal
 7 to a circuit court from a final decision under certain circumstances; providing
 8 for the tolling of certain limitations under certain circumstances; requiring the
 9 Administration to report annually on certain matters to the General Assembly
 10 on or before a certain date; defining certain terms; providing for the application
 11 of this Act; and generally relating to ~~a civil cause of action between an insured~~
 12 ~~and an insurer.~~ certain proceedings concerning property and casualty insurers
 13 who fail to act in good faith in settling a first-party claim under certain
 14 circumstances.

15 BY repealing and reenacting, with amendments,

16 Article 1 – Rules of Interpretation

17 Section 32

18 Annotated Code of Maryland

19 (2005 Replacement Volume and 2006 Supplement)

20 BY adding to

21 Article – Courts and Judicial Proceedings

22 Section 3–1701 to be under the new subtitle “Subtitle 17. Liability of Insurer”;
 23 and 5–118

24 Annotated Code of Maryland

25 (2006 Replacement Volume)

26 BY repealing and reenacting, with amendments,

27 Article – Insurance

28 Section 27–303(7) and (8), 27–304(16) and (17), and 27–305(a) and (c)

29 Annotated Code of Maryland

30 (2006 Replacement Volume and 2006 Supplement)

31 BY adding to

32 Article – Insurance

33 Section 27–303(9), 27–304(18), and 27–1001 and the subtitle “Subtitle 10.
 34 Property and Casualty Insurance – First-Party Claims”

35 Annotated Code of Maryland

36 (2003 Replacement Volume and 2006 Supplement)

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

1 **Article 1 – Rules of Interpretation**

2 32.

3 (a) Except as provided in subsection (b) of this section, in a statute providing
 4 for de novo judicial review or appeal of a quasi-judicial administrative agency action,
 5 the term “de novo” means judicial review based upon an administrative record and
 6 such additional evidence as would be authorized by § 10-222(f) and (g) of the State
 7 Government Article.

8 (b) This section does not apply to review of cases from:

9 (1) The Workers’ Compensation Commission; [or]

10 (2) The Health Care Alternative Dispute Resolution Office; OR

11 (3) THE MARYLAND INSURANCE ADMINISTRATION UNDER §
 12 27-1001 OF THE INSURANCE ARTICLE.

13 **Article – Courts and Judicial Proceedings**

14 **SUBTITLE 17. LIABILITY OF INSURER.**

15 **3-1701.**

16 (A) (1) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE
 17 MEANINGS INDICATED.

18 (2) “CASUALTY INSURANCE” HAS THE MEANING STATED IN §
 19 1-101 OF THE INSURANCE ARTICLE.

20 (3) “COMMERCIAL INSURANCE” HAS THE MEANING STATED IN §
 21 27-601 OF THE INSURANCE ARTICLE.

22 (4) “GOOD FAITH” MEANS AN INFORMED JUDGMENT BASED ON
 23 HONESTY AND DILIGENCE SUPPORTED BY EVIDENCE THE INSURER KNEW OR
 24 SHOULD HAVE KNOWN AT THE TIME THE INSURER MADE A DECISION ON A
 25 CLAIM.

1 **(5) "INSURER" HAS THE MEANING STATED IN § 1-101 OF THE**
 2 **INSURANCE ARTICLE.**

3 **(6) "PROPERTY INSURANCE" HAS THE MEANING STATED IN §**
 4 **1-101 OF THE INSURANCE ARTICLE.**

5 **(B) THIS SUBTITLE APPLIES ONLY TO FIRST-PARTY CLAIMS UNDER**
 6 **PROPERTY AND CASUALTY INSURANCE POLICIES ISSUED, SOLD, OR DELIVERED**
 7 **IN THE STATE.**

8 **(C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
 9 **SUBSECTION, A PARTY MAY NOT FILE AN ACTION UNDER THIS SUBTITLE BEFORE**
 10 **THE DATE OF A FINAL DECISION UNDER § 27-1001 OF THE INSURANCE**
 11 **ARTICLE.**

12 **(2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY TO AN**
 13 **ACTION:**

14 **(I) WITHIN THE SMALL CLAIM JURISDICTION OF THE**
 15 **DISTRICT COURT UNDER § 4-405 OF THIS ARTICLE;**

16 **(II) IF THE INSURED AND THE INSURER AGREE TO WAIVE**
 17 **THE REQUIREMENT UNDER PARAGRAPH (1) OF THIS SUBSECTION; OR**

