

HOUSE BILL 1494

C4

8lr3258
CF SB 902

By: **Delegate Feldman**

Introduced and read first time: February 19, 2008

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Motor Vehicle Insurance – Uninsured Motorist Insurers – Waiver of Defenses**

3 FOR the purpose of providing that the failure of an uninsured motorist insurer to
4 respond to a certain notice of a certain settlement offer or the consent of an
5 uninsured motorist insurer to acceptance of a certain settlement offer shall not
6 operate as a waiver of any defense of the uninsured motorist insurer available
7 in an action between the uninsured motorist insurer and a person injured in a
8 motor vehicle accident; and generally relating to waivers of defenses available to
9 uninsured motorist insurers.

10 BY repealing and reenacting, with amendments,
11 Article – Insurance
12 Section 19–511
13 Annotated Code of Maryland
14 (2006 Replacement Volume and 2007 Supplement)

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

17 **Article – Insurance**

18 19–511.

19 (a) If an injured person receives a written offer from a motor vehicle
20 insurance liability insurer or that insurer's authorized agent to settle a claim for
21 bodily injury or death, and the amount of the settlement offer, in combination with
22 any other settlements arising out of the same occurrence, would exhaust the bodily
23 injury or death limits of the applicable liability insurance policies, bonds, and
24 securities, the injured person shall send by certified mail, to any insurer that provides
25 uninsured motorist coverage for the bodily injury or death, a copy of the liability
26 insurer's written settlement offer.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (b) Within 60 days after receipt of the notice required under subsection (a) of
2 this section, the uninsured motorist insurer shall send to the injured person:

3 (1) written consent to acceptance of the settlement offer and to the
4 execution of releases; or

5 (2) written refusal to consent to acceptance of the settlement offer.

6 (c) Within 30 days after a refusal to consent to acceptance of a settlement
7 offer under subsection (b)(2) of this section, the uninsured motorist insurer shall pay to
8 the injured person the amount of the settlement offer.

9 (d) (1) Payment as described in subsection (c) of this section shall
10 preserve the uninsured motorist insurer's subrogation rights against the liability
11 insurer and its insured.

12 (2) Receipt by the injured person of the payment described in
13 subsection (c) of this section shall constitute the assignment, up to the amount of the
14 payment, of any recovery on behalf of the injured person that is subsequently paid
15 from the applicable liability insurance policies, bonds, and securities.

16 (e) The injured person may accept the liability insurer's settlement offer and
17 execute releases in favor of the liability insurer and its insured without prejudice to
18 any claim the injured person may have against the uninsured motorist insurer:

19 (1) on receipt of written consent to acceptance of the settlement offer
20 and to the execution of releases; or

21 (2) if the uninsured motorist insurer has not met the requirements of
22 subsection (b) or subsection (c) of this section.

23 **(F) THE FAILURE OF THE UNINSURED MOTORIST INSURER TO RESPOND**
24 **TO NOTICE OF A SETTLEMENT OFFER SENT UNDER SUBSECTION (A) OF THIS**
25 **SECTION OR THE CONSENT OF THE UNINSURED MOTORIST INSURER TO**
26 **ACCEPTANCE OF A SETTLEMENT OFFER UNDER SUBSECTION (B)(1) OF THIS**
27 **SECTION SHALL NOT OPERATE AS A WAIVER OF ANY DEFENSE AVAILABLE TO**
28 **THE UNINSURED MOTORIST INSURER IN AN ACTION BETWEEN THE UNINSURED**
29 **MOTORIST INSURER AND THE INJURED PERSON, INCLUDING DEFENSES**
30 **AVAILABLE ON THE ISSUES OF LIABILITY AND DAMAGES.**

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
32 June 1, 2008.