

SENATE BILL 977

C4

4lr3043
CF HB 1462

By: **Senator Feldman**

Introduced and read first time: February 10, 2014

Assigned to: Rules

Re-referred to: Finance, February 19, 2014

Committee Report: Favorable

Senate action: Adopted

Read second time: March 14, 2014

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, or of an
7 increase in the total premium for a policy of private passenger motor vehicle
8 liability insurance; making certain conforming changes; defining a certain term;
9 and generally relating to notices required under policies of property or casualty
10 insurance.

11 BY renumbering

12 Article – Insurance

13 Section 27–602(b) and (c), 27–603(b), (c), and (e), and 27–613(b), (c), (f), (g), (h),
14 (i), and (j), respectively

15 to be Section 27–602(c) and (d), 27–603(c), (d), and (f), and 27–613(c), (d), (g),
16 (h), (i), (j), and (k), respectively

17 Annotated Code of Maryland

18 (2011 Replacement Volume and 2013 Supplement)

19 BY repealing and reenacting, with amendments,

20 Article – Insurance

21 Section 12–106(a), (f), and (j)(3), 27–602(a) and (d), 27–603(a) and (d),
22 27–613(a), (d), and (e), and 27–614(a) and (c)(1)

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 Annotated Code of Maryland
2 (2011 Replacement Volume and 2013 Supplement)

3 BY repealing and reenacting, without amendments,
4 Article – Insurance
5 Section 12–106(b) and 27–614(b)
6 Annotated Code of Maryland
7 (2011 Replacement Volume and 2013 Supplement)

8 BY adding to
9 Article – Insurance
10 Section 27–602(a), 27–603(a), and 27–613(a)
11 Annotated Code of Maryland
12 (2011 Replacement Volume and 2013 Supplement)

13 BY repealing and reenacting, with amendments,
14 Article – Insurance
15 Section 27–602(c)(1) and (d)(1), 27–603(c)(1), (d)(1), and (f)(1), and 27–613(c)(2),
16 (d)(1), and (g)(1)
17 Annotated Code of Maryland
18 (2011 Replacement Volume and 2013 Supplement)
19 (As enacted by Section 1 of this Act)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
21 MARYLAND, That Section(s) 27–602(b) and (c), 27–603(b), (c), and (e), and 27–613(b),
22 (c), (f), (g), (h), (i), and (j), respectively, of Article – Insurance of the Annotated Code of
23 Maryland be renumbered to be Section(s) 27–602(c) and (d), 27–603(c) and (f), and
24 27–613(c), (d), (h), (i), (j), and (k), respectively.

25 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
26 read as follows:

27 **Article – Insurance**

28 12–106.

29 (a) (1) In this section the following words have the meanings indicated.

30 (2) (I) **“FIRST-CLASS MAIL TRACKING METHOD” MEANS A**
31 **MAIL TRACKING METHOD THAT PROVIDES EVIDENCE OF THE DATE THAT A**
32 **PIECE OF FIRST-CLASS MAIL WAS ACCEPTED FOR MAILING BY THE UNITED**
33 **STATES POSTAL SERVICE.**

34 (II) **“FIRST-CLASS MAIL TRACKING METHOD” INCLUDES:**

35 1. **A CERTIFICATE OF MAIL; AND**

1 **2. AN ELECTRONIC MAIL TRACKING SYSTEM USED BY**
2 **THE UNITED STATES POSTAL SERVICE.**

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

5 **[(2)] (3)** (i) “Material risk factor” means a risk factor that:

6 1. was incorrectly recorded or not disclosed by the
7 insured in an application for insurance;

8 2. was in existence on the date of the application; and

9 3. modifies the premium charged on the policy or binder
10 in accordance with the rates and supplementary rating information filed by the
11 insurer under Title 11, Subtitle 3 of this article.

12 (ii) “Material risk factor” does not include:

13 1. information that constitutes a material
14 misrepresentation; or

15 2. a change initiated by an insured, including any
16 request by the insured that results in a change in coverage, change in deductible, or
17 other change to a policy.

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

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

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

27 (i) be in writing;

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

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

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

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

5 (i) be in writing;

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

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

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

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

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

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

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

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

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

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

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

1 27-602.

