### SENATE BILL 167

C3, C4 2lr0013 (PRE–FILED)

# By: Chair, Finance Committee (By Request – Departmental – Maryland Insurance Administration)

Requested: October 4, 2021

Introduced and read first time: January 12, 2022

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 17, 2022

CHAPTER

#### 1 AN ACT concerning

# 2 Maryland Insurance Administration – Enforcement Authority – Payment of Claims

- 4 FOR the purpose of authorizing the Maryland Insurance Commissioner to require an insurer that holds a certificate of authority to fulfill the obligations under the 5 6 holder's policies or contracts or pay a claim or an amount due under an insurance 7 policy or contract instead of, or in addition to, suspending or revoking the certificate; 8 authorizing the Commissioner, on a finding of a violation of certain provisions of law, 9 to require an insurer, a nonprofit health service plan, or a health maintenance 10 organization to provide to a claimant a payment that has been improperly denied that has been determined to be denied in violation of certain provisions of law; and 11 generally relating to insurance and the enforcement authority of the Maryland 12 Insurance Commissioner. 13
- 14 BY repealing and reenacting, with amendments,
- 15 Article Insurance
- 16 Section 4–113 and 27–305
- 17 Annotated Code of Maryland
- 18 (2017 Replacement Volume and 2021 Supplement)
- 19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
- 20 That the Laws of Maryland read as follows:

#### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

<u>Underlining</u> indicates amendments to bill.

Strike out indicates matter stricken from the bill by amendment or deleted from the law by amendment.



### 1 Article – Insurance

- 2 4–113.
- 3 (a) The Commissioner shall deny a certificate of authority to an applicant or 4 refuse to renew, suspend, or revoke a certificate of authority if:
- 5 (1) the action is required by any provision of this article;
- 6 (2) the insurer no longer meets the requirements for the certificate of authority because of a deficiency in assets or any other reason;
- 8 (3) the business of the insurer is fraudulently conducted;
- 9 (4) the insurer is insolvent, or its assets are not sufficient for carrying on 10 its business;
- 11 (5) the insurer fails to pay taxes on premiums required under this article;
- 12 (6) the insurer willfully fails to provide the Commissioner with required 13 information about medical malpractice insurance issued by the insurer in this State or any 14 other state;
- 15 (7) the issuance or renewal of a certificate of authority is contrary to the 16 public interest;
- 17 (8) the Commissioner finds that the principal management personnel of 18 the insurer is:
- (i) untrustworthy or not of good character; or
- 20 (ii) so lacking in insurer managerial experience as to make the 21 proposed operation hazardous to the insurance-buying public or to the insurer's 22 stockholders; or
- 23 (9) the Commissioner has good reason to believe that the insurer is 24 affiliated, directly or indirectly, through ownership, control, management, reinsurance 25 transactions, or other insurance or business relations with a person whose business 26 operations are or have been marked by the manipulation of assets, accounts, or reinsurance 27 or by bad faith, to the detriment of insureds, stockholders, or creditors.
- 28 (b) The Commissioner may deny a certificate of authority to an applicant or, 29 subject to the hearing provisions of Title 2 of this article, refuse to renew, suspend, or revoke 30 a certificate of authority if the applicant or holder of the certificate of authority:
- 31 (1) violates any provision of this article other than one that provides for 32 mandatory denial, refusal to renew, suspension, or revocation for its violation;

- 1 (2) knowingly fails to comply with a regulation or order of the 2 Commissioner;
- 3 (3) is found by the Commissioner to be in unsound condition or in a 4 condition that renders further transaction of insurance business hazardous to the insurer's 5 policyholders or the public;
- 6 (4) is engaged in writing policies in a jurisdiction in which it operates on a 7 premium basis that the Commissioner finds to be insufficient, insecure, or impracticable so 8 as to endanger the solvency of the insurer;
- 9 (5) refuses or delays payment of amounts due claimants without just cause;
- 10 (6) refuses to be examined or to produce its accounts, records, or files for 11 examination by the Commissioner when required;
- 12 (7) refuses to provide additional information that the Commissioner 13 considers advisable in considering an application for renewal of the certificate of authority;
- 14 (8) fails to pay a final judgment against it in the State within 30 days after 15 the judgment becomes final;
- 16 (9) is affiliated with and under the same general management or 17 interlocking directorate or ownership as another insurer that transacts direct insurance in 18 the State without having a certificate of authority to do so, except as allowed to a surplus 19 lines insurer under Title 3, Subtitle 3 of this article;
- 20 (10) is found by the Commissioner to have participated, with or without the 21 knowledge of an insurance producer, in selling motor vehicle insurance without an actual 22 intent to sell the insurance, as evidenced by a persistent pattern of filing certificates of 23 insurance together with or closely followed by cancellation notices for the insurance;

