

HOUSE BILL 921

D3

11r1997

By: **Delegate Simmons**

Introduced and read first time: February 11, 2011

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 20, 2011

CHAPTER _____

1 AN ACT concerning

2 **Courts and Judicial Proceedings – Prelitigation Discovery – Insurance**
3 **Coverage**

4 FOR the purpose of requiring ~~a property and casualty insurer to disclose to a certain~~
5 ~~claimant~~ certain insurers to disclose to certain claimants under certain
6 circumstances certain limits of coverage in any insurance agreement under
7 which certain persons may be liable to satisfy all or part of the claim or to
8 indemnify or reimburse for payments made to satisfy the claim; requiring
9 disclosure of certain limits of coverage within a certain time period under
10 certain circumstances; providing for certain procedures; providing that certain
11 persons are not civilly or criminally liable for disclosure of certain
12 documentation; providing that certain disclosure of certain documentation does
13 not constitute a certain admission or a certain waiver of certain terms,
14 conditions, or rights; providing that certain documentation is not admissible as
15 evidence by reason of a certain disclosure; defining certain terms; providing for
16 the application of this Act; and generally relating to the disclosure of certain
17 coverage limits in certain insurance agreements.

18 BY adding to

19 Article – Courts and Judicial Proceedings

20 Section 10–1101 through 10–1105 to be under the new subtitle “Subtitle 11.

21 Prelitigation Discovery”

22 Annotated Code of Maryland

23 (2006 Replacement Volume and 2010 Supplement)

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

3 **Article – Courts and Judicial Proceedings**

4 **SUBTITLE 11. PRELITIGATION DISCOVERY.**

5 **10-1101.**

6 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
7 **INDICATED.**

8 **(B) “BENEFICIARY” MEANS AN INDIVIDUAL WHO MAY BRING AN ACTION**
9 **FOR WRONGFUL DEATH UNDER TITLE 3, SUBTITLE 9 OF THIS ARTICLE.**

10 **(C) “CLAIMANT” MEANS:**

11 **(1) A PERSON WHO ALLEGES DAMAGES AS A RESULT OF A**
12 **VEHICLE ACCIDENT OR AN ATTORNEY WHO REPRESENTS THE PERSON; OR**

13 **(2) A PERSONAL REPRESENTATIVE OF THE ESTATE OF A**
14 **DECEDENT WHO DIED AS A RESULT OF A VEHICLE ACCIDENT OR AN ATTORNEY**
15 **WHO REPRESENTS THE PERSONAL REPRESENTATIVE OF THE ESTATE OF THE**
16 **DECEDENT.**

17 **(D) “INSURER” INCLUDES A PROPERTY AND CASUALTY INSURER, A**
18 **SELF-INSURANCE PLAN, OR ANY PERSON REQUIRED TO PROVIDE**
19 **INDEMNIFICATION FOR A CLAIM FOR WRONGFUL DEATH, PERSONAL INJURY, OR**
20 **PROPERTY DAMAGE.**

21 **(E) “VEHICLE” HAS THE MEANING STATED IN § 11-176 OF THE**
22 **TRANSPORTATION ARTICLE.**

23 **~~10-1101.~~ 10-1102.**

24 **~~(A) AFTER A CLAIMANT FILES A WRITTEN TORT CLAIM WITH A~~**
25 **~~PROPERTY AND CASUALTY INSURER, THE CLAIMANT MAY OBTAIN FROM THE~~**
26 **~~PROPERTY AND CASUALTY CONCERNING A VEHICLE ACCIDENT AND PROVIDES~~**
27 **~~THE DOCUMENTATION DESCRIBED IN § 10-1103 OR § 10-1104 OF THIS~~**
28 **~~SUBTITLE WITH AN INSURER, THE CLAIMANT MAY OBTAIN FROM THE INSURER~~**
29 **~~DOCUMENTATION OF THE APPLICABLE LIMITS OF LIABILITY COVERAGE IN ANY~~**
30 **~~INSURANCE AGREEMENT UNDER WHICH ANY PERSON ENGAGED IN THE~~**
31 **~~INSURANCE BUSINESS THE INSURER MAY BE LIABLE TO:~~**

32 **(1) SATISFY ALL OR PART OF THE CLAIM; OR**

1 (2) INDEMNIFY OR REIMBURSE FOR PAYMENTS MADE TO SATISFY
2 THE CLAIM.

3 ~~(B) THE PROPERTY AND CASUALTY INSURER SHALL PROVIDE THE~~
4 ~~CLAIMANT THE DOCUMENTATION REQUIRED BY SUBSECTION (A) OF THIS~~
5 ~~SECTION WITHIN 30 DAYS AFTER RECEIPT OF A WRITTEN REQUEST FOR THE~~
6 ~~DOCUMENTATION.~~

7 10-1103.

8 (A) THIS SECTION DOES NOT APPLY TO A CLAIM DESCRIBED UNDER §
9 10-1104 OF THIS SUBTITLE.

10 (B) A CLAIMANT MAY OBTAIN THE DOCUMENTATION DESCRIBED IN §
11 10-1102 OF THIS SUBTITLE IF THE CLAIMANT PROVIDES IN WRITING TO THE
12 INSURER:

13 (1) THE DATE OF THE VEHICLE ACCIDENT;

14 (2) THE NAME AND LAST KNOWN ADDRESS OF THE ALLEGED
15 TORTFEASOR;

16 (3) A COPY OF THE VEHICLE ACCIDENT REPORT, IF AVAILABLE;

17 (4) THE INSURER'S CLAIM NUMBER, IF AVAILABLE;

18 (5) THE CLAIMANT'S HEALTH CARE BILLS AND DOCUMENTATION
19 OF THE CLAIMANT'S LOSS OF INCOME, IF ANY, RESULTING FROM THE VEHICLE
20 ACCIDENT; AND

21 (6) THE RECORDS OF HEALTH CARE TREATMENT FOR THE
22 CLAIMANT'S INJURIES CAUSED BY THE VEHICLE ACCIDENT.