18 **(III) UNDER A COMMERCIAL INSURANCE POLICY ON A CLAIM**
 19 **WITH RESPECT TO WHICH THE APPLICABLE LIMIT OF LIABILITY EXCEEDS**
 20 **\$1,000,000.**

21 **~~(A) (D) THIS SECTION APPLIES IN A CIVIL ACTION FILED BY AN~~**
 22 **~~INSURED AGAINST ITS INSURER OR BY AN INSURER AGAINST ITS INSURED TO~~**
 23 **~~DETERMINE:~~**

24 **~~(1) THE COVERAGE THAT EXISTS UNDER THE INSURER'S~~**
 25 **~~INSURANCE POLICY; OR~~**

26 **~~(2) THE EXTENT TO WHICH THE INSURED IS ENTITLED TO~~**
 27 **~~RECEIVE PAYMENT FROM THE INSURER FOR A COVERED LOSS ONLY IN A CIVIL~~**
 28 **~~ACTION:~~**

1 **(1) (I) TO DETERMINE THE COVERAGE THAT EXISTS UNDER**
2 **THE INSURER'S INSURANCE POLICY; OR**

3 **(II) TO DETERMINE THE EXTENT TO WHICH THE INSURED IS**
4 **ENTITLED TO RECEIVE PAYMENT FROM THE INSURER FOR A COVERED LOSS;**

5 **(2) THAT ALLEGES THAT THE INSURER FAILED TO ACT IN GOOD**
6 **FAITH; AND**

7 **(3) THAT SEEKS, IN ADDITION TO THE ACTUAL DAMAGES UNDER**
8 **THE POLICY, TO RECOVER EXPENSES AND LITIGATION COSTS, AND INTEREST ON**
9 **THOSE EXPENSES OR COSTS, UNDER SUBSECTION (E) OF THIS SECTION.**

10 **~~(D)~~ (E) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IF THE**
11 **COURT TRIER OF FACT IN AN ACTION UNDER THIS SECTION FINDS IN FAVOR OF**
12 **THE INSURED AND FINDS THAT THE INSURER FAILED TO ACT IN GOOD FAITH,**
13 **THE INSURED MAY RECOVER FROM THE INSURER:**

14 **(1) ACTUAL DAMAGES, WHICH ACTUAL DAMAGES MAY NOT**
15 **EXCEED THE LIMITS OF THE APPLICABLE POLICY;**

16 **(2) EXPENSES AND LITIGATION COSTS INCURRED BY THE**
17 **INSURED IN AN ACTION UNDER THIS SECTION OR UNDER § 27-1001 OF THE**
18 **INSURANCE ARTICLE OR BOTH, INCLUDING REASONABLE ATTORNEY'S FEES;**
19 **AND**

20 **(3) INTEREST ON ALL ~~EXPENSES~~ ACTUAL DAMAGES, EXPENSES,**
21 **AND LITIGATION COSTS INCURRED BY THE INSURED, COMPUTED:**

22 **(I) AT THE RATE ALLOWED UNDER § 11-107(A) OF THIS**
23 **ARTICLE; AND**

24 **(II) FROM THE DATE ~~THE CLAIM THAT WAS THE SUBJECT OF~~**
25 **~~THE CIVIL ACTION WAS SUBMITTED TO THE INSURED OR THE AGENT OF THE~~**
26 **~~INSURED~~ ON WHICH THE INSURED'S CLAIM WOULD HAVE BEEN PAID IF THE**
27 **INSURER ACTED IN GOOD FAITH.**

28 **(F) AN INSURER MAY NOT BE FOUND TO HAVE FAILED TO ACT IN GOOD**
29 **FAITH UNDER THIS SECTION SOLELY ON THE BASIS OF DELAY IN DETERMINING**
30 **COVERAGE OR THE EXTENT OF PAYMENT TO WHICH THE INSURED IS ENTITLED**

1 IF THE INSURER ACTED WITHIN THE TIME PERIOD SPECIFIED BY STATUTE OR
2 REGULATION FOR INVESTIGATION OF A CLAIM BY AN INSURER.

