

SENATE BILL 389

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71r2449

By: **Senator Stone**

Introduced and read first time: February 2, 2007

Assigned to: Judicial Proceedings

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 an insured, in a certain civil action between an
4 insured and an insurer, to recover certain expenses and litigation costs, interest
5 computed at a certain rate and from a certain date, and actual compensatory
6 damages, if the court finds that the insurer failed to act in good faith; providing
7 for the application and construction of this Act; and generally relating to the
8 liability of an insurer for failure to act in good faith.

9 BY adding to

10 Article – Courts and Judicial Proceedings

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

12 Annotated Code of Maryland

13 (2006 Replacement Volume)

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

16 **Article – Courts and Judicial Proceedings**

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

18 **3–1701.**

19 **(A) THIS SECTION APPLIES IN A CIVIL ACTION FILED BY AN INSURED**
20 **AGAINST AN 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) EXPENSES AND LITIGATION COSTS INCURRED BY THE**
10 **INSURED, INCLUDING REASONABLE ATTORNEY'S FEES;**

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

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

15 **(II) FROM THE DATE THE CLAIM THAT WAS THE SUBJECT OF**
16 **THE CIVIL ACTION WAS SUBMITTED TO INSURER OR THE INSURER'S AGENT; AND**

17 **(III) ACTUAL COMPENSATORY DAMAGES.**

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

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
22 October 1, 2007.