



Testimony of

American Property Casualty Insurance Association (APCIA)

Senate Judicial Proceedings Committee

Senate Bill 683 - Courts – Wrongful Acts by Deceased Individuals – Actions In Rem

March 15, 2023

Letter of Opposition

The American Property Casualty Insurance Association (APCIA) is a national trade organization whose members write approximately 65% of the U.S. property-casualty insurance market, including nearly 60% percent of Maryland's automobile insurance market. APCIA appreciates the opportunity to provide written comments in opposition to Senate Bill 683.

The bill would authorize individuals who were injured in a motor vehicle accident by a deceased individual for whom no estate has been opened to bring an action *in rem* against the deceased individual's insurance policy for personal injury or death arising from the accident.

This legislation will permit third-party tort claimants to bring direct actions against insurers before final judgment has been entered against the policyholder or his or her estate, and to make the jury aware of the existence and amount of insurance in a manner widely understood to be highly prejudicial. The vast majority of states prohibit such direct actions for good reason, and the Maryland Legislature has previously rejected numerous efforts to permit them.

The intended beneficiaries of insurance policies are the policyholders who enter into contractual agreements with insurers, not third-party tort claimants whom the law considers "strangers" to the policy. Just two years ago, the Maryland Court of Appeals affirmed in *CX Reinsurance Co. Ltd. v. Johnson, et al.* that the state has no public policy that overrides the terms of liability policies to make third-party claimants who have neither obtained a judgment against nor reached a settlement with a policyholder the intended beneficiaries of policies.

Permitting direct actions against insurers by third-party claimants who have not established a policyholder's liability in a separate action, either against the individual or his or her estate, would overturn Maryland's longstanding and well-founded general prohibition against referring to insurance in front of a jury because it may prejudice the issue of damages. As the Court of Appeals explained in 1990 in *Allstate Insurance Co. v. Atwood, et al.*, "the policy of the law is firmly against the injection in tort trials of liability insurance. The matter of liability insurance is irrelevant to the issue of the defendant's liability and is highly prejudicial."

For these reasons, APCIA urges the Committee to provide an unfavorable report on Senate Bill 683.

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