3 (G) THE AMOUNT OF ATTORNEY'S FEES RECOVERED FROM AN INSURER
4 UNDER SUBSECTION (E) OF THIS SECTION MAY NOT EXCEED ONE-THIRD OF THE
5 ACTUAL DAMAGES RECOVERED.

6 (H) THE CLERK OF THE COURT SHALL FILE A COPY OF THE VERDICT OR
7 ANY OTHER FINAL DISPOSITION OF AN ACTION UNDER THIS SECTION WITH THE
8 MARYLAND INSURANCE ADMINISTRATION.

9 ~~(E)~~ (I) THIS SECTION DOES NOT LIMIT THE RIGHT OF ANY PERSON
10 TO MAINTAIN A CIVIL ACTION FOR DAMAGES OR OTHER REMEDIES OTHERWISE
11 AVAILABLE UNDER ANY OTHER PROVISION OF LAW.

12 (J) IF A PARTY TO THE PROCEEDING ELECTS TO HAVE THE CASE TRIED
13 BY A JURY IN ACCORDANCE WITH THE MARYLAND RULES, THE CASE SHALL BE
14 TRIED BY A JURY.

15 5-118.

16 FOR THE PURPOSES OF THIS SUBTITLE, THE FILING OF A COMPLAINT
17 WITH THE MARYLAND INSURANCE ADMINISTRATION IN ACCORDANCE WITH §
18 27-1001 OF THE INSURANCE ARTICLE SHALL BE DEEMED THE FILING OF AN
19 ACTION UNDER § 3-1701 OF THIS ARTICLE.

20 Article - Insurance

21 27-303.

22 It is an unfair claim settlement practice and a violation of this subtitle for an
23 insurer or nonprofit health service plan to:

24 (7) fail to meet the requirements of Title 15, Subtitle 10B of this
25 article for preauthorization for a health care service; [or]

26 (8) fail to comply with the provisions of Title 15, Subtitle 10A of this
27 article; OR

1 **(9) FAIL TO ACT IN GOOD FAITH, AS DEFINED UNDER § 27-1001**
2 **OF THIS TITLE, IN SETTling A FIRST-PARTY CLAIM UNDER A POLICY OF**
3 **PROPERTY AND CASUALTY INSURANCE.**

4 27-304.

5 It is an unfair claim settlement practice and a violation of this subtitle for an
6 insurer or nonprofit health service plan, when committed with the frequency to
7 indicate a general business practice, to:

8 (16) fail to meet the requirements of Title 15, Subtitle 10B of this
9 article for preauthorization for a health care service; [or]

10 (17) fail to comply with the provisions of Title 15, Subtitle 10A of this
11 article; OR

12 **(18) FAIL TO ACT IN GOOD FAITH, AS DEFINED UNDER § 27-1001**
13 **OF THIS TITLE, IN SETTling A FIRST-PARTY CLAIM UNDER A POLICY OF**
14 **PROPERTY AND CASUALTY INSURANCE.**

15 27-305.

16 (a) The Commissioner may impose a penalty:

17 (1) not exceeding \$2,500 for each violation of § 27-303 of this subtitle
18 or a regulation adopted under § 27-303 of this subtitle; AND

19 (2) NOT EXCEEDING \$125,000 FOR EACH VIOLATION OF § 27-303
20 (9) OF THIS SUBTITLE OR A REGULATION ADOPTED UNDER § 27-303(9) OF THIS
21 SUBTITLE.

22 (c) (1) On finding a violation of this subtitle, the Commissioner may
23 require an insurer or nonprofit health service plan to make restitution to each
24 claimant who has suffered actual economic damage because of the violation.

25 (2) [Restitution] SUBJECT TO PARAGRAPH (3) OF THIS
26 SUBSECTION, RESTITUTION may not exceed the amount of actual economic damage
27 sustained, subject to the limits of any applicable policy.

