

SENATE BILL 389

D3

(7lr2449)

ENROLLED BILL

— Judicial Proceedings / Judiciary —

Introduced by **Senator Stone**

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.

President.

CHAPTER _____

1 AN ACT concerning

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

4 FOR the purpose of authorizing ~~an insured, in a certain civil action between an~~
5 ~~insured and an insurer, to recover certain damages, expenses and litigation~~
6 ~~costs, and interest computed at a certain rate and from a certain date, and~~
7 ~~actual compensatory damages, if the court finds that the insurer failed to act in~~
8 ~~good faith acted in bad faith; requiring an insured to send a certain notice to the~~
9 ~~insurer before filing a certain civil action; providing for the application and~~
10 ~~construction of this Act; and generally relating to the liability of an insurer for~~
11 ~~failure to act in good acting in bad faith~~ *the recovery of actual damages,*

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

16 BY repealing and reenacting, with amendments,
 17 Article 1 – Rules of Interpretation
 18 Section 32
 19 Annotated Code of Maryland
 20 (2005 Replacement Volume and 2006 Supplement)

21 BY adding to
 22 Article – Courts and Judicial Proceedings
 23 Section 3–1701 to be under the new subtitle “Subtitle 17. Liability of Insurer”;
 24 and 5–118
 25 Annotated Code of Maryland
 26 (2006 Replacement Volume)

27 BY repealing and reenacting, with amendments,
 28 Article – Insurance
 29 Section 27–303(7) and (8), 27–304(16) and (17), and 27–305(a) and (c)
 30 Annotated Code of Maryland
 31 (2006 Replacement Volume and 2006 Supplement)

32 BY adding to
 33 Article – Insurance
 34 Section 27–303(9), 27–304(18), and 27–1001 and the subtitle “Subtitle 10.
 35 Property and Casualty Insurance – First-Party Claims”
 36 Annotated Code of Maryland
 37 (2006 Replacement Volume and 2006 Supplement)

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

3 **Article 1 – Rules of Interpretation**

4 32.

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

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

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

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

13 (3) THE MARYLAND INSURANCE ADMINISTRATION UNDER §
14 27-1001 OF THE INSURANCE ARTICLE.

15 **Article – Courts and Judicial Proceedings**

16 **SUBTITLE 17. LIABILITY OF INSURER.**

17 **3-1701.**

18 (A) (1) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE
19 MEANINGS INDICATED.

20 (2) “CASUALTY INSURANCE” HAS THE MEANING STATED IN §
21 1-101 OF THE INSURANCE ARTICLE.

22 (3) “COMMERCIAL INSURANCE” HAS THE MEANING STATED IN §
23 27-601 OF THE INSURANCE ARTICLE.

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

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

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

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

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

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

23 (1) ~~THE COVERAGE THAT EXISTS UNDER THE INSURER'S~~
24 ~~INSURANCE POLICY OF PROPERTY AND CASUALTY OR MOTOR VEHICLE~~
25 ~~LIABILITY INSURANCE; OR~~

26 (2) ~~THE EXTENT TO WHICH THE INSURED IS ENTITLED TO~~
27 ~~RECEIVE PAYMENT FROM THE INSURER FOR A COVERED LOSS UNDER THE~~
28 ~~INSURER'S POLICY OF PROPERTY AND CASUALTY OR MOTOR VEHICLE LIABILITY~~
29 ~~INSURANCE.~~

1 ~~(B) (1) AT LEAST 30 DAYS BEFORE FILING AN ACTION UNDER THIS~~
 2 ~~SECTION, AN INSURED SHALL SEND WRITTEN NOTICE TO THE INSURER OF THE~~
 3 ~~INSURED'S INTENT TO FILE THE ACTION.~~

4 ~~(2) THE NOTICE SHALL INCLUDE AN OFFER TO SETTLE THE~~
 5 ~~INSURED'S CLAIM AGAINST THE INSURER AND STATE THE AMOUNT OF THE~~
 6 ~~SETTLEMENT OFFER.~~

7 (D) THIS SECTION APPLIES ONLY IN A CIVIL ACTION:

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

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

12 (2) THAT ALLEGES THAT THE INSURER FAILED TO ACT IN GOOD
 13 FAITH; AND

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

17 ~~(B) (C) (E)~~ NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IF THE
 18 ~~COURT TRIER OF FACT~~ IN AN ACTION UNDER THIS SECTION FINDS IN FAVOR OF
 19 THE INSURED AND FINDS THAT THE INSURER ~~FAILED TO ACT IN GOOD FAITH~~
 20 ~~ACTED IN BAD FAITH~~ FAILED TO ACT IN GOOD FAITH, THE INSURED MAY
 21 RECOVER FROM THE INSURER:

