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December 29, 2023

The Honorable Bill Ferguson  
President of the Senate  
State House, Room H-107  
100 State Circle  
Annapolis, MD 21401

The Honorable Adrienne A. Jones  
Speaker of the House of Delegates  
State House, Room H-101  
100 State Circle  
Annapolis, Maryland 21401

**Re: Report Required by Ins. § 27-1001(h) and HB 990/Ch. 729, 2016 - (MSAR #6587) -  
FY 2023 Report on Absence of Good Faith Cases**

Dear President Ferguson and Speaker Jones:

On behalf of the Maryland Insurance Administration (“MIA”), I am pleased to submit the 2023 Report on Absence of Good Faith Cases filed under § 27-1001 of the Maryland Insurance Article. Insurance Article §27-1001(h), as amended by HB 990/Ch. 729 of the Acts of 2016, requires that on or before January 1 of each year beginning in 2009, in accordance with § 2-1257 of the State Government Article, the MIA shall report to the General Assembly on the following for the prior fiscal year:

- (1) the number and types of complaints under this section or § 3-1701 of the Courts Article from insureds regarding first-party insurance claims under property and casualty insurance policies;
- (2) the number and types of complaints under this section or § 3-1701 of the Courts Article from insureds regarding first-party insurance claims under individual disability insurance policies;
- (3) the administrative and judicial dispositions of the complaints described in item (1) of this subsection;
- (4) the number and types of regulatory enforcement actions instituted by the administration for unfair claim settlement practices under § 27-303(9) or § 27-304(18) of this title; and
- (5) the administrative and judicial dispositions of the regulatory enforcement actions for unfair claim settlement practices described under item (3) of this subsection.

Five printed copies of this report have been mailed to the Department of Legislative Services Library for their records.

Should you have any questions regarding this report, please do not hesitate to contact me or my Director of Legislative and Regulatory Policy, Jamie Sexton, at [jamie.sexton@maryland.gov](mailto:jamie.sexton@maryland.gov).

Sincerely,

A handwritten signature in blue ink that reads "Kathleen A. Birrane".

Kathleen A. Birrane  
Insurance Commissioner

cc: Sarah T. Albert, Department of Legislative Services (5 copies)



**2023 Report on Absence of Good Faith Cases Filed under §  
27-1001 of the Maryland Insurance Article**

**IN § 27-1001(h) and HB 990/Ch. 729, 2016  
(MSAR # 6587)**

**Kathleen A. Birrane  
Commissioner**

December 29, 2023

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This document is available in alternative format upon request  
from a qualified individual with a disability.  
TTY 1-800-735-2258

Administration's website address: [www.insurance.maryland.gov](http://www.insurance.maryland.gov)

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## Introduction

Section 27-1001 of the Insurance Article, which took effect on October 1, 2007, was passed by the General Assembly in connection with the passage of § 3-1701, Md. Code Ann., Cts. & Jud. Proc. (2020 Repl. Vol.). The purpose of these enactments was to establish a process through which a policyholder could seek the award of special damages in a civil coverage or breach of contract action where the insurer failed to act in good faith in denying all or part of a first-party property insurance claim. Before the insured may file an action seeking special damages pursuant to § 3-1701, the insured must first submit their complaint to the Administration under § 27-1001, which requires the Insurance Commissioner to conduct an on-the-record review of such complaints. § 27-1001(e). These laws were amended by HB 990/Ch. 729 of the Acts of 2016 to apply the process to disability claims.

According to the legislative history of § 27-1001, the bill was designed to address the General Assembly's concern that some insurance companies disregard their established legal obligations to adequately pay claims. "Testimony on [§ 27-1001] indicated that insurance companies often 'lowball' their offers to policyholders because there's no incentive for them to offer the policy limits, even when damages exceed policy limits." Sen. Jud. Proc. Comm., Floor Report, H.B. 425 & S.B. 389, p. 4 (Md. 2007). Section 3-1701 created a disincentive for insurers to engage in such conduct by permitting insureds to recover attorney's fees and interest.

## Overview of Section 27-1001

Section 3-1701 of the Cts. & Jud. Proc. Article authorizes the award of special damages to an insured in a civil coverage or breach of contract action if the insured demonstrates that the insurer failed to act in good faith in denying, in whole or in part, a first-party property insurance or disability insurance claim. However, before the insured may file an action seeking special damages under § 3-1701, the insured must first submit a complaint to the Administration under § 27-1001. Within ninety (90) days of the receipt of such a complaint, the Administration must render a decision on the complaint that determines:

1. Whether the insurer is required under the applicable policy to cover the underlying claim;
2. The amount the insured was entitled to receive from the insurer;
3. Whether the insurer breached its obligation to cover and pay the claim;
4. Whether an insurer that breached its obligation failed to act in good faith; and
5. If there was a breach and the insurer did not act in good faith, the amount of damages, expenses, litigation costs, and interest.