1 **(3) FOR A VIOLATION OF § 27-303(9) OF THIS SUBTITLE, THE**
2 **COMMISSIONER MAY REQUIRE RESTITUTION TO AN INSURED FOR THE**
3 **FOLLOWING:**

4 **(I) ACTUAL DAMAGES, WHICH ACTUAL DAMAGES MAY NOT**
5 **EXCEED THE LIMITS OF ANY APPLICABLE POLICY;**

6 **(II) EXPENSES AND LITIGATION COSTS INCURRED BY THE**
7 **INSURED IN PURSUING AN ADMINISTRATIVE COMPLAINT UNDER § 27-303(9) OF**
8 **THIS SUBTITLE, INCLUDING REASONABLE ATTORNEY'S FEES; AND**

9 **(III) INTEREST ON ALL ACTUAL DAMAGES, EXPENSES, AND**
10 **LITIGATION COSTS INCURRED BY THE INSURED COMPUTED:**

11 **1. AT THE RATE ALLOWED UNDER § 11-107(A) OF**
12 **THE COURTS ARTICLE; AND**

13 **2. FROM THE DATE ON WHICH THE INSURED'S CLAIM**
14 **WOULD HAVE BEEN PAID IF THE INSURER ACTED IN GOOD FAITH.**

15 **(4) THE AMOUNT OF ATTORNEY'S FEES RECOVERED FROM AN**
16 **~~INSURED~~ INSURER UNDER PARAGRAPH (3) OF THIS SUBSECTION MAY NOT**
17 **EXCEED ONE-THIRD OF THE ACTUAL DAMAGES RECOVERED.**

18 **SUBTITLE 10. PROPERTY AND CASUALTY INSURANCE – FIRST-PARTY CLAIMS.**
19 **27-1001.**

20 **(A) IN THIS SECTION, "GOOD FAITH" MEANS AN INFORMED JUDGMENT**
21 **BASED ON HONESTY AND DILIGENCE SUPPORTED BY EVIDENCE THE INSURER**
22 **KNEW OR SHOULD HAVE KNOWN AT THE TIME THE INSURER MADE A DECISION**
23 **ON A CLAIM.**

24 **(B) THIS SECTION APPLIES ONLY TO ACTIONS UNDER § 3-1701 OF THE**
25 **COURTS ARTICLE.**

26 **(C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
27 **SUBSECTION, A PERSON MAY NOT BRING OR PURSUE AN ACTION UNDER §**
28 **3-1701 OF THE COURTS ARTICLE IN A COURT UNLESS THE PERSON COMPLIES**
29 **WITH THIS SECTION.**

1 **(2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY TO AN**
2 **ACTION:**

3 **(I) WITHIN THE SMALL CLAIM JURISDICTION OF THE**
4 **DISTRICT COURT UNDER § 4-405 OF THE COURTS ARTICLE;**

5 **(II) IF THE INSURED AND THE INSURER AGREE TO WAIVE**
6 **THE REQUIREMENT UNDER PARAGRAPH (1) OF THIS SUBSECTION; OR**

7 **(III) UNDER A COMMERCIAL INSURANCE POLICY ON A CLAIM**
8 **WITH RESPECT TO WHICH THE APPLICABLE LIMIT OF LIABILITY EXCEEDS**
9 **\$1,000,000.**

10 **(D) (1) A COMPLAINT STATING A CAUSE OF ACTION UNDER § 3-1701**
11 **OF THE COURTS ARTICLE SHALL FIRST BE FILED WITH THE ADMINISTRATION.**

12 **(2) THE COMPLAINT SHALL:**

13 **(I) BE ACCOMPANIED BY EACH DOCUMENT THAT THE**
14 **INSURED HAS SUBMITTED TO THE INSURER FOR PROOF OF LOSS;**

15 **(II) SPECIFY THE APPLICABLE INSURANCE COVERAGE AND**
16 **THE AMOUNT OF THE CLAIM UNDER THE APPLICABLE COVERAGE; AND**

17 **(III) STATE THE AMOUNT OF ACTUAL DAMAGES, AND THE**
18 **~~AMOUNT OF~~ CLAIM FOR EXPENSES AND LITIGATION COSTS DESCRIBED UNDER**
19 **SUBSECTION (E)(2) OF THIS SECTION.**

20 **(3) THE ADMINISTRATION SHALL FORWARD THE FILING TO THE**
21 **INSURER.**

22 **(4) WITHIN 30 DAYS AFTER THE DATE THE FILING IS FORWARDED**
23 **TO THE INSURER BY THE ADMINISTRATION, THE INSURER SHALL:**