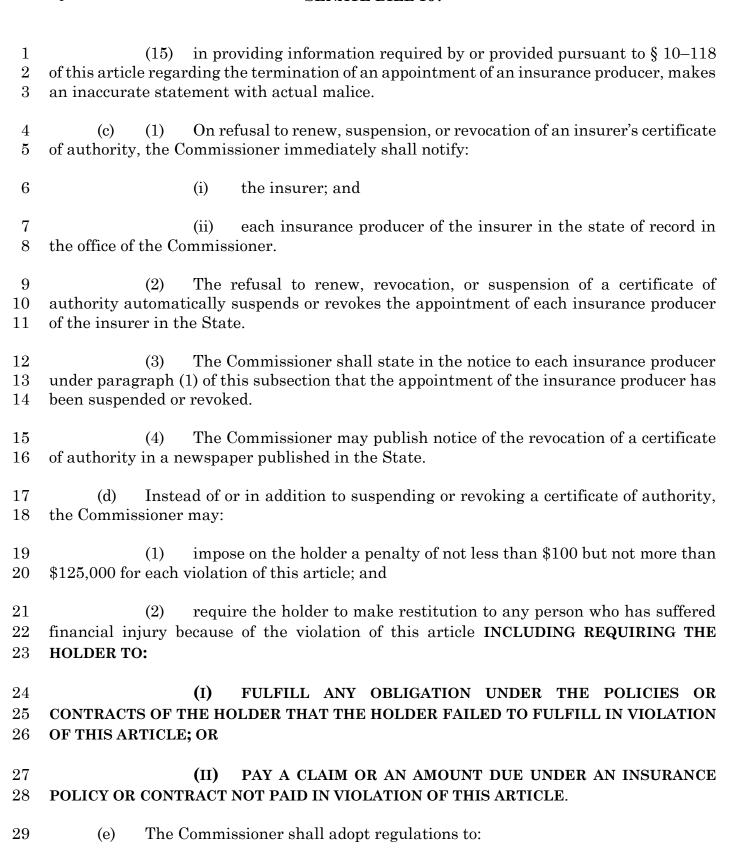
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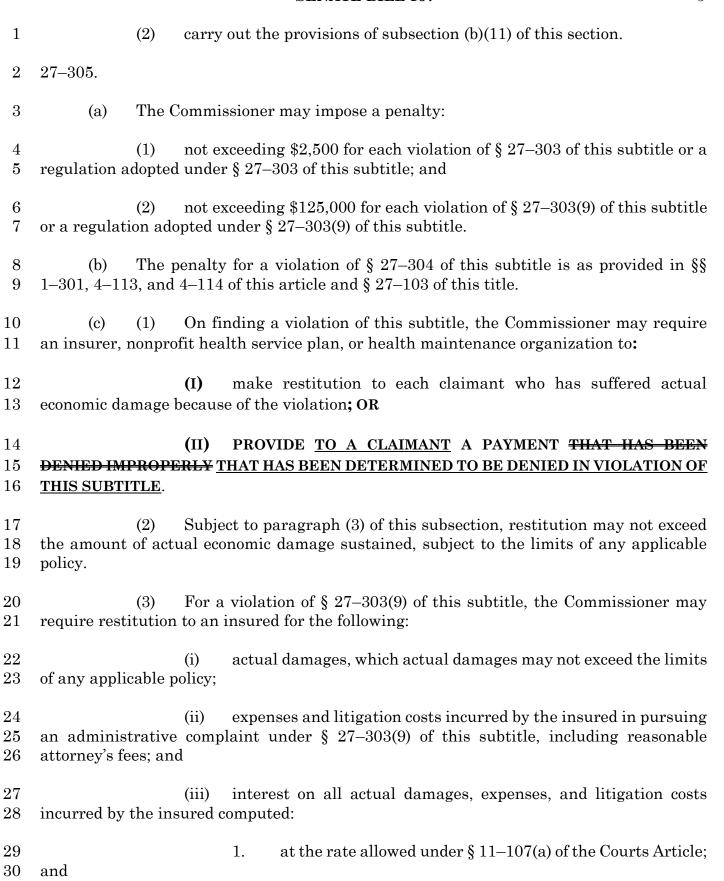
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- (11) except as allowed under § 10–103(c) of this article, is found by the Commissioner to have knowingly participated with a person, acting as an insurance producer, that does not have an appointment from the insurer in accepting insurance contracts that the person has sold, solicited, or negotiated, if committed with sufficient frequency to indicate a general business practice;
- 29 (12) has had a certificate of authority revoked or suspended by the insurance 30 regulatory authority of another state;
- 31 (13) has violated the provisions of Title 6.5 of the State Government Article;
- 32 (14) fails to provide to the Commissioner or an insurance producer any 33 information required by § 10–118 of this article regarding the termination of an appointment of the insurance producer; or



30 (1) establish standards for the imposition of a penalty under subsection (d) 31 of this section; and



$\frac{1}{2}$	2. from the date on which the insured's claim would have been paid if the insurer acted in good faith.
3 4	(4) The amount of attorney's fees recovered from an insurer under paragraph (3) of this subsection may not exceed one—third of the actual damages recovered
5 6 7 8	SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that Section 1 of this Act shall be construed to be clarifying only and not to grant the Maryland Insurance Commissioner any additional authority beyond what is provided by the Insurance Article as of September 30, 2022.
9 10	SECTION $\stackrel{2}{=}$ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2022.
	Approved:
	Governor.
	President of the Senate.
	Speaker of the House of Delegates.