

Chapter 445

(Senate Bill 317)

AN ACT concerning

~~Property and Casualty~~ Homeowner's Insurance – Victims of Crimes of Violence – Discrimination Prohibited

FOR the purpose of prohibiting insurers ~~from using~~, based solely on information about an individual's status as a victim of a crime of violence ~~to take~~, from taking certain actions relating to a policy of ~~property and casualty~~ homeowner's insurance; providing that an insurer may not deny payment to ~~an~~ a certain innocent coinsured under certain circumstances; limiting payment to an innocent coinsured under certain circumstances; authorizing an insurer to exclude certain property from coverage; providing that an insurer making a certain payment shall have the right of subrogation against a certain perpetrator; providing that this Act does not require a payment in excess of certain limits, prohibit an insurer from applying certain standards, or prohibit an insurer or insurance producer from asking certain individuals about a certain claim or from using certain information for certain purposes; authorizing the Maryland Insurance Commissioner to take certain actions on a finding of certain violations; defining certain terms; providing for the application of this Act; and generally relating to victims of crimes of violence and discrimination in ~~property and casualty~~ homeowner's insurance.

BY repealing and reenacting, without amendments,
 Article – Insurance
 Section 27–501(a) and (b)
 Annotated Code of Maryland
 (2006 Replacement Volume and 2010 Supplement)

BY adding to
 Article – Insurance
 Section 27–504.1
 Annotated Code of Maryland
 (2006 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,
 Article – Insurance
 Section 27–505(a)(1)
 Annotated Code of Maryland
 (2006 Replacement Volume and 2010 Supplement)

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

Article – Insurance

27–501.

(a) (1) An insurer or insurance producer may not cancel or refuse to underwrite or renew a particular insurance risk or class of risk for a reason based wholly or partly on race, color, creed, sex, or blindness of an applicant or policyholder or for any arbitrary, capricious, or unfairly discriminatory reason.

(2) Except as provided in this section, an insurer or insurance producer may not cancel or refuse to underwrite or renew a particular insurance risk or class of risk except by the application of standards that are reasonably related to the insurer’s economic and business purposes.

(b) (1) An insurer may not require special conditions, facts, or situations as a condition to its acceptance or renewal of a particular insurance risk or class of risks in an arbitrary, capricious, unfair, or discriminatory manner based wholly or partly on race, creed, color, sex, religion, national origin, place of residency, blindness, or other physical handicap or disability.

(2) Actuarial justification may be considered with respect to sex.

27–504.1.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “CRIME OF VIOLENCE” HAS THE MEANING STATED IN § 14–101 OF THE CRIMINAL LAW ARTICLE.

(3) “VICTIM” MEANS A ~~PERSON~~ POLICYHOLDER OR CLAIMANT WHO SUFFERS PERSONAL INJURY, DEATH, OR PROPERTY LOSS AS A RESULT OF A CRIME OF VIOLENCE.

(B) EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE, IF AN INDIVIDUAL IS A VICTIM OF A CRIME OF VIOLENCE, AN INSURER MAY NOT ~~USE,~~ BASED SOLELY ON INFORMATION ABOUT THE INDIVIDUAL’S STATUS AS A VICTIM OF A CRIME OF VIOLENCE ~~TO:~~

(1) CANCEL, REFUSE TO UNDERWRITE OR RENEW, OR REFUSE TO ISSUE A POLICY OF ~~PROPERTY AND CASUALTY~~ HOMEOWNER’S INSURANCE;

(2) REFUSE TO PAY A CLAIM UNDER A POLICY OF ~~PROPERTY AND CASUALTY HOMEOWNER'S INSURANCE~~; OR

(3) ~~INCREASE RATES FOR PROPERTY AND CASUALTY INSURANCE~~; OR

(4) FOR A POLICY OF ~~PROPERTY AND CASUALTY HOMEOWNER'S INSURANCE~~, INCREASE A PREMIUM, ADD A SURCHARGE, APPLY A RATING FACTOR, OR USE ANY OTHER UNDERWRITING PRACTICE THAT ADVERSELY TAKES THE INFORMATION INTO ACCOUNT ~~RETIER A POLICY, REMOVE A DISCOUNT, OR TAKE ANY OTHER ADVERSE UNDERWRITING OR RATING ACTION.~~