23 (C) IF THE AMOUNT OF THE INCURRED HEALTH CARE BILLS AND LOSS
24 OF INCOME DOCUMENTED BY THE CLAIMANT UNDER THIS SECTION IS AT LEAST
25 \$12,500, THE INSURER SHALL DISCLOSE IN WRITING THE APPLICABLE LIMITS
26 OF COVERAGE IN EACH WRITTEN AGREEMENT UNDER WHICH THE INSURER MAY
27 BE LIABLE.

28 10-1104.

1 **(A) THIS SECTION APPLIES TO A CLAIM BY THE ESTATE OF AN**
2 **INDIVIDUAL OR A BENEFICIARY OF THE INDIVIDUAL RESULTING FROM THE**
3 **DEATH OF THE INDIVIDUAL IN A VEHICLE ACCIDENT.**

4 **(B) A CLAIMANT MAY OBTAIN THE DOCUMENTATION DESCRIBED IN §**
5 **10-1102 OF THIS SUBTITLE IF THE CLAIMANT PROVIDES IN WRITING TO THE**
6 **INSURER:**

7 **(1) THE DATE OF THE VEHICLE ACCIDENT;**

8 **(2) THE NAME AND LAST KNOWN ADDRESS OF THE ALLEGED**
9 **TORTFEASOR;**

10 **(3) A COPY OF THE VEHICLE ACCIDENT REPORT, IF AVAILABLE;**

11 **(4) THE INSURER'S CLAIM NUMBER, IF AVAILABLE;**

12 **(5) A COPY OF THE DECEDENT'S DEATH CERTIFICATE ISSUED IN**
13 **THE STATE OR ANOTHER JURISDICTION;**

14 **(6) A COPY OF THE LETTERS OF ADMINISTRATION ISSUED TO**
15 **APPOINT THE PERSONAL REPRESENTATIVE OF THE DECEDENT'S ESTATE IN THE**
16 **STATE OR A SUBSTANTIALLY SIMILAR DOCUMENT ISSUED BY ANOTHER**
17 **JURISDICTION;**

18 **(7) THE NAME OF EACH BENEFICIARY OF THE DECEDENT, IF**
19 **KNOWN;**

20 **(8) THE RELATIONSHIP TO THE DECEDENT OF EACH KNOWN**
21 **BENEFICIARY OF THE DECEDENT;**

22 **(9) THE AMOUNT OF ECONOMIC DAMAGES, IF ANY, CLAIMED BY**
23 **EACH KNOWN BENEFICIARY OF THE DECEDENT, INCLUDING ANY AMOUNT**
24 **CLAIMED BASED ON FUTURE LOSS OF EARNINGS OF THE DECEDENT;**

25 **(10) THE HEALTH CARE BILLS FOR HEALTH CARE TREATMENT, IF**
26 **ANY, OF THE DECEDENT RESULTING FROM THE VEHICLE ACCIDENT;**

27 **(11) THE RECORDS OF HEALTH CARE TREATMENT FOR INJURIES**
28 **TO THE DECEDENT CAUSED BY THE VEHICLE ACCIDENT; AND**

29 **(12) DOCUMENTATION OF THE DECEDENT'S PAST LOSS OF**
30 **INCOME, IF ANY, RESULTING FROM THE VEHICLE ACCIDENT.**

1 10-1105.

2 (A) AN INSURER SHALL PROVIDE IN WRITING THE DOCUMENTATION
3 DESCRIBED UNDER § 10-1102 OF THIS SUBTITLE WITHIN 30 DAYS AFTER THE
4 DATE OF A REQUEST IN ACCORDANCE WITH § 10-1103 OR § 10-1104 OF THIS
5 SUBTITLE, REGARDLESS OF WHETHER THE INSURER CONTESTS THE
6 APPLICABILITY OF COVERAGE TO A CLAIM.

7 (B) AN INSURER, AND THE EMPLOYEES AND AGENTS OF AN INSURER,
8 MAY NOT BE CIVILLY OR CRIMINALLY LIABLE FOR THE DISCLOSURE OF
9 DOCUMENTATION REQUIRED UNDER THIS SUBTITLE.

10 (C) DISCLOSURE OF THE DOCUMENTATION UNDER THIS SUBTITLE
11 DOES NOT CONSTITUTE:

12 (1) AN ADMISSION THAT A CLAIM IS SUBJECT TO THE
13 APPLICABLE AGREEMENT BETWEEN THE INSURER AND THE ALLEGED
14 TORTFEASOR; OR

15 (2) A WAIVER OF ANY TERM OR CONDITION OF THE APPLICABLE
16 AGREEMENT BETWEEN THE INSURER AND THE ALLEGED TORTFEASOR OR ANY
17 RIGHT OF THE INSURER, INCLUDING ANY POTENTIAL DEFENSE CONCERNING
18 COVERAGE OR LIABILITY.

19 (D) DOCUMENTATION DISCLOSED UNDER THIS SUBTITLE IS NOT
20 ADMISSIBLE AS EVIDENCE AT TRIAL BY REASON OF ITS DISCLOSURE UNDER
21 THIS SUBTITLE.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
23 construed to apply only prospectively and may not be applied or interpreted to have
24 any effect on or application to any claim filed with an insurer, as defined in Section 1
25 of this Act, before the effective date of this Act.

26 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take
27 effect October 1, 2011.