

SENATE BILL 977

C4

(4lr3043)

ENROLLED BILL

— Finance/Economic Matters —

Introduced by **Senator Feldman**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Property and Casualty Insurance – Notices – Use of First-Class Mail**
3 **Tracking Methods**

4 FOR the purpose of altering the manner in which certain insurers are required to
5 notify certain persons of the rescission, cancellation, nonrenewal, or termination
6 of certain policies or binders of certain property or casualty insurance, *of the*
7 *offer of certain coverage for water damage, of certain information about flood*
8 *insurance, of certain optional coverages, of certain notices concerning portable*
9 *electronics insurance,* or of an increase in the total premium for a policy of
10 private passenger motor vehicle liability insurance; making certain conforming
11 changes; defining a certain term; and generally relating to notices required
12 under policies of property or casualty insurance.

13 ~~BY renumbering~~
14 ~~Article Insurance~~

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.

Italics indicate opposite chamber/conference committee amendments.



~~Section 27-602(b) and (c), 27-603(b), (c), and (e), and 27-613(b), (c), (f), (g), (h),
 (i), and (j), respectively
 to be Section 27-602(e) and (d), 27-603(e), (d), and (f), and 27-613(e), (d), (g),
 (h), (i), (j), and (k), respectively~~

BY repealing and reenacting, without amendments,

Article – Insurance

Section 1-101(a)

Annotated Code of Maryland

(2011 Replacement Volume and 2013 Supplement)

BY adding to

Article – Insurance

Section 1-101(m-1)

Annotated Code of Maryland

(2011 Replacement Volume and 2013 Supplement)

BY repealing and reenacting, with amendments,

Article – Insurance

~~Section 12-106(a), (f), 12-106(f) and (j)(3), 27-602(a), 19-202(b), 19-206(a)(2)
 and (c), 19-207(a)(2) and (c), 19-903(h)(2), 27-601.2(c), 27-602(c)(1) and
 (d), 27-603(a) and (d), 27-603(c)(1), (d), and (e)(1),
 27-613(a), 27-613(b)(2), (c)(1), and (d), and (e), and 27-614(a) and (e)(1)
 27-614(c)(1)~~

Annotated Code of Maryland

(2011 Replacement Volume and 2013 Supplement)

~~BY repealing and reenacting, without amendments,~~

~~Article – Insurance~~

~~Section 12-106(b) and 27-614(b)~~

~~Annotated Code of Maryland~~

~~(2011 Replacement Volume and 2013 Supplement)~~

~~BY adding to~~

~~Article – Insurance~~

~~Section 27-602(a), 27-603(a), and 27-613(a)~~

~~Annotated Code of Maryland~~

~~(2011 Replacement Volume and 2013 Supplement)~~

~~BY repealing and reenacting, with amendments,~~

~~Article – Insurance~~

~~Section 27-602(c)(1) and (d)(1), 27-603(c)(1), (d)(1), and (f)(1), and 27-613(c)(2),
 (d)(1), and (g)(1)~~

~~Annotated Code of Maryland~~

~~(2011 Replacement Volume and 2013 Supplement)~~

~~(As enacted by Section 1 of this Act)~~

1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 2 MARYLAND, That ~~Section(s) 27-602(b) and (c), 27-603(b), (c), and (e), and 27-613(b),~~
 3 ~~(e), (f), (g), (h), (i), and (j), respectively, of Article Insurance of the Annotated Code of~~
 4 ~~Maryland be renumbered to be Section(s) 27-602(e) and (d), 27-603(e) and (f), and~~
 5 ~~27-613(e), (d), (h), (i), (j), and (k), respectively.~~

6 ~~SECTION 2. AND BE IT FURTHER ENACTED, That~~ the Laws of Maryland
 7 read as follows:

8 Article – Insurance

9 1-101.

