

SENATE BILL 388

D3, C4

9lr2765

By: **Senator Zirkin**

Introduced and read first time: January 31, 2019

Assigned to: Finance and Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Civil Actions – Liability Insurance – Prohibition on Disclaiming Coverage**

3 FOR the purpose of prohibiting an insurer from disclaiming coverage under a policy of
4 liability insurance on the ground that the insured or a certain person has breached
5 the policy by failing to cooperate with the insurer; making a conforming change; and
6 generally relating to reservations of rights by insurers and policies of liability
7 insurance.

8 BY adding to

9 Article – Courts and Judicial Proceedings

10 Section 3–1702 to be under the amended subtitle “Subtitle 17. Liability Insurance”

11 Annotated Code of Maryland

12 (2013 Replacement Volume and 2018 Supplement)

13 BY repealing and reenacting, with amendments,

14 Article – Insurance

15 Section 19–110

16 Annotated Code of Maryland

17 (2017 Replacement Volume and 2018 Supplement)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

19 That the Laws of Maryland read as follows:

20 **Article – Courts and Judicial Proceedings**

21 **Subtitle 17. Liability [of Insurer] INSURANCE.**

22 **3–1702.**

23 **AN INSURER MAY NOT DISCLAIM COVERAGE ON A LIABILITY INSURANCE**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 POLICY ON THE GROUND THAT THE INSURED OR A PERSON CLAIMING THE BENEFITS
2 OF THE POLICY THROUGH THE INSURED HAS BREACHED THE POLICY BY FAILING TO
3 COOPERATE WITH THE INSURER.

4 **Article – Insurance**

5 19–110.

6 An insurer may disclaim coverage on a liability insurance policy on the ground that
7 the insured or a person claiming the benefits of the policy through the insured has breached
8 the policy by [failing to cooperate with the insurer or by] not giving the insurer required
9 notice only if the insurer establishes by a preponderance of the evidence that the lack of
10 [cooperation or] notice has resulted in actual prejudice to the insurer.

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 October 1, 2019.