

HOUSE BILL 425

D3

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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

Introduced and read first time: February 5, 2007

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 20, 2007

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
9 a certain date; requiring a clerk of a court to file a copy of certain verdicts and
10 other dispositions with the Maryland Insurance Administration; providing that
11 a failure to act in good faith under certain circumstances constitutes an unfair
12 claim settlement practice for certain purposes; providing for certain penalties;
13 providing for certain restitution in certain proceedings under certain
14 circumstances; providing for certain procedures; providing for a certain appeal
15 to a circuit court from a final decision under certain circumstances; providing
16 for the tolling of certain limitations under certain circumstances; requiring the
17 Administration to report annually on certain matters to the General Assembly
18 on or before a certain date; defining certain terms; providing for the application

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.



1 of this Act; and generally relating to ~~a civil cause of action between an insured~~
 2 ~~and an insurer~~; certain proceedings concerning property and casualty insurers
 3 who fail to act in good faith in settling a first-party claim under certain
 4 circumstances.

5 BY repealing and reenacting, with amendments,

6 Article 1 – Rules of Interpretation

7 Section 32

8 Annotated Code of Maryland

9 (2005 Replacement Volume and 2006 Supplement)

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 and 5–118

14 Annotated Code of Maryland

15 (2006 Replacement Volume)

16 BY repealing and reenacting, with amendments,

17 Article – Insurance

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

19 Annotated Code of Maryland

20 (2006 Replacement Volume and 2006 Supplement)

21 BY adding to

22 Article – Insurance

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

25 Annotated Code of Maryland

26 (2003 Replacement Volume and 2006 Supplement)

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

29 **Article 1 – Rules of Interpretation**

30 **32.**

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

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

2 (1) The Workers' Compensation Commission; [or]

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

4 (3) THE MARYLAND INSURANCE ADMINISTRATION UNDER §
5 27-1001 OF THE INSURANCE ARTICLE.

6 **Article - Courts and Judicial Proceedings**

7 **SUBTITLE 17. LIABILITY OF INSURER.**

8 **3-1701.**

9 (A) (1) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE
10 MEANINGS INDICATED.

11 (2) "CASUALTY INSURANCE" HAS THE MEANING STATED IN §
12 1-101 OF THE INSURANCE ARTICLE.

13 (3) "COMMERCIAL INSURANCE" HAS THE MEANING STATED IN §
14 27-601 OF THE INSURANCE ARTICLE.

15 (4) "GOOD FAITH" MEANS AN INFORMED JUDGMENT BASED ON
16 HONESTY AND DILIGENCE SUPPORTED BY EVIDENCE THE INSURER KNEW OR
17 SHOULD HAVE KNOWN AT THE TIME THE INSURER MADE A DECISION ON A
18 CLAIM.

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

21 (6) "PROPERTY INSURANCE" HAS THE MEANING STATED IN §
22 1-101 OF THE INSURANCE ARTICLE.

23 (B) THIS SUBTITLE APPLIES ONLY TO FIRST-PARTY CLAIMS UNDER
24 PROPERTY AND CASUALTY INSURANCE POLICIES ISSUED, SOLD, OR DELIVERED
25 IN THE STATE.

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

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

7 (I) WITHIN THE SMALL CLAIM JURISDICTION OF THE
 8 DISTRICT COURT UNDER § 4-405 OF THIS ARTICLE;

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

11 (III) UNDER A COMMERCIAL INSURANCE POLICY ON A CLAIM
 12 WITH RESPECT TO WHICH THE APPLICABLE LIMIT OF LIABILITY EXCEEDS
 13 \$1,000,000.

14 ~~(A) (D) THIS SECTION APPLIES IN A CIVIL ACTION FILED BY AN~~
 15 ~~INSURED AGAINST ITS INSURER OR BY AN INSURER AGAINST ITS INSURED TO~~
 16 ~~DETERMINE:~~

17 ~~(1) THE COVERAGE THAT EXISTS UNDER THE INSURER'S~~
 18 ~~INSURANCE POLICY; OR~~

19 ~~(2) THE EXTENT TO WHICH THE INSURED IS ENTITLED TO~~
 20 ~~RECEIVE PAYMENT FROM THE INSURER FOR A COVERED LOSS ONLY IN A CIVIL~~
 21 ~~ACTION:~~

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

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

26 (2) THAT ALLEGES THAT THE INSURER FAILED TO ACT IN GOOD
 27 FAITH; AND

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

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

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

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

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

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

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

22 **(F) AN INSURER MAY NOT BE FOUND TO HAVE FAILED TO ACT IN GOOD**
23 **FAITH UNDER THIS SECTION SOLELY ON THE BASIS OF DELAY IN DETERMINING**
24 **COVERAGE OR THE EXTENT OF PAYMENT TO WHICH THE INSURED IS ENTITLED**
25 **IF THE INSURER ACTED WITHIN THE TIME PERIOD SPECIFIED BY STATUTE OR**
26 **REGULATION FOR INVESTIGATION OF A CLAIM BY AN INSURER.**

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

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

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

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

10 5-118.

