

SENATE BILL 97

C4

0lr0043

(PRE-FILED)

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

Requested: September 9, 2019

Introduced and read first time: January 8, 2020

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: January 21, 2020

CHAPTER _____

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~~ changes; and generally
10 relating to protesting a proposed action of a private passenger motor vehicle liability
11 insurer.

12 BY repealing and reenacting, with amendments,
13 Article – Insurance
14 Section 27–613 and 27–614
15 Annotated Code of Maryland
16 (2017 Replacement Volume and 2019 Supplement)

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

19 **Article – Insurance**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

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



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
27 nonrenewed and that the nonrenewal is the result of the withdrawal of the insurer from
28 the market.

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

31 (i) when there exists:

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

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

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

6 A. the name of the driver;

7 B. the date of the violation; and

8 C. a description of the violation;

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

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

13 5. whether the insurer's action is based on a material
14 misrepresentation; and

15 6. any other information that is the basis for the insurer's
16 action.

17 (ii) The use of generalized terms such as "personal habits", "living
18 conditions", "poor morals", or "violation or accident record" does not meet the requirements
19 of this paragraph.

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

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

24 2. surplus information, provided that the surplus
25 information is nonmaterial and not misleading; or

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

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

31 (e) A statement of actual reason contained in the notice given under subsection
32 (c) of this section is privileged and does not constitute grounds for an action against the

1 insurer, its representatives, or another person that in good faith provides to the insurer
2 information on which the statement is based.

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

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

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

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

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

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

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

20 (g) (1) Based on the information contained in the notice, the Commissioner
21 shall:

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

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

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

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

29 (4) The Commissioner shall:

30 (i) Hold a hearing within a reasonable time after the request for a
31 hearing; and

1 (ii) give written notice of the time and place of the hearing at least
2 10 days before the hearing.

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

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

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

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

17 (i) dismiss the protest; and

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

19 1. its proposed effective date; and

20 2. 30 days after the date of the determination.

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

26 (i) disallow the action; and

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

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

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

1 27-614.

2 (a) In this section, “increase in premium” and “premium increase” include an
3 increase in total premium for a policy due to:

4 (1) a surcharge;

5 (2) retiering or other reclassification of an insured; or

6 (3) removal or reduction of a discount.

7 (b) (1) This section applies only to private passenger motor vehicle liability
8 insurance.

9 (2) This section does not apply to the Maryland Automobile Insurance
10 Fund.

11 (3) This section does not apply to an increase in premium made by an
12 insurer during the 45-day underwriting period in accordance with § 12-106(d)(2) and (3)
13 of this article.

14 (c) (1) Except as provided in paragraph (2) of this subsection, at least 45 days
15 before the effective date of an increase in the total premium for a policy of private passenger
16 motor vehicle liability insurance, the insurer shall send written notice of the premium
17 increase to the insured at the last known address of the insured by a first-class mail
18 tracking method.

19 (2) The notice required by paragraph (1) of this subsection need not be
20 given if the premium increase is part of a general increase in premiums that is filed in
21 accordance with Title 11 of this article and does not result from a reclassification of the
22 insured.

23 (3) The notice may accompany or be included in the renewal offer or policy.

24 (4) The notice must be in duplicate and on a form approved by the
25 Commissioner.

26 (5) The notice must state in clear and specific terms:

27 (i) the premium for the current policy period;

28 (ii) the premium for the renewal policy period;

29 (iii) the basis for the action, including, at a minimum:

1 1. if the premium increase is due wholly or partly to an
2 accident:

3 A. the name of the driver;

4 B. the date of the accident; and

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

7 2. if the premium increase is due wholly or partly to a
8 violation of the Maryland Vehicle Law or the vehicle laws of another state or territory of
9 the United States:

10 A. the name of the driver;

11 B. the date of the violation; and

12 C. a description of the violation;

13 3. if the premium increase is due wholly or partly to the
14 claims history of an insured, a description of each claim; and

15 4. any other information that is the basis for the insurer's
16 action;

17 (iv) that the insured should contact the insured's insurance producer
18 or insurer for a review of the premium if the insured has a question about the increase in
19 premium or believes the information in the notice is incorrect;