10 (a) *In this article the following words have the meanings indicated.*

11 (M-1) (1) “FIRST-CLASS MAIL TRACKING METHOD” MEANS A MAIL
 12 TRACKING METHOD THAT PROVIDES EVIDENCE OF THE DATE THAT A PIECE OF
 13 FIRST-CLASS MAIL WAS ACCEPTED FOR MAILING BY THE UNITED STATES
 14 POSTAL SERVICE.

15 (2) “FIRST-CLASS MAIL TRACKING METHOD” INCLUDES:

16 (I) A CERTIFICATE OF MAIL; AND

17 (II) AN ELECTRONIC MAIL TRACKING SYSTEM USED BY THE
 18 UNITED STATES POSTAL SERVICE.

19 (3) “FIRST-CLASS MAIL TRACKING METHOD” DOES NOT INCLUDE
 20 A CERTIFICATE OF BULK MAILING.

21 12-106.

22 ~~(a) (1) In this section the following words have the meanings indicated:~~

23 ~~(2) (I) “FIRST CLASS MAIL TRACKING METHOD” MEANS A~~
 24 ~~MAIL TRACKING METHOD THAT PROVIDES EVIDENCE OF THE DATE THAT A~~
 25 ~~PIECE OF FIRST CLASS MAIL WAS ACCEPTED FOR MAILING BY THE UNITED~~
 26 ~~STATES POSTAL SERVICE.~~

27 ~~(II) “FIRST CLASS MAIL TRACKING METHOD” INCLUDES:~~

28 ~~1. A CERTIFICATE OF MAIL; AND~~

29 ~~2. AN ELECTRONIC MAIL TRACKING SYSTEM USED BY~~
 30 ~~THE UNITED STATES POSTAL SERVICE.~~

1 ~~(H) “FIRST-CLASS MAIL TRACKING METHOD” DOES NOT~~
 2 ~~INCLUDE A CERTIFICATE OF BULK MAILING.~~

3 ~~[(2)](3) (i) “Material risk factor” means a risk factor that:~~
 4 ~~1. was incorrectly recorded or not disclosed by the~~
 5 ~~insured in an application for insurance;~~
 6 ~~2. was in existence on the date of the application; and~~
 7 ~~3. modifies the premium charged on the policy or binder~~
 8 ~~in accordance with the rates and supplementary rating information filed by the~~
 9 ~~insurer under Title 11, Subtitle 3 of this article.~~

10 ~~(ii) “Material risk factor” does not include:~~
 11 ~~1. information that constitutes a material~~
 12 ~~misrepresentation; or~~
 13 ~~2. a change initiated by an insured, including any~~
 14 ~~request by the insured that results in a change in coverage, change in deductible, or~~
 15 ~~other change to a policy.~~

16 ~~[(3)](4) “Personal insurance” means property insurance or casualty~~
 17 ~~insurance issued to an individual, trust, estate, or similar entity that is intended to~~
 18 ~~insure against loss arising principally from the personal, noncommercial activities of~~
 19 ~~the insured.~~

20 ~~(b) This section applies only to a binder or policy, other than a renewal~~
 21 ~~policy, of personal insurance, commercial property insurance, and commercial liability~~
 22 ~~insurance.~~

23 (f) (1) Except as provided in paragraph (2) of this subsection, a notice of
 24 cancellation under this section shall:

25 (i) be in writing;

26 (ii) have an effective date not less than 15 days after mailing;

27 (iii) state clearly and specifically the insurer’s actual reason for
 28 the cancellation; and

29 (iv) be sent by [certificate of mail] A FIRST-CLASS MAIL
 30 TRACKING METHOD to the named insured’s last known address.

1 (2) A notice of cancellation under this section for nonpayment of
2 premium shall:

3 (i) be in writing;

4 (ii) have an effective date of not less than 10 days after mailing;

5 (iii) state the insurer's intent to cancel for nonpayment of
6 premium; and

7 (iv) be sent by [certificate of mail] **A FIRST-CLASS MAIL**
8 **TRACKING METHOD** to the named insured's last known address.