24 **(I) FILE WITH THE ADMINISTRATION, EXCEPT FOR GOOD**
25 **CAUSE SHOWN, A WRITTEN RESPONSE TOGETHER WITH A COPY OF EACH**
26 **DOCUMENT FROM THE INSURER'S CLAIM FILE THAT ENABLES**
27 **RECONSTRUCTION OF THE INSURER'S ACTIVITIES RELATIVE TO THE INSURED'S**
28 **CLAIM, INCLUDING DOCUMENTATION OF EACH PERTINENT COMMUNICATION,**

1 TRANSACTION, NOTE, WORK PAPER, CLAIM FORM, BILL, AND EXPLANATION OF
2 BENEFITS FORM RELATIVE TO THE CLAIM; AND

3 (II) MAIL TO THE INSURED A COPY OF THE RESPONSE AND,
4 EXCEPT FOR GOOD CAUSE SHOWN, EACH DOCUMENT FROM THE INSURER'S
5 CLAIM FILE THAT ENABLES RECONSTRUCTION OF THE INSURER'S ACTIVITIES
6 RELATIVE TO THE INSURED'S CLAIM, INCLUDING DOCUMENTATION OF EACH
7 PERTINENT COMMUNICATION, TRANSACTION, NOTE, WORK PAPER, CLAIM
8 FORM, BILL, AND EXPLANATION OF BENEFITS FORM RELATIVE TO THE CLAIM.

9 (E) (1) (I) WITHIN 90 DAYS AFTER THE DATE THE FILING WAS
10 RECEIVED BY THE ADMINISTRATION, THE ADMINISTRATION SHALL ISSUE A
11 DECISION THAT DETERMINES:

12 1. WHETHER THE INSURER IS OBLIGATED UNDER
13 THE APPLICABLE POLICY TO COVER THE UNDERLYING FIRST-PARTY CLAIM;

14 2. THE AMOUNT THE INSURED WAS ENTITLED TO
15 RECEIVE FROM THE INSURER UNDER THE APPLICABLE POLICY ON THE
16 UNDERLYING COVERED FIRST-PARTY CLAIM;

17 3. WHETHER THE INSURER BREACHED ITS
18 OBLIGATION UNDER THE APPLICABLE POLICY TO COVER AND PAY THE
19 UNDERLYING COVERED FIRST-PARTY CLAIM, AS DETERMINED BY THE
20 ADMINISTRATION;

21 4. WHETHER AN INSURER THAT BREACHED ITS
22 OBLIGATION FAILED TO ACT IN GOOD FAITH; AND

23 5. THE AMOUNT OF DAMAGES, EXPENSES,
24 LITIGATION COSTS, AND INTEREST, AS APPLICABLE AND AS AUTHORIZED
25 UNDER PARAGRAPH (2) OF THIS SUBSECTION.

26 (II) THE FAILURE OF THE ADMINISTRATION TO ISSUE A
27 DECISION WITHIN THE TIME SPECIFIED IN ~~PARAGRAPH (1) OF THIS SUBSECTION~~
28 ~~ITEM~~ SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE CONSIDERED A
29 DETERMINATION THAT THE INSURER DID NOT BREACH ANY OBLIGATION TO
30 THE INSURED.

1 **(2) WITH RESPECT TO THE DETERMINATION OF DAMAGES UNDER**
2 **~~ITEM~~ PARAGRAPH (1)(I)5 OF THIS SUBSECTION:**

3 **(I) IF THE ADMINISTRATION FINDS THAT THE INSURER**
4 **BREACHED AN OBLIGATION TO THE INSURED, THE ADMINISTRATION SHALL**
5 **DETERMINE THE OBLIGATION OF THE INSURER TO PAY:**

6 **1. ACTUAL DAMAGES, WHICH ACTUAL DAMAGES MAY**
7 **NOT EXCEED THE LIMITS OF ANY APPLICABLE POLICY; AND**

8 **2. INTEREST ON ALL ACTUAL DAMAGES INCURRED**
9 **BY THE INSURED COMPUTED:**

10 **A. AT THE RATE ALLOWED UNDER § 11-107(A) OF**
11 **THE COURTS ARTICLE; AND**

12 **B. FROM THE DATE ON WHICH THE INSURED'S CLAIM**
13 **SHOULD HAVE BEEN PAID; AND**

14 **(II) IF THE ADMINISTRATION ALSO FINDS THAT THE**
15 **INSURER FAILED TO ACT IN GOOD FAITH, THE ADMINISTRATION SHALL ALSO**
16 **DETERMINE THE OBLIGATION OF THE INSURER TO PAY:**

