

HOUSE BILL 425

D3

71r1724

By: **Delegate Simmons**

Introduced and read first time: February 5, 2007

Assigned to: Judiciary

A BILL ENTITLED

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; requiring the court to make certain findings before the
6 insured may recover certain damages, expenses, costs, and interest from the
7 insurer; providing that the interest is to be computed at a certain rate and from
8 a certain date; providing for the application of this Act; and generally relating to
9 a civil cause of action between an insured and an insurer.

10 BY adding to

11 Article – Courts and Judicial Proceedings

12 Section 3–1701 to be under the new subtitle “Subtitle 17. Liability of Insurer”

13 Annotated Code of Maryland

14 (2006 Replacement Volume)

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

17 **Article – Courts and Judicial Proceedings**

18 **SUBTITLE 17. LIABILITY OF INSURER.**

19 **3–1701.**

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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

5 **(B) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IF THE COURT**
6 **IN AN ACTION UNDER THIS SECTION FINDS IN FAVOR OF THE INSURED AND**
7 **FINDS THAT THE INSURER FAILED TO ACT IN GOOD FAITH, THE INSURED MAY**
8 **RECOVER FROM THE INSURER:**

9 **(1) ACTUAL DAMAGES;**

10 **(2) EXPENSES AND LITIGATION COSTS INCURRED BY THE**
11 **INSURED, INCLUDING REASONABLE ATTORNEY'S FEES; AND**

12 **(3) INTEREST ON ALL EXPENSES AND LITIGATION COSTS**
13 **INCURRED BY THE INSURED, COMPUTED:**

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

16 **(II) FROM THE DATE THE CLAIM THAT WAS THE SUBJECT OF**
17 **THE CIVIL ACTION WAS SUBMITTED TO THE INSURED OR THE AGENT OF THE**
18 **INSURED.**

19 **(C) THIS SECTION DOES NOT LIMIT THE RIGHT OF ANY PERSON TO**
20 **MAINTAIN A CIVIL ACTION FOR DAMAGES OTHERWISE AVAILABLE UNDER ANY**
21 **OTHER PROVISION OF LAW.**

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
23 construed to apply only prospectively and may not be applied or interpreted to have
24 any effect on or application to any cause of action arising before the effective date of
25 this Act.

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