9 (j) (3) To rescind a policy or binder, an insurer shall send, immediately or
10 the next business day after receipt of a notice that the check or other remittance for
11 the initial premium payment was not honored on presentation to the financial
12 institution, written notice to the applicant and any secured creditor, by [certificate of
13 mail] **A FIRST-CLASS MAIL TRACKING METHOD** and, if available, by electronic mail
14 or other electronic means, to the applicant's and any secured creditor's last known
15 address, stating that:

16 (i) 1. the policy or binder is rescinded as of its proposed
17 effective date because the applicant's check or other remittance for the initial premium
18 payment was not honored on presentation to the financial institution; and

19 2. no coverage is in effect under the policy or binder; but

20 (ii) the insurer shall continue or reinstate the policy or binder
21 without a lapse in coverage if:

22 1. the financial institution erroneously failed to honor
23 the check or other remittance and the applicant:

24 A. promptly notifies the insurer of the error; and

25 B. provides documentation of the financial institution's
26 error to the insurer as it becomes available and on request of the insurer; or

27 2. the applicant or any secured creditor pays the insurer
28 the amount of the initial premium within 5 business days after the insurer has sent
29 notice to the applicant and any secured creditor that the check or other remittance for
30 the initial premium payment was not honored.

31 19-202.

1 **(b)** *If an application or renewal is made by telephone, the insurer is deemed to*
2 *be in compliance with subsection (a) of this section if, within 7 calendar days after the*
3 *date of application or renewal, the insurer sends [by certificate of mailing] the offer to*
4 *the applicant or insured **BY A FIRST-CLASS MAIL TRACKING METHOD.***

5 19-206.

6 **(a)** **(2)** *If an application is made by telephone, the insurer is deemed to be*
7 *in compliance with this section if, within 7 calendar days after the date of application,*
8 *the insurer sends [by certificate of mailing] the notice to the applicant or insured **BY A***
9 ***FIRST-CLASS MAIL TRACKING METHOD.***

10 **(c)** *A notice required to be sent by [certificate of mailing] **A FIRST-CLASS***
11 ***MAIL TRACKING METHOD** under this section may be sent with the statement required*
12 *under § 19-207 of this subtitle.*

13 19-207.

14 **(a)** **(2)** *If an application is made by telephone, the insurer is deemed to be*
15 *in compliance with this section if, within 7 calendar days after the date of application,*
16 *the insurer sends [by certificate of mailing] the statement to the applicant or insured*
17 ***BY A FIRST-CLASS MAIL TRACKING METHOD.***

18 **(c)** *A statement required to be sent by [certificate of mailing] **A FIRST-CLASS***
19 ***MAIL TRACKING METHOD** under this section may be sent with the notice required*
20 *under § 19-206 of this subtitle.*

21 19-903.

22 **(h)** **(2)** **(i)** *Unless notice by electronic means is authorized under*
23 *paragraph (3) or (4) of this subsection, notice under this section shall be provided by*
24 *[mail] **A FIRST-CLASS MAIL TRACKING METHOD** in accordance with subparagraphs*
25 *(ii) and (iii) of this paragraph.*

26 **(ii)** *Notice shall be mailed to the vendor at the vendor's last*
27 *known mailing address on file with the insurer.*

28 **(iii)** *Notice shall be mailed to a covered customer at the covered*
29 *customer's last known mailing address on file with the insurer or vendor.*

30 **(iv)** *The insurer or vendor responsible for mailing the notice*
31 *under this section shall maintain proof of mailing.*

32 27-601.2.

1 *(c) Delivery of a notice in accordance with subsection (b) of this section shall*
 2 *be considered equivalent to any delivery method required under this subtitle, including*
 3 *delivery by first-class mail, certified mail, [certificate of mail, or certificate of mailing]*
 4 *OR A FIRST-CLASS MAIL TRACKING METHOD.*

5 27-602.

