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§3–1701.

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

(2) "Casualty insurance" has the meaning stated in § 1–101 of the Insurance Article.

(3) "Commercial insurance" has the meaning stated in § 27–601 of the Insurance Article.

(4) (i) "Disability insurance" means insurance that provides for lost income, revenue, or proceeds in the event that an illness, accident, or injury results in a disability that impairs an insured's ability to work or otherwise generate income, revenue, or proceeds that the insurance is intended to replace.

(ii) "Disability insurance" does not include payment for medical expenses, dismemberment, or accidental death.

(5) "Good faith" means an informed judgment based on honesty and diligence supported by evidence the insurer knew or should have known at the time the insurer made a decision on a claim.

(6) "Insurer" has the meaning stated in § 1–101 of the Insurance Article.

(7) "Property insurance" has the meaning stated in § 1–101 of the Insurance Article.

(b) This subtitle applies only to first–party claims under property and casualty insurance policies or individual disability insurance policies issued, sold, or delivered in the State.

(c) (1) Except as provided in paragraph (2) of this subsection, a party may not file an action under this subtitle before the date of a final decision under § 27–1001 of the Insurance Article.

(2) Paragraph (1) of this subsection does not apply to an action:

(i) Within the small claim jurisdiction of the District Court under § 4–405 of this article;

(ii) If the insured and the insurer agree to waive the requirement under paragraph (1) of this subsection; or

(iii) Under a commercial insurance policy on a claim with respect to which the applicable limit of liability exceeds $1,000,000.

(d) This section applies only in a civil action:

(1) (i) To determine the coverage that exists under the insurer's insurance policy; or

(ii) To determine the extent to which the insured is entitled to receive payment from the insurer for a covered loss;

(2) That alleges that the insurer failed to act in good faith; and

(3) That seeks, in addition to the actual damages under the policy, to recover expenses and litigation costs, and interest on those expenses or costs, under subsection (e) of this section.

(e) Notwithstanding any other provision of law, if the trier of fact in an action under this section finds in favor of the insured and finds that the insurer failed to act in good faith, the insured may recover from the insurer:

(1) Actual damages, which actual damages may not exceed the limits of the applicable policy;

(2) Expenses and litigation costs incurred by the insured in an action under this section or under § 27–1001 of the Insurance Article or both, including reasonable attorney's fees; and

(3) Interest on all actual damages, expenses, and litigation costs incurred by the insured, computed:

(i) At the rate allowed under § 11–107(a) of this article; and

(ii) From the date on which the insured's claim would have been paid if the insurer acted in good faith.

(f) An insurer may not be found to have failed to act in good faith under this section solely on the basis of delay in determining coverage or the extent of payment to which the insured is entitled if the insurer acted within the time period specified by statute or regulation for investigation of a claim by an insurer.

(g) The amount of attorney's fees recovered from an insurer under subsection (e) of this section may not exceed one–third of the actual damages recovered.

(h) The clerk of the court shall file a copy of the verdict or any other final disposition of an action under this section with the Maryland Insurance Administration.

(i) This section does not limit the right of any person to maintain a civil action for damages or other remedies otherwise available under any other provision of law.

(j) If a party to the proceeding elects to have the case tried by a jury in accordance with the Maryland Rules, the case shall be tried by a jury.

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