(C) (1) IF A POLICY OF ~~PROPERTY AND CASUALTY HOMEOWNER'S INSURANCE~~ EXCLUDES PROPERTY COVERAGE FOR INTENTIONAL ACTS, THE INSURER MAY NOT DENY PAYMENT FOR A LOSS TO A VICTIM WHO:

(I) IS AN INNOCENT COINSURED ~~WHO;~~

(II) DID NOT COOPERATE IN OR CONTRIBUTE TO THE CREATION OF COMMIT, CAUSE TO BE COMMITTED, OR DIRECT THE CRIME OF VIOLENCE LEADING TO THE LOSS ~~IF;~~ AND

(I) ~~THE LOSS AROSE OUT OF A CRIME OF VIOLENCE; AND~~

(II) ~~THE PERPETRATOR OF THE LOSS IS CRIMINALLY PROSECUTED FOR THE ACT CAUSING THE LOSS.~~

(III) COOPERATES IN ANY CRIMINAL INVESTIGATION, INCLUDING THE FILING OF AN OFFICIAL POLICE REPORT, AND IF UNDERTAKEN, ANY PROSECUTION OF THE PERPETRATOR.

(2) PAYMENT TO THE INNOCENT COINSURED MAY BE LIMITED TO THE INNOCENT COINSURED'S OWNERSHIP INTEREST IN THE PROPERTY AS REDUCED BY ANY PAYMENT TO A MORTGAGOR OR OTHER SECURED PARTY. THE AMOUNT OF THE LOSS UP TO THE HOMEOWNER'S INSURANCE POLICY LIMITS, LESS ANY APPLICABLE DEDUCTIBLE AND COINSURANCE AND ANY PAYMENT TO ANY SECURED PARTY.

(3) AN INSURER MAY EXCLUDE PROPERTY OWNED SOLELY BY THE PERPETRATOR FROM COVERAGE UNDER THE POLICY OF HOMEOWNER'S INSURANCE.

(4) AN INSURER MAKING PAYMENT TO THE INNOCENT COINSURED UNDER THIS SECTION SHALL HAVE THE RIGHT OF SUBROGATION

AGAINST THE PERPETRATOR WHO COMMITTED, CAUSED TO BE COMMITTED, OR DIRECTED THE CRIME OF VIOLENCE LEADING TO THE LOSS.

(D) THIS SECTION DOES NOT:

(1) REQUIRE PAYMENT IN EXCESS OF A HOMEOWNER'S INSURANCE POLICY LIMITS;

(2) PROHIBIT AN INSURER FROM APPLYING REASONABLE STANDARDS OF PROOF OF A CLAIM; OR

(3) PROHIBIT AN INSURER OR INSURANCE PRODUCER FROM:

(I) ASKING AN APPLICANT, A POLICYHOLDER, OR A CLAIMANT ABOUT A CLAIM UNDER THIS SECTION; OR

(II) USING INFORMATION OBTAINED BY INVESTIGATION TO EVALUATE A CLAIM AND EXERCISE THE INSURER'S RIGHTS AND PERFORM ITS DUTIES.

27-505.

(a) (1) If the Commissioner finds that an insurer has violated § 27-501, § 27-503, [or] § 27-504, **OR § 27-504.1** of this subtitle, the Commissioner, in addition to any other power granted by this article, may order the insurer to accept the risk, or accept the business, as appropriate.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all policies ~~and contracts of property and casualty~~ of homeowner's insurance issued, delivered, or renewed in the State on or after October 1, 2011.

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

Approved by the Governor, May 19, 2011.