

SENATE BILL 138

D3

11r0544

By: **Senator Zirkin**

Introduced and read first time: January 24, 2011

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 22, 2011

CHAPTER _____

1 AN ACT concerning

2 **Courts – Evidence – ~~Unpaid Bills and Written Estimates for Goods or~~**
3 **~~Services~~ Vehicle Repair Estimates**

4 FOR the purpose of providing that, on certain testimony by a party or certain other
5 persons, ~~an unpaid bill or a written estimate for goods or services~~ a written
6 vehicle repair estimate prepared by an insurer or its authorized representative
7 is admissible ~~to prove~~, without the testimony of the ~~provider of the goods or~~
8 ~~services, that the estimate or unpaid bill is authentic and that the charges of~~
9 ~~the provider are fair and reasonable~~ preparer of the estimate, as evidence of the
10 authenticity and the fairness and reasonableness of the estimate; making
11 certain provisions concerning the admissibility of paid bills for goods or services
12 ~~apply to unpaid bills and~~ applicable to certain written vehicle repair estimates
13 ~~for goods and services; providing for the application of this Act; and generally~~
14 relating to the admissibility of ~~unpaid bills and~~ certain written vehicle repair
15 estimates ~~for goods or services~~ as evidence of certain matters in certain civil
16 trials.

17 BY repealing and reenacting, with amendments,
18 Article – Courts and Judicial Proceedings
19 Section 10–105
20 Annotated Code of Maryland
21 (2006 Replacement Volume and 2010 Supplement)

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

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 **Article – Courts and Judicial Proceedings**

2 10–105.

3 (a) The provisions of this section apply to a civil action in:

4 (1) The District Court; or

5 (2) A circuit court if the amount in controversy in the action in the
6 circuit court does not exceed the amount specified in § 4–401 of this article for that
7 type of action.

8 (b) (1) (i) Subject to the provisions of this section, a ~~{paid}~~ bill ~~OR~~
9 ~~WRITTEN ESTIMATE~~ for goods or services OR A WRITTEN VEHICLE REPAIR
10 ESTIMATE PREPARED BY AN INSURER OR ITS AUTHORIZED REPRESENTATIVE is
11 admissible without the testimony of the provider of the goods or services OR THE
12 PREPARER OF THE VEHICLE REPAIR ESTIMATE as evidence of the authenticity of
13 the bill ~~OR WRITTEN ESTIMATE~~ for ~~THE goods or services~~ [provided] and the fairness
14 and reasonableness of the charges ~~OR ESTIMATE~~ of the provider of the goods or
15 services OR OF THE VEHICLE REPAIR ESTIMATE.

16 (ii) A finder of fact may attach whatever weight to a ~~{paid}~~ bill
17 OR WRITTEN ESTIMATE that the finder of fact deems appropriate.

18 (2) The bill OR WRITTEN ESTIMATE shall be admitted on testimony,
19 by the party or any other person with personal knowledge:

20 (i) Identifying the original bill OR WRITTEN ESTIMATE or an
21 authenticated copy; and

22 (ii) 1. Identifying the provider of the goods or services THAT
23 ARE THE SUBJECT OF THE BILL OR THE PREPARER OF THE WRITTEN ESTIMATE;

24 2. Explaining the circumstances surrounding the receipt
25 of the bill OR WRITTEN ESTIMATE;

26 3. Describing the goods or services [provided] THAT ARE
27 THE SUBJECT OF THE BILL OR WRITTEN ESTIMATE; AND

28 4. Stating that the goods or services were provided OR
29 WOULD BE PROVIDED in connection with the event giving rise to the action~~;~~ and

30 5. ~~Stating~~ IN THE CASE OF A BILL, STATING that the
31 bill was paid~~;~~.

1 (c) (1) Subsection (b) of this section applies only if, at least 60 days before
2 the beginning of the trial, the party who intends to introduce the bill **OR WRITTEN**
3 **ESTIMATE**:

4 (i) Serves notice of the party's intent to introduce the bill **OR**
5 **WRITTEN ESTIMATE** without the support of the testimony of the provider of the goods
6 or services that [were billed] **ARE THE SUBJECT OF THE BILL OR ~~WRITTEN~~ OF THE**
7 **PREPARER OF THE VEHICLE REPAIR ESTIMATE**, a list that identifies each bill **OR**
8 **WRITTEN ESTIMATE**, and a copy of the bill **OR WRITTEN ESTIMATE** on all other
9 parties as provided under Maryland Rule 1-321; and

10 (ii) Files notice of service and the list that identifies each bill **OR**
11 **WRITTEN ESTIMATE** with the court.

12 (2) The list required under paragraph (1) of this subsection shall
13 include:

14 (i) The name of the provider of the goods and services for each
15 bill **OR THE PREPARER OF THE WRITTEN ESTIMATE**; and

16 (ii) The date of each bill ~~**OR WRITTEN ESTIMATE**~~ of the
17 provider of the goods and services **AND THE DATE OF EACH WRITTEN ESTIMATE**.

18 (d) Nothing contained in this section may be construed to:

19 (1) Apply to proof of the existence of a medical, dental, or other health
20 condition, the opinion of a health care provider, or the necessity and the providing of
21 medical, dental, or other health care;

22 (2) Limit the provisions of § 10-104 of this subtitle concerning the
23 admissibility of a medical, dental, hospital, or other health care writing or record; or

24 (3) Limit the right of a party to:

25 (i) Request a summons to compel the attendance of a witness;

26 (ii) Examine a witness who appears at trial; or

27 (iii) Engage in discovery as provided under the Maryland Rules.

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
29 construed to apply only prospectively and may not be applied or interpreted to have
30 any effect on or application to any case filed before the effective date of this Act.

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

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.