

Bill No.: _____

Requested: _____

Committee: _____

Drafted by: Departmental

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By: **Leave Blank (By Request – Departmental – Maryland Insurance Administration)**

A BILL ENTITLED

1 AN ACT concerning

2 **Private Passenger Motor Vehicle Liability Insurance – Protests – Consumer**
3 **Complaint Portal**

4 FOR the purpose of authorizing insureds to protest certain proposed actions of insurers,
5 with respect to a policy of private passenger motor vehicle liability insurance or a
6 binder of private passenger motor vehicle liability insurance, by filing the protest
7 electronically through the consumer complaint portal on the Maryland Insurance
8 Administration’s website within a certain time period after the mailing date on the
9 notice of proposed action; making a conforming change; and generally relating to
10 protesting a proposed action of a private passenger motor vehicle liability insurer.

11 BY repealing and reenacting, with amendments,
12 Article – Insurance
13 Section 27–613
14 Annotated Code of Maryland
15 (2017 Replacement Volume and 2019 Supplement)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
17 That the Laws of Maryland read as follows:

18 **Article – Insurance**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 27–613.

2 (a) (1) This section applies only to private passenger motor vehicle liability
3 insurance.

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

6 (3) This section does not apply to the cancellation of a policy or binder of
7 private passenger motor vehicle liability insurance by an insurer during the 45–day
8 underwriting period in accordance with § 12–106 of this article.

9 (b) (1) In accordance with this section, with respect to a policy of private
10 passenger motor vehicle liability insurance or a binder of private passenger motor vehicle
11 liability insurance, if the binder has been in effect for at least 45 days, issued in the State
12 to any resident of the household of the named insured, an insurer may:

13 (i) cancel or fail to renew the policy or binder; or

14 (ii) reduce coverage under the policy.

15 (2) Notwithstanding paragraph (1) of this subsection, the requirements of
16 this section do not apply if:

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

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

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

24 2. provides that each insured affected by the plan of
25 withdrawal shall be sent by a first–class mail tracking method at least 45 days before the
26 nonrenewal of the policy a written notice that states the date that the policy will be

1 nonrenewed and that the nonrenewal is the result of the withdrawal of the insurer from
2 the market.

3 (3) Notwithstanding paragraph (1) of this subsection, an insurer may not
4 cancel a policy midterm except:

5 (i) when there exists:

6 1. a material misrepresentation or fraud in connection with
7 the application, policy, or presentation of a claim;

8 2. a matter or issue related to the risk that constitutes a
9 threat to public safety; or

10 3. a change in the condition of the risk that results in an
11 increase in the hazard insured against;

12 (ii) for nonpayment of premium; or

13 (iii) due to the revocation or suspension of the driver's license or
14 motor vehicle registration:

15 1. of the named insured or covered driver under the policy;

16 and

17 2. for reasons related to the driving record of the named
18 insured or covered driver.

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

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

23 (ii) for all other notices of actions subject to this section, by a
24 first-class mail tracking method.

25 (2) The notice must be in triplicate and on a form approved by the

1 Commissioner.

2 (3) The notice must state in clear and specific terms:

3 (i) The proposed action to be taken, including for a reduction in
4 coverage, the type of coverage reduced and the extent of the reduction;

5 (ii) the proposed effective date of the action;

6 (iii) subject to paragraph (4) of this subsection, the actual reason of
7 the insurer for proposing to take the action;

8 (iv) if there is coupled with the notice an offer to continue or renew
9 the policy in accordance with § 27–609 of this subtitle:

10 1. the name of the individual or individuals to be excluded
11 from coverage; and

12 2. the premium amount if the policy is continued or renewed
13 with the named individual or individuals excluded from coverage;

14 (v) the right of the insured to replace the insurance through the
15 Maryland Automobile Insurance Fund and the current address and telephone number of
16 the Fund;

17 (vi) the right of the insured to protest the proposed action of the
18 insurer and request a hearing before the Commissioner on the proposed action by:

19 1. signing [two copies] **A COPY** of the notice and sending
20 [them] **IT** to the Commissioner within 30 days after the mailing date of the notice; **OR**

21 2. **FILING THE PROTEST ELECTRONICALLY THROUGH**
22 **THE CONSUMER COMPLAINT PORTAL ON THE ADMINISTRATION’S WEBSITE WITHIN**
23 **30 DAYS AFTER THE MAILING DATE ON THE NOTICE;**

24 (vii) that if a protest is filed by the insured, the insurer must maintain
25 the current insurance in effect until a final determination is made by the Commissioner,
26 subject to the payment of any authorized premium due or becoming due before the

1 determination; and

2 (viii) that the Commissioner shall order the insurer to pay reasonable
3 attorney's fees incurred by the insured for representation at the hearing if the
4 Commissioner finds that:

5 1. the actual reason for the proposed action is not stated in
6 the notice or the proposed action is not in accordance with § 27-501 of this title, the
7 insurer's filed rating plan, its underwriting standards, or the lawful terms and conditions
8 of the policy related to a cancellation, nonrenewal, or reduction in coverage; and

9 2. the insurer's conduct in maintaining or defending the
10 proceeding was in bad faith or the insurer acted willfully in the absence of a bona fide
11 dispute.