20 (v) the right of the insured to protest the premium increase and, in
21 the case of a premium increase of more than 15% for the entire policy, to request a hearing
22 before the Commissioner by mailing [or], transmitting by facsimile to the Commissioner,
23 **OR FILING ELECTRONICALLY THROUGH THE CONSUMER COMPLAINT PORTAL ON**
24 **THE ADMINISTRATION'S WEBSITE A PROTEST THAT INCLUDES:**

25 1. a copy of the notice;

26 2. the insured's address and daytime telephone number; and

27 3. a statement of the reason that the insured believes the
28 premium increase is incorrect;

29 (vi) the address and facsimile number of the Administration; and

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

4 1. the actual reason for the proposed action is not stated in
5 the notice or the proposed action is not in accordance with this article or the insurer's filed
6 rating plan; and

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

10 (d) (1) If the insured believes that the premium increase is incorrect, the
11 insured may protest the proposed action of the insurer within 30 days after the mailing
12 date of the notice by mailing [or], transmitting by facsimile to the Commissioner, OR
13 FILING ELECTRONICALLY THROUGH THE CONSUMER COMPLAINT PORTAL ON THE
14 ADMINISTRATION'S WEBSITE A PROTEST THAT INCLUDES:

15 (i) a copy of the notice;

16 (ii) the insured's address and daytime telephone number; and

17 (iii) a statement of the reason that the insured believes the premium
18 increase is incorrect.

19 (2) On receipt of a protest, the Commissioner shall notify the insurer of the
20 filing of the protest.

21 (3) (i) Except as provided in subparagraph (ii) of this paragraph, a
22 protest filed with the Commissioner does not stay the proposed action of the insurer.

23 (ii) If a premium increase for a policy exceeds 15%, the
24 Commissioner may order a stay of the premium increase pending a final decision if the
25 Commissioner makes a finding that the premium increase:

26 1. may cause the policyholder undue harm; and

27 2. is in violation of the insurer's filed rating plan.

28 (4) Based on the information contained in the notice, the Commissioner
29 shall:

30 (i) determine whether the insurer's action is in accordance with the
31 insurer's filed rating plan and this article; and

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

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

3 (6) For a premium increase of more than 15% for the entire policy, within
4 30 days after the mailing date of the Commissioner's notice of action, the aggrieved party
5 may request a hearing.

6 (7) The Commissioner shall:

7 (i) hold a hearing within a reasonable time after the request for a
8 hearing; and

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

11 (8) A hearing requested under this subsection shall be conducted in
12 accordance with Title 10, Subtitle 2 of the State Government Article.

13 (9) At the hearing the insurer has the burden of proving its proposed action
14 to be in accordance with its filed rating plan and this article and, in doing so, may rely only
15 on the reasons set forth in its notice to the insured.

16 (e) (1) The Commissioner shall issue an order within 30 days after the
17 conclusion of the hearing.

18 (2) If the Commissioner finds the proposed action of the insurer to be in
19 accordance with the insurer's filed rating plan and this article, the Commissioner shall:

20 (i) dismiss the protest; and

21 (ii) if the insurer's action is stayed, allow the proposed action of the
22 insurer to be taken on the later of:

23 1. its proposed effective date; and

24 2. 30 days after the date of the determination.

25 (3) If the Commissioner finds that the actual reason for the proposed action
26 is not stated in the notice or the proposed action is not in accordance with the insurer's filed
27 rating plan or this article, the Commissioner shall:

28 (i) disallow the action; and

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

1 (4) The Commissioner may not dismiss a protest solely because of the
2 insured's failure to state a reason that the insured believes the premium increase is
3 incorrect.

4 (f) (1) If the Commissioner disallows a premium increase for the entire policy,
5 the insurer, within 30 days after the disallowance, shall:

6 (i) return to the insured all disallowed premium received from the
7 insured; and

8 (ii) pay to the insured interest on the disallowed premium received
9 from the insured calculated at 10% a year from the date the disallowed premium was
10 received to the date the disallowed premium was returned.

11 (2) If an insurer fails to return any disallowed premium and interest to the
12 insured as provided in paragraph (1) of this subsection within 30 days after the
13 Commissioner disallows the action of the insurer, the insurer shall pay interest on the
14 disallowed premium calculated at 20% a year beginning on the 31st day following the
15 disallowance to the date the disallowed premium is returned.

16 (3) If an insurer fails to return any disallowed premium or fails to pay
17 interest to an insured in violation of paragraphs (1) and (2) of this subsection, the insurer
18 is subject to the penalties under § 4-113(d) of this article.

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

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

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.