6 ~~(A) (1) IN THIS SECTION, "FIRST-CLASS MAIL TRACKING METHOD"~~
 7 ~~MEANS A MAIL TRACKING METHOD THAT PROVIDES EVIDENCE OF THE DATE~~
 8 ~~THAT A PIECE OF FIRST CLASS MAIL WAS ACCEPTED FOR MAILING BY THE~~
 9 ~~UNITED STATES POSTAL SERVICE.~~

10 ~~(2) "FIRST-CLASS MAIL TRACKING METHOD" INCLUDES:~~

11 ~~(i) A CERTIFICATE OF MAIL; AND~~

12 ~~(ii) AN ELECTRONIC MAIL TRACKING SYSTEM USED BY THE~~
 13 ~~UNITED STATES POSTAL SERVICE.~~

14 ~~(3) "FIRST-CLASS MAIL TRACKING METHOD" DOES NOT INCLUDE~~
 15 ~~A CERTIFICATE OF BULK MAILING.~~

16 ~~[(a)] (B) (1) This section applies only to policies of:~~

17 ~~(i) personal insurance; and~~

18 ~~(ii) homeowner's insurance under which a onetime guaranteed~~
 19 ~~fully refundable deposit is required for a stated amount of coverage.~~

20 ~~(2) This section does not apply to policies in effect for 45 days or less,~~
 21 ~~as provided in § 12-106 of this article.~~

22 ~~(e) (1) Whenever an insurer, as required by subsection [(c)] (D) of this~~
 23 ~~section, gives notice of its intention to cancel or not to renew a policy subject to this~~
 24 ~~section issued in the State or before an insurer cancels a policy subject to this section~~
 25 ~~issued in the State for a reason other than nonpayment of premium, the insurer shall~~
 26 ~~notify the insured of the possible right of the insured to replace the insurance under~~
 27 ~~the Maryland Property Insurance Availability Act or through another plan for which~~
 28 ~~the insured may be eligible.~~

29 ~~(d) (c) (1)~~ Subject to paragraph (5) of this subsection, at least 45 days before
 30 the date of the proposed cancellation or expiration of the policy, the insurer shall send
 31 to the named insured at the named insured's last known address, by [certificate of
 32 mail] A FIRST-CLASS MAIL TRACKING METHOD, a written notice of intention to

1 cancel for a reason other than nonpayment of premium or notice of intention not to
2 renew a policy issued in the State.

3 ~~[(d)] (E)~~ At least 10 days before the date an insurer proposes to cancel a
4 policy for nonpayment of premium, the insurer shall send to the named insured, at the
5 named insured's last known address, by [certificate of mail] **A FIRST-CLASS MAIL**
6 **TRACKING METHOD**, a written notice of intention to cancel for nonpayment of
7 premium.

8 27-603.

9 ~~(A) (1) IN THIS SECTION, "FIRST-CLASS MAIL TRACKING METHOD"~~
10 ~~MEANS A MAIL TRACKING METHOD THAT PROVIDES EVIDENCE OF THE DATE~~
11 ~~THAT A PIECE OF FIRST-CLASS MAIL WAS ACCEPTED FOR MAILING BY THE~~
12 ~~UNITED STATES POSTAL SERVICE.~~

13 ~~(2) "FIRST-CLASS MAIL TRACKING METHOD" INCLUDES:~~

14 ~~(i) A CERTIFICATE OF MAIL; AND~~

15 ~~(ii) AN ELECTRONIC MAIL TRACKING SYSTEM USED BY THE~~
16 ~~UNITED STATES POSTAL SERVICE.~~

17 ~~(3) "FIRST-CLASS MAIL TRACKING METHOD" DOES NOT INCLUDE~~
18 ~~A CERTIFICATE OF BULK MAILING.~~

19 ~~[(a)] (B) (1) This section applies only to policies of commercial insurance.~~

20 ~~(2) This section does not apply to:~~

21 ~~(i) policies in effect for 45 days or less, as provided in § 12-106~~
22 ~~of this article; or~~