22 (1) ACTUAL DAMAGES, WHICH MAY NOT EXCEED THE COVERAGE
 23 THAT EXISTS UNDER THE INSURER'S POLICY ACTUAL DAMAGES MAY NOT
 24 EXCEED THE LIMITS OF THE APPLICABLE POLICY;

25 (2) NONECONOMIC DAMAGES;

26 (3) CONSEQUENTIAL DAMAGES;

27 ~~(1) (4)~~ EXPENSES AND LITIGATION COSTS INCURRED BY THE
 28 INSURED IN AN ACTION UNDER THIS SECTION OR UNDER § 27-1001 OF THE

1 INSURANCE ARTICLE OR BOTH, INCLUDING REASONABLE ATTORNEY'S FEES;
 2 AND

3 ~~(2)~~ ~~(5)~~ (3) INTEREST ON ALL ~~EXPENSES~~ ACTUAL DAMAGES,
 4 EXPENSES, AND LITIGATION COSTS INCURRED BY THE INSURED, COMPUTED:

5 (I) AT THE RATE ALLOWED UNDER § 11-107(A) OF THIS
 6 ARTICLE; AND

7 (II) FROM THE DATE ~~THE CLAIM THAT WAS THE SUBJECT OF~~
 8 ~~THE CIVIL ACTION WAS SUBMITTED TO INSURER OR THE INSURER'S AGENT ON~~
 9 ~~WHICH THE INSURED'S CLAIM WOULD HAVE BEEN PAID IF THE INSURER ACTED~~
 10 IN GOOD FAITH; AND

11 ~~(III) ACTUAL COMPENSATORY DAMAGES.~~

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

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

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

23 ~~(C)~~ ~~(D)~~ (I) THIS SECTION DOES NOT LIMIT THE RIGHT OF ANY PERSON
 24 TO MAINTAIN A CIVIL ACTION FOR DAMAGES OR OTHER REMEDIES OTHERWISE
 25 AVAILABLE UNDER ANY OTHER PROVISION OF LAW.

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

29 5-118.

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

3 (2) NOT EXCEEDING \$125,000 FOR EACH VIOLATION OF §
4 27-303(9) OF THIS SUBTITLE OR A REGULATION ADOPTED UNDER § 27-303(9)
5 OF THIS SUBTITLE.

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

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

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

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

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

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

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

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

26 (4) THE AMOUNT OF ATTORNEY'S FEES RECOVERED FROM AN
27 INSURER UNDER PARAGRAPH (3) OF THIS SUBSECTION MAY NOT EXCEED
28 ONE-THIRD OF THE ACTUAL DAMAGES RECOVERED.

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

1 **27-1001.**

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

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

8 **(C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
9 **SUBSECTION, A PERSON MAY NOT BRING OR PURSUE AN ACTION UNDER §**
10 **3-1701 OF THE COURTS ARTICLE IN A COURT UNLESS THE PERSON COMPLIES**
11 **WITH THIS SECTION.**

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

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

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

26 **(II) SPECIFY THE APPLICABLE INSURANCE COVERAGE AND**
27 **THE AMOUNT OF THE CLAIM UNDER THE APPLICABLE COVERAGE; AND**

1 (III) STATE THE AMOUNT OF ACTUAL DAMAGES, AND THE
2 CLAIM FOR EXPENSES AND LITIGATION COSTS DESCRIBED UNDER SUBSECTION
3 (E)(2) OF THIS SECTION.

4 (3) THE ADMINISTRATION SHALL FORWARD THE FILING TO THE
5 INSURER.

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

8 (I) FILE WITH THE ADMINISTRATION, EXCEPT FOR GOOD
9 CAUSE SHOWN, A WRITTEN RESPONSE TOGETHER WITH A COPY OF EACH
10 DOCUMENT FROM THE INSURER'S CLAIM FILE THAT ENABLES RECONSTRUCTION
11 OF THE INSURER'S ACTIVITIES RELATIVE TO THE INSURED'S CLAIM, INCLUDING
12 DOCUMENTATION OF EACH PERTINENT COMMUNICATION, TRANSACTION, NOTE,
13 WORK PAPER, CLAIM FORM, BILL, AND EXPLANATION OF BENEFITS FORM
14 RELATIVE TO THE CLAIM; AND

15 (II) MAIL TO THE INSURED A COPY OF THE RESPONSE AND,
16 EXCEPT FOR GOOD CAUSE SHOWN, EACH DOCUMENT FROM THE INSURER'S
17 CLAIM FILE THAT ENABLES RECONSTRUCTION OF THE INSURER'S ACTIVITIES
18 RELATIVE TO THE INSURED'S CLAIM, INCLUDING DOCUMENTATION OF EACH
19 PERTINENT COMMUNICATION, TRANSACTION, NOTE, WORK PAPER, CLAIM FORM,
20 BILL, AND EXPLANATION OF BENEFITS FORM RELATIVE TO THE CLAIM.