17 **1. EXPENSES AND LITIGATION COSTS INCURRED BY**
18 **THE INSURED, INCLUDING REASONABLE ATTORNEY'S FEES, IN PURSUING**
19 **RECOVERY UNDER THIS SUBTITLE; AND**

20 **2. INTEREST ON ALL EXPENSES AND LITIGATION**
21 **COSTS INCURRED BY THE INSURED COMPUTED:**

22 **A. AT THE RATE ALLOWED UNDER § 11-107(A) OF**
23 **THE COURTS ARTICLE; AND**

24 **B. FROM THE APPLICABLE DATE OR DATES ON**
25 **WHICH THE INSURED'S EXPENSES AND COSTS WERE INCURRED.**

26 **(3) AN INSURER MAY NOT BE FOUND TO HAVE FAILED TO ACT IN**
27 **GOOD FAITH UNDER THIS SECTION SOLELY ON THE BASIS OF DELAY IN**
28 **DETERMINING COVERAGE OR THE EXTENT OF PAYMENT TO WHICH THE**
29 **INSURED IS ENTITLED IF THE INSURER ACTED WITHIN THE TIME PERIOD**

1 SPECIFIED BY STATUTE OR REGULATION FOR INVESTIGATION OF A CLAIM BY AN
2 INSURER.

3 (4) THE AMOUNT OF THE ATTORNEY'S FEES DETERMINED TO BE
4 PAYABLE TO AN INSURED UNDER PARAGRAPH (2) OF THIS SUBSECTION MAY
5 NOT EXCEED ONE-THIRD OF THE ACTUAL DAMAGES PAYABLE TO THE INSURED.

6 (5) THE ADMINISTRATION SHALL SERVE A COPY OF THE
7 DECISION ON THE INSURED AND THE INSURER IN ACCORDANCE WITH § 2-204(C)
8 OF THIS ARTICLE.

9 (F) (1) ~~A~~ IF A PARTY RECEIVES AN ADVERSE DECISION, THE PARTY
10 SHALL HAVE 30 DAYS AFTER THE DATE OF SERVICE OF THE ADMINISTRATION'S
11 DECISION TO REQUEST A HEARING.

12 (2) ALL HEARINGS REQUESTED UNDER THIS SECTION SHALL:

13 (I) BE REFERRED BY THE COMMISSIONER TO THE OFFICE
14 OF ADMINISTRATIVE HEARINGS FOR A FINAL DECISION UNDER TITLE 10,
15 SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE;

16 (II) BE HEARD DE NOVO;

17 (III) RESULT IN A FINAL DECISION THAT MAKES THE
18 DETERMINATIONS SET FORTH IN SUBSECTION (E) OF THIS SECTION.

19 (3) IF NO ADMINISTRATIVE HEARING IS REQUESTED IN
20 ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION, THE DECISION
21 ISSUED BY THE ADMINISTRATION SHALL BECOME A FINAL DECISION.

22 (G) (1) ~~A~~ IF A PARTY RECEIVES AN ADVERSE DECISION, THE PARTY
23 MAY APPEAL A FINAL DECISION BY THE ADMINISTRATION OR AN
24 ADMINISTRATIVE LAW JUDGE UNDER THIS SECTION TO A CIRCUIT COURT IN
25 ACCORDANCE WITH § 2-215 OF THIS ARTICLE AND TITLE 10, SUBTITLE 2 OF
26 THE STATE GOVERNMENT ARTICLE.

27 (2) (I) THIS PARAGRAPH APPLIES ONLY IF MORE THAN ONE
28 PARTY RECEIVES AN ADVERSE DECISION FROM THE ADMINISTRATION.