23 ~~(ii) policies issued to exempt commercial policyholders under §~~
24 ~~11-206 of this article, if the policies provide for written notice of not less than 30 days~~
25 ~~of the insurer's intent to cancel or nonrenew.~~

26 ~~(e) (1) Whenever an insurer, as required by subsection [(e)] (D) of this~~
27 ~~section, gives notice of its intention to cancel or not to renew a policy issued in this~~
28 ~~State for a reason other than nonpayment of premium, the insurer shall notify the~~
29 ~~insured of the possible right to replace the insurance under the Maryland Property~~
30 ~~Insurance Availability Act, through the Maryland Automobile Insurance Fund, or~~
31 ~~through another plan for which the insured may be eligible.~~

1 ~~(d)~~ (c) (1) Subject to paragraph (5) of this subsection, at least 45 days before
 2 the date of the proposed cancellation or expiration of the policy, the insurer shall send
 3 to the insured, by [certificate of mail] A FIRST-CLASS MAIL TRACKING METHOD or
 4 by commercial mail delivery service, written notice of intention to cancel for a reason
 5 other than nonpayment of premium or notice of intention not to renew a policy issued
 6 in the State.

7 ~~(d)~~ ~~(E)~~ At least 10 days before the date an insurer proposes to cancel a
 8 policy for nonpayment of premium, the insurer shall send to the insured, by
 9 [certificate of mail] A FIRST-CLASS MAIL TRACKING METHOD, a written notice of
 10 intention to cancel for nonpayment of premium.

11 ~~(e)~~ (e) (1) If an insurer provides a renewal policy and notice of premium due
 12 to an insured at least 45 days before the renewal date of the policy and the insured
 13 fails to make the required payment by the renewal date, the insurer may terminate
 14 the policy on the renewal date for nonpayment of premium after sending to the
 15 insured, by [certificate of mail] A FIRST-CLASS MAIL TRACKING METHOD, a written
 16 offer to reinstate the renewal policy without lapse in coverage.

17 27-613.

18 ~~(A) (1) IN THIS SECTION, "FIRST-CLASS MAIL TRACKING METHOD"~~
 19 ~~MEANS A MAIL TRACKING METHOD THAT PROVIDES EVIDENCE OF THE DATE~~
 20 ~~THAT A PIECE OF FIRST CLASS MAIL WAS ACCEPTED FOR MAILING BY THE~~
 21 ~~UNITED STATES POSTAL SERVICE.~~

22 ~~(2) "FIRST-CLASS MAIL TRACKING METHOD" INCLUDES:~~

23 ~~(i) A CERTIFICATE OF MAIL; AND~~

24 ~~(ii) AN ELECTRONIC MAIL TRACKING SYSTEM USED BY THE~~
 25 ~~UNITED STATES POSTAL SERVICE.~~

26 ~~(3) "FIRST-CLASS MAIL TRACKING METHOD" DOES NOT INCLUDE~~
 27 ~~A CERTIFICATE OF BULK MAILING.~~

28 ~~(a)~~ ~~(B)~~ (1) This section applies only to private passenger motor vehicle
 29 liability insurance.

30 ~~(2) This section does not apply to the Maryland Automobile Insurance~~
 31 ~~Fund.~~

32 ~~(e)~~ (b) (2) Notwithstanding paragraph (1) of this subsection, the
 33 requirements of this section do not apply if:

1 (i) the reduction in coverage described in paragraph (1)(ii) of
 2 this subsection is part of a general reduction in coverage approved by the
 3 Commissioner or satisfies the requirements of Title 19, Subtitle 5 of this article; or

4 (ii) the failure to renew the policy takes place under a plan of
 5 withdrawal that:

6 1. is approved by the Commissioner under § 27–606 of
 7 this subtitle; and

8 2. provides that each insured affected by the plan of
 9 withdrawal shall be sent by [certificate of mail] **A FIRST-CLASS MAIL TRACKING**
 10 **METHOD** at least 45 days before the nonrenewal of the policy a written notice that
 11 states the date that the policy will be nonrenewed and that the nonrenewal is the
 12 result of the withdrawal of the insurer from the market.

