

Chapter 364

(Senate Bill 977)

AN ACT concerning

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

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

~~BY renumbering~~

~~Article – Insurance~~

~~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(e)(1) and (d)(1), 27-603(e)(1), (d)(1), and (f)(1), and 27-613(e)(2),
(d)(1), and (g)(1)
Annotated Code of Maryland
(2011 Replacement Volume and 2013 Supplement)
(As enacted by Section 1 of this Act)~~

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

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

Article – Insurance

1-101.

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

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

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

(1) A CERTIFICATE OF MAIL; AND

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

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

12-106.

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

~~(2) (i) "FIRST-CLASS MAIL TRACKING METHOD" MEANS A MAIL TRACKING METHOD THAT PROVIDES EVIDENCE OF THE DATE THAT A PIECE OF FIRST-CLASS MAIL WAS ACCEPTED FOR MAILING BY THE UNITED STATES POSTAL SERVICE.~~

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

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

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

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

~~[(2)] (3) (i) "Material risk factor" means a risk factor that:~~

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

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

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

~~(ii) "Material risk factor" does not include:~~

~~1. information that constitutes a material misrepresentation; or~~

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

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

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

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

- (i) be in writing;
- (ii) have an effective date not less than 15 days after mailing;
- (iii) state clearly and specifically the insurer’s actual reason for the cancellation; and

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

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

- (i) be in writing;
- (ii) have an effective date of not less than 10 days after mailing;
- (iii) state the insurer’s intent to cancel for nonpayment of premium; and

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

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

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

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

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

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

A. promptly notifies the insurer of the error; and

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

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

19-202.

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

19-206.

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

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

19-207.

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

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

19-903.

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

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

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

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

27-601.2.

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

27-602.

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

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

~~(I) A CERTIFICATE OF MAIL; AND~~

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

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

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

- ~~(i) personal insurance; and~~
- ~~(ii) homeowner's insurance under which a onetime guaranteed fully refundable deposit is required for a stated amount of coverage.~~

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

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

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

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

27-603.

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

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

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

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

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

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

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

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

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

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

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

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

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

27-613.

~~(A) (1) IN THIS SECTION, “FIRST-CLASS MAIL TRACKING METHOD” MEANS A MAIL TRACKING METHOD THAT PROVIDES EVIDENCE OF THE DATE~~

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

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

~~(I) A CERTIFICATE OF MAIL; AND~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27-614.

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

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

~~(ii) “FIRST-CLASS MAIL TRACKING METHOD” INCLUDES:~~

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

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

~~(iii) “FIRST-CLASS MAIL TRACKING SYSTEM” DOES NOT INCLUDE A CERTIFICATE OF BULK MAILING.~~

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

~~[(1)] (i) a surcharge;~~

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

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

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

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

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

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

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

Approved by the Governor, May 5, 2014.