1 (II) IF A PARTY REQUESTS A HEARING BEFORE THE OFFICE
2 OF ADMINISTRATIVE HEARINGS AND ANOTHER PARTY FILES AN APPEAL TO A
3 CIRCUIT COURT:

4 1. JURISDICTION OVER THE REQUEST FOR HEARING
5 IS TRANSFERRED TO THE CIRCUIT COURT;

6 2. THE REQUEST FOR HEARING, THE
7 ADMINISTRATION'S DECISION, AND THE ADMINISTRATION'S CASE FILE,
8 INCLUDING THE COMPLAINT, RESPONSE, AND ALL DOCUMENTS SUBMITTED TO
9 THE ADMINISTRATION, SHALL BE TRANSMITTED PROMPTLY TO THE CIRCUIT
10 COURT; AND

11 3. THE REQUEST FOR HEARING SHALL BE DOCKETED
12 IN THE CIRCUIT COURT AND CONSOLIDATED FOR TRIAL WITH THE APPEAL.

13 ~~(2)~~ (3) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AN
14 APPEAL TO A CIRCUIT COURT UNDER THIS SECTION SHALL BE HEARD DE NOVO.

15 (H) ON OR BEFORE JANUARY 1 OF EACH YEAR BEGINNING IN 2009, IN
16 ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE
17 ADMINISTRATION SHALL REPORT TO THE GENERAL ASSEMBLY ON THE
18 FOLLOWING FOR THE PRIOR FISCAL YEAR:

19 (1) THE NUMBER AND TYPES OF COMPLAINTS UNDER THIS
20 SECTION OR § 3-1701 OF THE COURTS ARTICLE FROM INSUREDS REGARDING
21 FIRST-PARTY INSURANCE CLAIMS UNDER PROPERTY AND CASUALTY INSURANCE
22 POLICIES;

23 (2) THE ADMINISTRATIVE AND JUDICIAL DISPOSITIONS OF THE
24 COMPLAINTS DESCRIBED IN ITEM (1) OF THIS SUBSECTION;

25 (3) THE NUMBER AND TYPES OF REGULATORY ENFORCEMENT
26 ACTIONS INSTITUTED BY THE ADMINISTRATION FOR UNFAIR CLAIM
27 SETTLEMENT PRACTICES UNDER § 27-303(9) OR § 24-304(18) OF THIS TITLE;
28 AND

29 (4) THE ADMINISTRATIVE AND JUDICIAL DISPOSITIONS OF THE
30 REGULATORY ENFORCEMENT ACTIONS FOR UNFAIR CLAIM SETTLEMENT
31 PRACTICES DESCRIBED UNDER ITEM (3) OF THIS SUBSECTION.

1 ~~SECTION 2. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall~~
2 ~~be construed to apply only prospectively and may not be applied or interpreted to have~~
3 ~~any effect on or application to any cause of action arising complaint or action filed~~
4 ~~before the effective date of this Act.~~

5 ~~SECTION 3. AND BE IT FURTHER ENACTED, That, notwithstanding Section~~
6 ~~2 of this Act, the provisions of this Act providing for expenses and litigation costs apply~~
7 ~~only to a cause of action arising on or after the effective date of this Act.~~

8 ~~SECTION 4. 2. AND BE IT FURTHER ENACTED, That, notwithstanding~~
9 ~~Section 2 of this Act, the provisions of this Act providing for administrative penalties~~
10 ~~and license sanctions that may be imposed by the Maryland Insurance Commissioner~~
11 ~~apply only to an act or omission occurring on or after the effective date of this Act.~~

12 ~~SECTION 5. AND BE IT FURTHER ENACTED, That, on or before January 1,~~
13 ~~the Maryland Insurance Administration, in accordance with § 2-1246 of the State~~
14 ~~Government Article, shall report to the General Assembly on the following for the~~
15 ~~prior fiscal year:~~

16 ~~(1) the number and types of complaints from insureds regarding~~
17 ~~first party insurance claims under property and casualty insurance policies under this~~
18 ~~Act;~~

19 ~~(2) the administrative and judicial dispositions of the complaints~~
20 ~~described in item (1) of this section;~~

21 ~~(3) the number and types of regulatory enforcement actions instituted~~
22 ~~by the Administration for unfair claim settlement practices under this Act; and~~

23 ~~(4) the administrative and judicial dispositions of the regulatory~~
24 ~~enforcement actions for unfair claim settlement practices described under item (3) of~~
25 ~~this section.~~

26 SECTION ~~2. 6.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take
27 effect October 1, 2007.