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

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

26 2. THE AMOUNT THE INSURED WAS ENTITLED TO
27 RECEIVE FROM THE INSURER UNDER THE APPLICABLE POLICY ON THE
28 UNDERLYING COVERED FIRST-PARTY CLAIM;

29 3. WHETHER THE INSURER BREACHED ITS
30 OBLIGATION UNDER THE APPLICABLE POLICY TO COVER AND PAY THE
31 UNDERLYING COVERED FIRST-PARTY CLAIM, AS DETERMINED BY THE
32 ADMINISTRATION;

1 **4. WHETHER AN INSURER THAT BREACHED ITS**
2 **OBLIGATION FAILED TO ACT IN GOOD FAITH; AND**

3 **5. THE AMOUNT OF DAMAGES, EXPENSES,**
4 **LITIGATION COSTS, AND INTEREST, AS APPLICABLE AND AS AUTHORIZED UNDER**
5 **PARAGRAPH (2) OF THIS SUBSECTION.**

6 **(II) THE FAILURE OF THE ADMINISTRATION TO ISSUE A**
7 **DECISION WITHIN THE TIME SPECIFIED IN SUBPARAGRAPH (I) OF THIS**
8 **PARAGRAPH SHALL BE CONSIDERED A DETERMINATION THAT THE INSURER DID**
9 **NOT BREACH ANY OBLIGATION TO THE INSURED.**

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

12 **(I) IF THE ADMINISTRATION FINDS THAT THE INSURER**
13 **BREACHED AN OBLIGATION TO THE INSURED, THE ADMINISTRATION SHALL**
14 **DETERMINE THE OBLIGATION OF THE INSURER TO PAY:**

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

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

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

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

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

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

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

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

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

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

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

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

18 **(F) (1) IF A PARTY RECEIVES AN ADVERSE DECISION, THE PARTY**
19 **SHALL HAVE 30 DAYS AFTER THE DATE OF SERVICE OF THE ADMINISTRATION'S**
20 **DECISION TO REQUEST A HEARING.**

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

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

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

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

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

4 **(G) (1) IF A PARTY RECEIVES AN ADVERSE DECISION, THE PARTY MAY**
5 **APPEAL A FINAL DECISION BY THE ADMINISTRATION OR AN ADMINISTRATIVE**
6 **LAW JUDGE UNDER THIS SECTION TO A CIRCUIT COURT IN ACCORDANCE WITH §**
7 **2-215 OF THIS ARTICLE AND TITLE 10, SUBTITLE 2 OF THE STATE**
8 **GOVERNMENT ARTICLE.**

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

11 **(II) IF A PARTY REQUESTS A HEARING BEFORE THE OFFICE**
12 **OF ADMINISTRATIVE HEARINGS AND ANOTHER PARTY FILES AN APPEAL TO A**
13 **CIRCUIT COURT:**

14 **1. JURISDICTION OVER THE REQUEST FOR HEARING**
15 **IS TRANSFERRED TO THE CIRCUIT COURT;**

16 **2. THE REQUEST FOR HEARING, THE**
17 **ADMINISTRATION'S DECISION, AND THE ADMINISTRATION'S CASE FILE,**
18 **INCLUDING THE COMPLAINT, RESPONSE, AND ALL DOCUMENTS SUBMITTED TO**
19 **THE ADMINISTRATION, SHALL BE TRANSMITTED PROMPTLY TO THE CIRCUIT**
20 **COURT; AND**

21 **3. THE REQUEST FOR HEARING SHALL BE DOCKETED**
22 **IN THE CIRCUIT COURT AND CONSOLIDATED FOR TRIAL WITH THE APPEAL.**

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

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

29 **(1) THE NUMBER AND TYPES OF COMPLAINTS UNDER THIS**
30 **SECTION OR § 3-1701 OF THE COURTS ARTICLE FROM INSUREDS REGARDING**

1 FIRST-PARTY INSURANCE CLAIMS UNDER PROPERTY AND CASUALTY INSURANCE
 2 POLICIES;

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

5 (3) THE NUMBER AND TYPES OF REGULATORY ENFORCEMENT
 6 ACTIONS INSTITUTED BY THE ADMINISTRATION FOR UNFAIR CLAIM
 7 SETTLEMENT PRACTICES UNDER § 27-303(9) OR § 27-304(18) OF THIS TITLE;
 8 AND

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

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

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

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.