SENATE BILL 389

By: **Senator Stone** Introduced and read first time: February 2, 2007 Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments Senate action: Adopted Read second time: March 21, 2007

CHAPTER _____

1 AN ACT concerning

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

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

- 11 BY adding to
- 12 Article Courts and Judicial Proceedings
- 13 Section 3–1701 to be under the new subtitle "Subtitle 17. Liability of Insurer"
- 14 Annotated Code of Maryland
- 15 (2006 Replacement Volume)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF 17 MARYLAND, That the Laws of Maryland read as follows:

18

Article – Courts and Judicial Proceedings

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law. <u>Underlining</u> indicates amendments to bill. <u>Strike out</u> indicates matter stricken from the bill by amendment or deleted from the law by amendment.



SENATE BILL 389

SUBTITLE 17. LIABILITY OF INSURER. 1

3-1701. 2

3 THIS SECTION APPLIES IN ONLY TO A CIVIL ACTION FILED BY AN (A) INSURED AGAINST AN INSURER OR BY AN INSURER AGAINST ITS INSURED TO 4 5 **DETERMINE:**

THE COVERAGE THAT EXISTS UNDER THE INSURER'S 6 (1) **INSURANCE** POLICY OF PROPERTY AND CASUALTY OR MOTOR VEHICLE 7 8 LIABILITY INSURANCE; OR

9 (2) THE EXTENT TO WHICH THE INSURED IS ENTITLED TO 10 RECEIVE PAYMENT FROM THE INSURER FOR A COVERED LOSS UNDER THE **INSURER'S POLICY OF PROPERTY AND CASUALTY OR MOTOR VEHICLE LIABILITY** 11 12 **INSURANCE.**

13 (1) AT LEAST 30 DAYS BEFORE FILING AN ACTION UNDER THIS **(B)** 14 SECTION. AN INSURED SHALL SEND WRITTEN NOTICE TO THE INSURER OF THE 15 **INSURED'S INTENT TO FILE THE ACTION.**

(2) 16 THE NOTICE SHALL INCLUDE AN OFFER TO SETTLE THE INSURED'S CLAIM AGAINST THE INSURER AND STATE THE AMOUNT OF THE 17 18 SETTLEMENT OFFER.

19 NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IF THE (B) (C) 20 COURT IN AN ACTION UNDER THIS SECTION FINDS IN FAVOR OF THE INSURED AND FINDS THAT THE INSURER FAILED TO ACT IN GOOD FAITH ACTED IN BAD 21 22 FAITH, THE INSURED MAY RECOVER FROM THE INSURER:

- 23 (1) ACTUAL DAMAGES, WHICH MAY NOT EXCEED THE COVERAGE THAT EXISTS UNDER THE INSURER'S POLICY; 24
- 25 (2) **NONECONOMIC DAMAGES;**
- (3) 26 **CONSEQUENTIAL DAMAGES;**
- 27 (1)(4)**EXPENSES AND LITIGATION COSTS INCURRED BY THE** 28 INSURED, INCLUDING REASONABLE ATTORNEY'S FEES; AND

 $\mathbf{2}$

SENATE BILL 389

1 (2) (5) **INTEREST ON ALL EXPENSES AND LITIGATION COSTS** 2 **INCURRED BY THE INSURED, COMPUTED: (I)** AT THE RATE ALLOWED UNDER § 11–107(A) OF THIS 3 4 **ARTICLE; AND** 5 **(II)** FROM THE DATE THE CLAIM THAT WAS THE SUBJECT OF 6 THE CIVIL ACTION WAS SUBMITTED TO INSURER OR THE INSURER'S AGENT; AND 7 (III) ACTUAL COMPENSATORY DAMAGES. (C) (D) 8 THIS SECTION DOES NOT LIMIT THE RIGHT OF ANY PERSON 9 TO MAINTAIN A CIVIL ACTION FOR DAMAGES OTHERWISE AVAILABLE UNDER ANY OTHER PROVISION OF LAW. 10 11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect

October 1, 2007.

12

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.