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**TESTIMONY OF
THE
MARYLAND INSURANCE ADMINISTRATION
BEFORE THE
SENATE FINANCE COMMITTEE**

JANUARY 16, 2020

**SENATE BILL 97 – PRIVATE PASSENGER MOTOR VEHICLE LIABILITY INSURANCE - PROTESTS -
CONSUMER COMPLAINT PORTAL**

POSITION: SUPPORT WITH AMENDMENTS

Thank you for the opportunity to provide written comments regarding Senate Bill 97. Senate Bill 97 amends Title 27 Subtitle 6 of the Insurance Article to allow consumers to file electronic automobile protest complaints with the Maryland Insurance Administration (MIA) through the MIA's website and more specifically the MIA's Enterprise Complaint Tracking System Consumer Portal (ECTS).

Currently under §27-613(f)(2) and § 27-614 (d)(1) of the Insurance Article, a consumer is limited to only filing a complaint with the MIA by mailing or faxing in the complaint. The MIA has developed ECTS to provide a more streamlined consumer complaint process. This bill will codify the new technology as an acceptable complaint filing method and will expedite complaint handling for all stakeholders.

The Maryland Insurance Administration supports Senate Bill 97 as amended and urges the Committee to give Senate Bill 97 a favorable report.

BY: Maryland Insurance Administration

AMENDMENTS TO SENATE BILL 97

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in Line 13, after “27-613” add “27-614”.

AMENDMENT NO. 2

On page 7, after line 28, add:

§27-614.

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

- (1) a surcharge;
- (2) retiering or other reclassification of an insured; or
- (3) removal or reduction of a discount.

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

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

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

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

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

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

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

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

(i) the premium for the current policy period;

(ii) the premium for the renewal policy period;

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

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

A. the name of the driver;

B. the date of the accident; and

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

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

A. the name of the driver;

B. the date of the violation; and

C. a description of the violation;

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

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

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

(v) the right of the insured to protest the premium increase and, in the case of a premium increase of more than 15% for the entire policy, to request a hearing before the Commissioner by mailing or transmitting by facsimile to the Commissioner:

1. a copy of the notice;

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

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

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

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

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

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

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

(i) a copy of the notice;

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

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

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

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

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

1. may cause the policyholder undue harm; and

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

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

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

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

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

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

(7) The Commissioner shall:

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

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

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

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

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

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

(i) dismiss the protest; and

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

1. its proposed effective date; and

2. 30 days after the date of the determination.

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

article, the Commissioner shall:

(i) disallow the action; and

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

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

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

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

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

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

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

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