11 FOR THE PURPOSES OF THIS SUBTITLE, THE FILING OF A COMPLAINT
12 WITH THE MARYLAND INSURANCE ADMINISTRATION IN ACCORDANCE WITH §
13 27-1001 OF THE INSURANCE ARTICLE SHALL BE DEEMED THE FILING OF AN
14 ACTION UNDER § 3-1701 OF THIS ARTICLE.

15 Article - Insurance

16 27-303.

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

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

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

23 (9) FAIL TO ACT IN GOOD FAITH, AS DEFINED UNDER § 27-1001
24 OF THIS TITLE, IN SETTLING A FIRST-PARTY CLAIM UNDER A POLICY OF
25 PROPERTY AND CASUALTY INSURANCE.

26 27-304.

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

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

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

8 (18) FAIL TO ACT IN GOOD FAITH, AS DEFINED UNDER § 27-1001
9 OF THIS TITLE, IN SETTLING A FIRST-PARTY CLAIM UNDER A POLICY OF
10 PROPERTY AND CASUALTY INSURANCE.

11 27-305.

12 (a) The Commissioner may impose a penalty:

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

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

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

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

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

27 (I) ACTUAL DAMAGES, WHICH ACTUAL DAMAGES MAY NOT
28 EXCEED THE LIMITS OF ANY APPLICABLE POLICY;

1 (II) EXPENSES AND LITIGATION COSTS INCURRED BY THE
2 INSURED IN PURSUING AN ADMINISTRATIVE COMPLAINT UNDER § 27-303(9) OF
3 THIS SUBTITLE, INCLUDING REASONABLE ATTORNEY’S FEES; AND

4 (III) INTEREST ON ALL ACTUAL DAMAGES, EXPENSES, AND
5 LITIGATION COSTS INCURRED BY THE INSURED COMPUTED:

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

8 2. FROM THE DATE ON WHICH THE INSURED’S CLAIM
9 WOULD HAVE BEEN PAID IF THE INSURER ACTED IN GOOD FAITH.

10 (4) THE AMOUNT OF ATTORNEY’S FEES RECOVERED FROM AN
11 INSURED UNDER PARAGRAPH (3) OF THIS SUBSECTION MAY NOT EXCEED
12 ONE-THIRD OF THE ACTUAL DAMAGES RECOVERED.

13 SUBTITLE 10. PROPERTY AND CASUALTY INSURANCE – FIRST-PARTY CLAIMS.

14 27-1001.

15 (A) IN THIS SECTION, “GOOD FAITH” MEANS AN INFORMED JUDGMENT
16 BASED ON HONESTY AND DILIGENCE SUPPORTED BY EVIDENCE THE INSURER
17 KNEW OR SHOULD HAVE KNOWN AT THE TIME THE INSURER MADE A DECISION
18 ON A CLAIM.

19 (B) THIS SECTION APPLIES ONLY TO ACTIONS UNDER § 3-1701 OF THE
20 COURTS ARTICLE.

21 (C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
22 SUBSECTION, A PERSON MAY NOT BRING OR PURSUE AN ACTION UNDER §
23 3-1701 OF THE COURTS ARTICLE IN A COURT UNLESS THE PERSON COMPLIES
24 WITH THIS SECTION.

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

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

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

3 (III) UNDER A COMMERCIAL INSURANCE POLICY ON A CLAIM
4 WITH RESPECT TO WHICH THE APPLICABLE LIMIT OF LIABILITY EXCEEDS
5 \$1,000,000.

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

8 (2) THE COMPLAINT SHALL:

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

11 (II) SPECIFY THE APPLICABLE INSURANCE COVERAGE AND
12 THE AMOUNT OF THE CLAIM UNDER THE APPLICABLE COVERAGE; AND

13 (III) STATE THE AMOUNT OF ACTUAL DAMAGES, AND THE
14 AMOUNT OF EXPENSES AND LITIGATION COSTS DESCRIBED UNDER SUBSECTION
15 (E)(2) OF THIS SECTION.

16 (3) THE ADMINISTRATION SHALL FORWARD THE FILING TO THE
17 INSURER.