"Good faith" is defined in §27-1001(a) as "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." A plaintiff has the burden of proof and must meet this burden by a preponderance of the evidence. *See* Md. Code Ann., State Gov't § 10-217 (2014 Repl. Vol.); *Md. Bd. Of Physicians v. Elliott*, 170 Md. App. 369, 435, *cert denied*, 396 Md. 12 (2006).

## Analysis of Complaints Filed under § 27-1001

Section 27-1001(h) directs that this report to the General Assembly be based upon the prior fiscal year’s activity. This report contains information about the disposition of those complaints filed in fiscal year (FY) 2023 (July 1, 2022, through June 30, 2023).

### A. Number of Complaints

In FY23 the Office of Hearings received and processed eighty-seven (87) complaints. In four (4) instances the complaint did not fall within the scope of § 27-1001 and the complaints were dismissed for lack of jurisdiction; therefore, a decision on the merits was not reached. *See Table 1.* Of the four (4) cases dismissed, two (2) involved commercial property coverage exceeding \$1M, one (1) involved a claim against an agent and not a carrier, and one (1) involved a complaint that failed to provide the necessary documentation required for a 27-1001 complaint. Seven (7) cases were withdrawn or settled before a decision on the merits was reached.

Of the seventy-six (76) remaining cases that were reviewed on the merits, the Administration found no breach of an obligation to pay or breach of an obligation to act in good faith. *See Table 1.*

*Table 1 – § 27-1001 Complaints Filed with the Administration FY 2023*

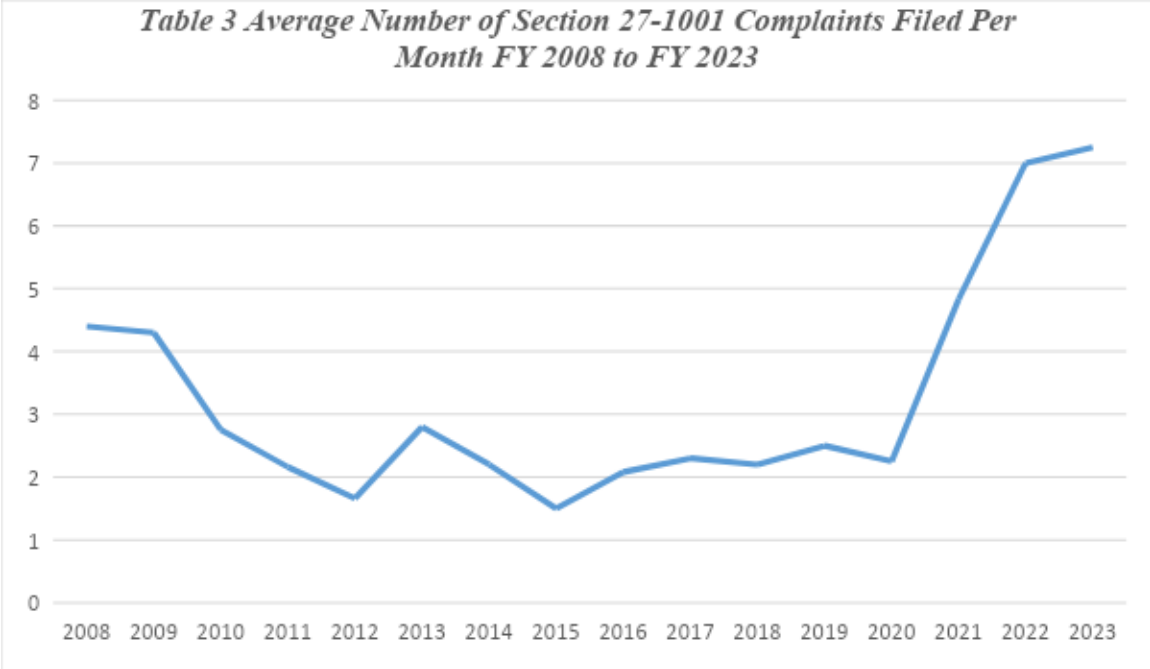
FY 2023			
	Number Filed	% of Filed	% of Reviewed
Settled, Withdrawn, or Dismissed	11	12.6%	N/A
Breach Found	0	0 %	0%
Breach of an obligation to pay only	0	0%	0%
Breach of an obligation to pay and obligation to act in good faith	0	0%	0%
No Breach Found	76	87.4%	100%
Total Reviewed	76	87.4%	100%
Total	87	100%	N/A