2 (A) (1) IN THIS SECTION, “FIRST-CLASS MAIL TRACKING METHOD”
3 MEANS A MAIL TRACKING METHOD THAT PROVIDES EVIDENCE OF THE DATE
4 THAT A PIECE OF FIRST-CLASS MAIL WAS ACCEPTED FOR MAILING BY THE
5 UNITED STATES POSTAL SERVICE.

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

7 (I) A CERTIFICATE OF MAIL; AND

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

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

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

13 (i) personal insurance; and

14 (ii) homeowner’s insurance under which a onetime guaranteed
15 fully refundable deposit is required for a stated amount of coverage.

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

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

25 (d) (1) Subject to paragraph (5) of this subsection, at least 45 days before
26 the date of the proposed cancellation or expiration of the policy, the insurer shall send
27 to the named insured at the named insured’s last known address, by [certificate of
28 mail] A FIRST-CLASS MAIL TRACKING METHOD, a written notice of intention to
29 cancel for a reason other than nonpayment of premium or notice of intention not to
30 renew a policy issued in the State.

31 [(d)] (E) At least 10 days before the date an insurer proposes to cancel a
32 policy for nonpayment of premium, the insurer shall send to the named insured, at the
33 named insured’s last known address, by [certificate of mail] A FIRST-CLASS MAIL

1 **TRACKING METHOD**, a written notice of intention to cancel for nonpayment of
2 premium.

3 27–603.

4 **(A) (1) IN THIS SECTION, “FIRST-CLASS MAIL TRACKING METHOD”**
5 **MEANS A MAIL TRACKING METHOD THAT PROVIDES EVIDENCE OF THE DATE**
6 **THAT A PIECE OF FIRST-CLASS MAIL WAS ACCEPTED FOR MAILING BY THE**
7 **UNITED STATES POSTAL SERVICE.**

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

9 **(I) A CERTIFICATE OF MAIL; AND**

10 **(II) AN ELECTRONIC MAIL TRACKING SYSTEM USED BY THE**
11 **UNITED STATES POSTAL SERVICE.**

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

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

15 **(2) This section does not apply to:**

16 **(i) policies in effect for 45 days or less, as provided in § 12–106**
17 **of this article; or**

18 **(ii) policies issued to exempt commercial policyholders under §**
19 **11–206 of this article, if the policies provide for written notice of not less than 30 days**
20 **of the insurer’s intent to cancel or nonrenew.**

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

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

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

5 (f) (1) If an insurer provides a renewal policy and notice of premium due
6 to an insured at least 45 days before the renewal date of the policy and the insured
7 fails to make the required payment by the renewal date, the insurer may terminate
8 the policy on the renewal date for nonpayment of premium after sending to the
9 insured, by **[certificate of mail] A FIRST-CLASS MAIL TRACKING METHOD**, a written
10 offer to reinstate the renewal policy without lapse in coverage.

11 27-613.

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

16 **(2) "FIRST-CLASS MAIL TRACKING METHOD" INCLUDES:**

17 **(I) A CERTIFICATE OF MAIL; AND**

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

20 **(3) "FIRST-CLASS MAIL TRACKING METHOD" DOES NOT INCLUDE**
21 **A CERTIFICATE OF BULK MAILING.**

22 **[(a)] (B)** (1) This section applies only to private passenger motor vehicle
23 liability insurance.

24 (2) This section does not apply to the Maryland Automobile Insurance
25 Fund.

26 (c) (2) Notwithstanding paragraph (1) of this subsection, the
27 requirements of this section do not apply if:

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

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

1 **2. AN ELECTRONIC MAIL TRACKING SYSTEM USED BY**
2 **THE UNITED STATES POSTAL SERVICE.**

3 **(III) “FIRST-CLASS MAIL TRACKING SYSTEM” DOES NOT**
4 **INCLUDE A CERTIFICATE OF BULK MAILING.**

5 **(3) “INCREASE in premium” and “premium increase” include an**
6 **increase in total premium for a policy due to:**

7 **[(1)] (I) a surcharge;**

8 **[(2)] (II) retiering or other reclassification of an insured; or**

9 **[(3)] (III) removal or reduction of a discount.**

10 (b) (1) This section applies only to private passenger motor vehicle
11 liability insurance.

12 (2) This section does not apply to the Maryland Automobile Insurance
13 Fund.

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

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

22 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 October 1, 2014.