18 (4) WITHIN 30 DAYS AFTER THE DATE THE FILING IS FORWARDED
19 TO THE INSURER BY THE ADMINISTRATION, THE INSURER SHALL:

20 (I) FILE WITH THE ADMINISTRATION, EXCEPT FOR GOOD
21 CAUSE SHOWN, A WRITTEN RESPONSE TOGETHER WITH A COPY OF EACH
22 DOCUMENT FROM THE INSURER'S CLAIM FILE THAT ENABLES
23 RECONSTRUCTION OF THE INSURER'S ACTIVITIES RELATIVE TO THE INSURED'S
24 CLAIM, INCLUDING DOCUMENTATION OF EACH PERTINENT COMMUNICATION,
25 TRANSACTION, NOTE, WORK PAPER, CLAIM FORM, BILL, AND EXPLANATION OF
26 BENEFITS FORM RELATIVE TO THE CLAIM; AND

27 (II) MAIL TO THE INSURED A COPY OF THE RESPONSE AND,
28 EXCEPT FOR GOOD CAUSE SHOWN, EACH DOCUMENT FROM THE INSURER'S
29 CLAIM FILE THAT ENABLES RECONSTRUCTION OF THE INSURER'S ACTIVITIES
30 RELATIVE TO THE INSURED'S CLAIM, INCLUDING DOCUMENTATION OF EACH

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

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

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

8 2. THE AMOUNT THE INSURED WAS ENTITLED TO
9 RECEIVE FROM THE INSURER UNDER THE APPLICABLE POLICY ON THE
10 UNDERLYING COVERED FIRST-PARTY CLAIM;

11 3. WHETHER THE INSURER BREACHED ITS
12 OBLIGATION UNDER THE APPLICABLE POLICY TO COVER AND PAY THE
13 UNDERLYING COVERED FIRST-PARTY CLAIM, AS DETERMINED BY THE
14 ADMINISTRATION;

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

17 5. THE AMOUNT OF DAMAGES, EXPENSES,
18 LITIGATION COSTS, AND INTEREST, AS APPLICABLE AND AS AUTHORIZED
19 UNDER PARAGRAPH (2) OF THIS SUBSECTION.

20 (II) THE FAILURE OF THE ADMINISTRATION TO ISSUE A
21 DECISION WITHIN THE TIME SPECIFIED IN PARAGRAPH (1) OF THIS SUBSECTION
22 SHALL BE CONSIDERED A DETERMINATION THAT THE INSURER DID NOT
23 BREACH ANY OBLIGATION TO THE INSURED.

24 (2) WITH RESPECT TO THE DETERMINATION OF DAMAGES UNDER
25 ITEM (1)(I)5 OF THIS SUBSECTION:

26 (I) IF THE ADMINISTRATION FINDS THAT THE INSURER
27 BREACHED AN OBLIGATION TO THE INSURED, THE ADMINISTRATION SHALL
28 DETERMINE THE OBLIGATION OF THE INSURER TO PAY:

29 1. ACTUAL DAMAGES, WHICH ACTUAL DAMAGES MAY
30 NOT EXCEED THE LIMITS OF ANY APPLICABLE POLICY; AND

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

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

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

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

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

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

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

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

19 **(3) AN INSURER MAY NOT BE FOUND TO HAVE FAILED TO ACT IN**
20 **GOOD FAITH UNDER THIS SECTION SOLELY ON THE BASIS OF DELAY IN**
21 **DETERMINING COVERAGE OR THE EXTENT OF PAYMENT TO WHICH THE**
22 **INSURED IS ENTITLED IF THE INSURER ACTED WITHIN THE TIME PERIOD**
23 **SPECIFIED BY STATUTE OR REGULATION FOR INVESTIGATION OF A CLAIM BY AN**
24 **INSURER.**

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

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

4 **(F) (1) A PARTY SHALL HAVE 30 DAYS AFTER THE DATE OF SERVICE**
5 **OF THE ADMINISTRATION'S DECISION TO REQUEST A HEARING.**

6 **(2) ALL HEARINGS REQUESTED UNDER THIS SECTION SHALL:**

7 **(I) BE REFERRED BY THE COMMISSIONER TO THE OFFICE**
8 **OF ADMINISTRATIVE HEARINGS FOR A FINAL DECISION UNDER TITLE 10,**
9 **SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE;**

10 **(II) BE HEARD DE NOVO;**

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

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

16 **(G) (1) A PARTY MAY APPEAL A FINAL DECISION BY THE**
17 **ADMINISTRATION OR AN ADMINISTRATIVE LAW JUDGE UNDER THIS SECTION TO**
18 **A CIRCUIT COURT IN ACCORDANCE WITH § 2-215 OF THIS ARTICLE AND TITLE**
19 **10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.**

20 **(2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AN**
21 **APPEAL TO A CIRCUIT COURT UNDER THIS SECTION SHALL BE HEARD DE NOVO.**

22 SECTION 2. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall
23 be 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~~ complaint or action filed
25 before the effective date of this Act.

26 SECTION 3. AND BE IT FURTHER ENACTED, That, notwithstanding Section
27 2 of this Act, the provisions of this Act providing for expenses and litigation costs apply
28 only to a cause of action arising on or after the effective date of this Act.

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

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

9 (1) the number and types of complaints from insureds regarding
10 first-party insurance claims under property and casualty insurance policies under this
11 Act;

12 (2) the administrative and judicial dispositions of the complaints
13 described in item (1) of this section;

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

16 (4) the administrative and judicial dispositions of the regulatory
17 enforcement actions for unfair claim settlement practices described under item (3) of
18 this section.

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

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.