
By: Delegates Doory, Pendergrass, and Vallario

Introduced and read first time: January 9, 1997

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Civil Actions - Liability of Insurer for Damages, Costs, and Expenses**

3 FOR the purpose of providing that an insured is entitled to recover certain costs and
4 expenses under certain circumstances in certain actions to determine insurance
5 coverage or entitlement to payment for a covered loss; establishing that an insurer is
6 liable for treble damages under certain circumstances; providing for the application
7 of this Act; and generally relating to the recovery of costs and expenses and
8 damages in certain actions involving an insured and its insurer.

9 BY adding to

10 Article - Courts and Judicial Proceedings
11 Section 3-1401 to be under the new subtitle "Subtitle 14. Liability of Insurer"
12 Annotated Code of Maryland
13 (1995 Replacement Volume and 1996 Supplement)

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

16 **Article - Courts and Judicial Proceedings**

17 SUBTITLE 14. LIABILITY OF INSURER.

18 3-1401.

19 (A) THIS SECTION MAY NOT BE CONSTRUED TO LIMIT THE RIGHT OF ANY
20 PERSON TO MAINTAIN AN ACTION FOR DAMAGES OTHERWISE AVAILABLE.

21 (B) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IN ANY CIVIL
22 ACTION IN WHICH AN INSURED SUES OR IS SUED BY ITS INSURER TO DETERMINE
23 WHAT COVERAGE, IF ANY, EXISTS UNDER THE INSURER'S INSURANCE POLICY OR
24 TO DETERMINE THE EXTENT TO WHICH THE INSURED IS ENTITLED TO RECEIVE
25 PAYMENT FROM THE INSURER FOR A COVERED LOSS, IF THE COURT FINDS IN
26 FAVOR OF THE INSURED, THE INSURED SHALL BE ENTITLED TO RECOVER:

27 (1) COSTS AND EXPENSES, INCLUDING REASONABLE ATTORNEY'S FEES,
28 INCURRED BY THE INSURED; AND

1 (2) IF THE INSURED PROVES THAT THE INSURER ACTED IN BAD FAITH
2 OR WITHOUT REASONABLE JUSTIFICATION IN DENYING COVERAGE OR FAILING
3 AND REFUSING TO MAKE PAYMENT UNDER THE POLICY, AN AMOUNT EQUAL TO
4 THREE TIMES THE AMOUNT THAT SHOULD HAVE BEEN PAID UNDER THE POLICY.

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed
6 only prospectively and may not be applied or interpreted to have any effect on or
7 application to a cause of action arising before the effective date of this Act.

8 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 October 1, 1997.