12 (4) (i) The insurer's statement of actual reason for proposing to take an
13 action subject to this section must be clear and specific and include a brief statement of the
14 basis for the action, including, at a minimum:

15 1. if the action of the insurer is due wholly or partly to an
16 accident:

17 A. the name of the driver;

18 B. the date of the accident; and

19 C. if fault is a material factor for the insurer's action, a
20 statement that the driver was at fault;

21 2. if the action of the insurer is due wholly or partly to a
22 violation of the Maryland Vehicle Law or the vehicle laws of another state or territory of
23 the United States:

24 A. the name of the driver;

25 B. the date of the violation; and

26 C. a description of the violation;

1 3. if the action of the insurer is due wholly or partly to the
2 claims history of an insured, a description of each claim;

3 4. whether the insurer’s action is based on a violation of law,
4 policy terms or conditions, or the insurer’s underwriting standards;

5 5. whether the insurer’s action is based on a material
6 misrepresentation; and

7 6. any other information that is the basis for the insurer’s
8 action.

9 (ii) The use of generalized terms such as “personal habits”, “living
10 conditions”, “poor morals”, or “violation or accident record” does not meet the requirements
11 of this paragraph.

12 (iii) The Commissioner may not disallow a proposed action of an
13 insurer because the statement of actual reason contains:

14 1. grammatical errors, typographical errors, or other errors
15 provided that the errors are nonmaterial and not misleading;

16 2. surplus information, provided that the surplus
17 information is nonmaterial and not misleading; or

18 3. erroneous information, provided that in absence of the
19 erroneous information, there remains a sufficient basis to support the action.

20 (d) At least 10 days before the date an insurer proposes to cancel a policy for
21 nonpayment of premium, the insurer shall send to the insured, by a first-class mail
22 tracking method, a written notice of intention to cancel for nonpayment of premium.

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

1 (f) (1) This subsection does not apply to an action of an insurer taken under
2 subsection (d) of this section.

3 (2) An insured may protest a proposed action of the insurer under this
4 section by:

5 (I) signing [two copies] A COPY of the notice and sending [them] IT
6 to the Commissioner within 30 days after the mailing date of the notice; OR

7 (II) FILING THE PROTEST ELECTRONICALLY THROUGH THE
8 CONSUMER COMPLAINT PORTAL ON THE ADMINISTRATION'S WEBSITE WITHIN 30
9 DAYS AFTER THE MAILING DATE ON THE NOTICE.

10 (3) On receipt of a protest, the Commissioner shall notify the insurer of the
11 filing of the protest.

12 (4) A protest filed with the Commissioner stays the proposed action of the
13 insurer pending a final determination by the Commissioner.

14 (5) The insurer shall maintain in effect the same coverage and premium
15 that were in effect on the day the notice of proposed action was sent to the insured until a
16 final determination is made, subject to the payment of any authorized premium due or
17 becoming due before the determination.

18 (g) (1) Based on the information contained in the notice, the Commissioner
19 shall:

20 (i) determine whether the protest by the insured has merit; and

21 (ii) dismiss the protest or disallow the proposed action of the insurer.

22 (2) The Commissioner shall notify the insurer and the insured of the action
23 of the Commissioner promptly in writing.

24 (3) Subject to paragraph (4) of this subsection, within 30 days after the
25 mailing date of the Commissioner's notice of action, the aggrieved party may request a
26 hearing.

1 (4) The Commissioner shall:

2 (i) Hold a hearing within a reasonable time after the request for a
3 hearing; and

4 (ii) give written notice of the time and place of the hearing at least
5 10 days before the hearing.

6 (5) A hearing held under this subsection shall be conducted in accordance
7 with Title 10, Subtitle 2 of the State Government Article.

8 (6) At the hearing the insurer has the burden of proving its proposed action
9 to be in accordance with the insurer's filed rating plan, its underwriting standards, or the
10 lawful terms and conditions of the policy related to a cancellation, nonrenewal, or reduction
11 in coverage, as applicable, and not in violation of § 27-501 of this title and, in doing so, may
12 rely only on the reasons set forth in its notice to the insured.

13 (h) (1) The Commissioner shall issue an order within 30 days after the
14 conclusion of the hearing.

15 (2) If the Commissioner finds the proposed action of the insurer to be in
16 accordance with the insurer's filed rating plan, its underwriting standards, or the lawful
17 terms and conditions of the policy related to a cancellation, nonrenewal, or reduction in
18 coverage, as applicable, and not in violation of § 27-501 of this title, the Commissioner
19 shall:

20 (i) dismiss the protest; and

21 (ii) allow the proposed action to be taken on the later of:

22 1. its proposed effective date; and

23 2. 30 days after the date of the determination.

24 (3) If the Commissioner finds that the actual reason for the proposed action
25 is not stated in the notice or the proposed action is not in accordance with § 27-501 of this
26 title, the insurer's filed rating plan, its underwriting standards, or the lawful terms and
27 conditions of the policy related to a cancellation, nonrenewal, or reduction in coverage, the

1 Commissioner shall:

2 (i) disallow the action; and

3 (ii) order the insurer to pay reasonable attorney's fees incurred by
4 the insured for representation at the hearing if the Commissioner finds that the insurer's
5 conduct in maintaining or defending the proceeding was in bad faith or the insurer acted
6 willfully in the absence of a bona fide dispute.

7 (i) The Commissioner may delegate the powers and duties of the Commissioner
8 under this section to one or more employees or hearing examiners.

9 (j) A party to a proceeding under this section may appeal the decision of the
10 Commissioner in accordance with § 2-215 of this article.

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 October 1, 2020.