**Table 2 – § 27-1001 Complaints Filed with the Administration FY 2019 to FY 2023**

	FY 2019		FY 2020		FY 2021		FY 2022		FY 2023	
	#	%	#	%	#	%	#	%	#	%
<b>Settled, Withdrawn, or Dismissed</b>	2	7%	9	32%	18	31%	25	22%	11	12.6%
<b>§27-1001 (absence of good faith) violation</b>	1	3%	1	4%	3	5%	0	0%	0	0%
<b>No Violation</b>	27	90%	18	64%	37	64%	59	69%	76	87.4%
<b>Breach of Obligation to Pay Only</b>	0	0%	0	0%	0	0%	1	1.17%	0	0%
<b>Total</b>	30	100%	28	100%	58	100%	85	100%	87	100%

The number of complaints filed with the Administration increased from FY 2022 to FY 2023 by 2.35%, eighty-five (85) to eighty-seven (87) filings. Eighty-seven (87) filings is the highest number of filings since the statute was enacted.

In FY 2008, the first year following the effective date of section 27-1001, complaints were filed at an average rate of 4.4 per month. Since that time, the average number of complaints filed has fluctuated. In FY 2014 and FY 2015, the number fell to 2.2 and 1.5 complaints filed per month respectively. Complaints increased slightly in FY 2016 and FY 2017 to approximately 2 and 2.3 complaints filed per month respectively, but in FY 2018 the number of complaints filed decreased slightly to 2.2 per month. In FY 2019 the number of complaints filed increased to 2.5 complaints per month but decreased slightly in FY 2020 to 2.33 per month. In FY 2021, the average rate of complaints filed per month increased significantly to 4.8 complaints per month. In FY 2022, the number of complaints increased sharply to approximately 7 per month. For FY 2023, the number of complaints continued to be approximately 7.25 per month. *See Table 3 on the next page.*



**B. Types of Complaints**

Of the eighty-seven (87) complaints filed, seventy-six (76) were reviewed on the merits and the Administration made a determination of no breach. A decision on the merits was not reached on eleven (11) of the eighty-seven (87) complaints filed, because they were settled, withdrawn or dismissed for reasons discussed in Section A above. Of the eighty-seven (87) complaints filed, fifty-two (52) involved homeowner’s insurance claims, twenty-six (26) involved uninsured or underinsured motorist claims, five (5) involved a commercial policy claim, three (3) involved a first-party automobile property damage claim, and one (1) involved a personal injury protection claim (PIP).

**Table 4 – § 27-1001 Complaints Filed in FY 2023 by Type of Insurance**

	<b>Number</b>	<b>Percentage of Total Complaints Filed</b>
Total Complaints Filed	<b>87</b>	<b>100%</b>
Complaints Reviewed on the Merits	76	87.4%
Homeowners	52	59.8%
Auto- Uninsured Motorist	26	29.9%
Commercial Property	5	5.7%
Auto- Property Damage	3	3.4%
PIP	1	1.1%



**C. Complaints in which the Administration Found an Absence of Good Faith**

Of the seventy-six (76) complaints reviewed on the merits in FY 2023, the Administration determined there were no instances in which the insurer had breached its claim payment obligation or any instances where that the Plaintiff was entitled to additional claim compensation. For FY 2023, there were no instances where the Administration found that an insurer had breached its obligation to act in good faith in handling a claim.

**D. Judicial Review of the § 27-1001 Decisions**

In FY 2023, two (2) aggrieved parties appealed the Administration’s decision to the Office of Administrative Hearings (OAH). In one (1) matter, OAH issued a Final Order affirming the Administration’s decision. The other matter is still pending before OAH. One (1) case was appealed to the Carroll County Circuit Court and dismissed with prejudice. One (1) case was appealed to OAH and the Baltimore City Circuit Court. The case appealed to the OAH is still pending. The Baltimore City Circuit Court matter was dismissed by the parties.

***Table 4 – Appeals of § 27-1001 Decisions Filed in FY 2023***

	<b>Appeals to OAH</b>	<b>Appeals to Circuit Court</b>
<b>Dismissed / Settled / Withdrawn</b>	3	2
<b>Affirmed Administration</b>	1	0
<b>Reversed Administration</b>	0	0
<b>Appeals Pending</b>	2	0
<b>Total</b>	3	2

**E. Regulatory Enforcement Action**

The Administration tracks and reviews the data from § 27-1001 complaints to identify regulatory trends or problems. During FY 2023, none of the complaints received required a referral to another MIA Unit for additional regulatory investigation and enforcement actions for unfair claim settlement practices. Section 27-1001(h)(3).

**Conclusion**

The Administration has successfully implemented § 27-1001 and continues to process complaints in a timely manner. Section 27-1001 provides policyholders with an impartial review of their disputed claim(s) and can provide policyholders with a valuable tool to assist them in resolving disputes with insurers without incurring the expense of judicial action.