13 ~~(d)~~ (c) (1) At least 45 days before the proposed effective date of the action, an
 14 insurer that intends to take an action subject to this section shall send written notice
 15 of its proposed action to the insured at the last known address of the insured:

16 (i) for notice of cancellation or nonrenewal, by certified mail;
 17 and

18 (ii) for all other notices of actions subject to this section, by
 19 [certificate of mail] **A FIRST-CLASS MAIL TRACKING METHOD**.

20 ~~[(d)] (E)~~ At least 10 days before the date an insurer proposes to cancel a
 21 policy for nonpayment of premium, the insurer shall send to the insured, by
 22 [certificate of mail] **A FIRST-CLASS MAIL TRACKING METHOD**, a written notice of
 23 intention to cancel for nonpayment of premium.

24 ~~[(e)] (F)~~ ~~A statement of actual reason contained in the notice given under~~
 25 ~~subsection [(e)] (D) of this section is privileged and does not constitute grounds for an~~
 26 ~~action against the insurer, its representatives, or another person that in good faith~~
 27 ~~provides to the insurer information on which the statement is based.~~

28 ~~(g) (1)~~ ~~This subsection does not apply to an action of an insurer taken~~
 29 ~~under subsection [(d)] (E) of this section.~~

30 27–614.

31 (a) **(1)** ~~In this section, “increase”~~ ~~THE FOLLOWING WORDS HAVE THE~~
 32 ~~MEANINGS INDICATED.~~

33 **(2)** **(1)** ~~“FIRST-CLASS MAIL TRACKING METHOD” MEANS A~~
 34 ~~MAIL TRACKING METHOD THAT PROVIDES EVIDENCE OF THE DATE THAT A~~

1 ~~PIECE OF FIRST CLASS MAIL WAS ACCEPTED FOR MAILING BY THE UNITED~~
 2 ~~STATES POSTAL SERVICE.~~

3 ~~(H) "FIRST CLASS MAIL TRACKING METHOD" INCLUDES:~~

4 ~~1. A CERTIFICATE OF MAIL; AND~~

5 ~~2. AN ELECTRONIC MAIL TRACKING SYSTEM USED BY~~
 6 ~~THE UNITED STATES POSTAL SERVICE.~~

7 ~~(HH) "FIRST CLASS MAIL TRACKING SYSTEM" DOES NOT~~
 8 ~~INCLUDE A CERTIFICATE OF BULK MAILING.~~

9 ~~(3) "INCREASE in premium" and "premium increase" include an~~
 10 ~~increase in total premium for a policy due to:~~

11 ~~[(1)] (I) a surcharge;~~

12 ~~[(2)] (II) retiring or other reclassification of an insured; or~~

13 ~~[(3)] (III) removal or reduction of a discount.~~

14 ~~(b) (1) This section applies only to private passenger motor vehicle~~
 15 ~~liability insurance.~~

16 ~~(2) This section does not apply to the Maryland Automobile Insurance~~
 17 ~~Fund.~~

18 ~~(3) This section does not apply to an increase in premium made by an~~
 19 ~~insurer during the 45 day underwriting period in accordance with § 12-106(d)(2) and~~
 20 ~~(3) of this article.~~

21 (c) (1) Except as provided in paragraph (2) of this subsection, at least 45
 22 days before the effective date of an increase in the total premium for a policy of private
 23 passenger motor vehicle liability insurance, the insurer shall send written notice of the
 24 premium increase to the insured at the last known address of the insured by
 25 [certificate of mail] A FIRST-CLASS MAIL TRACKING METHOD.

26 SECTION ~~3~~ 2. AND BE IT FURTHER ENACTED, That this Act shall take
 27 effect October 1, 2014.