

Chapter 77

(House Bill 921)

AN ACT concerning

Courts and Judicial Proceedings – Prelitigation Discovery – Insurance Coverage

FOR the purpose of requiring ~~a property and casualty insurer to disclose to a certain claimant~~ certain insurers to disclose to certain claimants under certain circumstances certain limits of coverage in any insurance agreement under which certain persons may be liable to satisfy all or part of the claim or to indemnify or reimburse for payments made to satisfy the claim; requiring disclosure of certain limits of coverage within a certain time period under certain circumstances; providing for certain procedures; providing that certain persons are not civilly or criminally liable for disclosure of certain documentation; providing that certain disclosure of certain documentation does not constitute a certain admission or a certain waiver of certain terms, conditions, or rights; providing that certain documentation is not admissible as evidence by reason of a certain disclosure; defining certain terms; providing for the application of this Act; and generally relating to the disclosure of certain coverage limits in certain insurance agreements.

BY adding to

Article – Courts and Judicial Proceedings

Section 10–1101 through 10–1105 to be under the new subtitle “Subtitle 11. Prelitigation Discovery”

Annotated Code of Maryland

(2006 Replacement Volume and 2010 Supplement)

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

Article – Courts and Judicial Proceedings

SUBTITLE 11. PRELITIGATION DISCOVERY.

10–1101.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “BENEFICIARY” MEANS AN INDIVIDUAL WHO MAY BRING AN ACTION FOR WRONGFUL DEATH UNDER TITLE 3, SUBTITLE 9 OF THIS ARTICLE.

(C) "CLAIMANT" MEANS:

(1) A PERSON WHO ALLEGES DAMAGES AS A RESULT OF A VEHICLE ACCIDENT OR AN ATTORNEY WHO REPRESENTS THE PERSON; OR

(2) A PERSONAL REPRESENTATIVE OF THE ESTATE OF A DECEDENT WHO DIED AS A RESULT OF A VEHICLE ACCIDENT OR AN ATTORNEY WHO REPRESENTS THE PERSONAL REPRESENTATIVE OF THE ESTATE OF THE DECEDENT.

(D) "INSURER" INCLUDES A PROPERTY AND CASUALTY INSURER, A SELF-INSURANCE PLAN, OR ANY PERSON REQUIRED TO PROVIDE INDEMNIFICATION FOR A CLAIM FOR WRONGFUL DEATH, PERSONAL INJURY, OR PROPERTY DAMAGE.

(E) "VEHICLE" HAS THE MEANING STATED IN § 11-176 OF THE TRANSPORTATION ARTICLE.

~~10-1101. 10-1102.~~

~~(A) AFTER A CLAIMANT FILES A WRITTEN TORT CLAIM WITH A PROPERTY AND CASUALTY INSURER, THE CLAIMANT MAY OBTAIN FROM THE PROPERTY AND CASUALTY CONCERNING A VEHICLE ACCIDENT AND PROVIDES THE DOCUMENTATION DESCRIBED IN § 10-1103 OR § 10-1104 OF THIS SUBTITLE WITH TO AN INSURER, THE CLAIMANT MAY OBTAIN FROM THE INSURER DOCUMENTATION OF THE APPLICABLE LIMITS OF LIABILITY COVERAGE IN ANY INSURANCE AGREEMENT UNDER WHICH ANY PERSON ENGAGED IN THE INSURANCE BUSINESS THE INSURER MAY BE LIABLE TO:~~

~~(1) SATISFY ALL OR PART OF THE CLAIM; OR~~

~~(2) INDEMNIFY OR REIMBURSE FOR PAYMENTS MADE TO SATISFY THE CLAIM.~~

~~(B) THE PROPERTY AND CASUALTY INSURER SHALL PROVIDE THE CLAIMANT THE DOCUMENTATION REQUIRED BY SUBSECTION (A) OF THIS SECTION WITHIN 30 DAYS AFTER RECEIPT OF A WRITTEN REQUEST FOR THE DOCUMENTATION.~~

~~10-1103.~~

(A) THIS SECTION DOES NOT APPLY TO A CLAIM DESCRIBED UNDER § 10-1104 OF THIS SUBTITLE.

(B) A CLAIMANT MAY OBTAIN THE DOCUMENTATION DESCRIBED IN § 10-1102 OF THIS SUBTITLE IF THE CLAIMANT PROVIDES IN WRITING TO THE INSURER:

(1) THE DATE OF THE VEHICLE ACCIDENT;

(2) THE NAME AND LAST KNOWN ADDRESS OF THE ALLEGED TORTFEASOR;

(3) A COPY OF THE VEHICLE ACCIDENT REPORT, IF AVAILABLE;

(4) THE INSURER'S CLAIM NUMBER, IF AVAILABLE;

(5) THE CLAIMANT'S HEALTH CARE BILLS AND DOCUMENTATION OF THE CLAIMANT'S LOSS OF INCOME, IF ANY, RESULTING FROM THE VEHICLE ACCIDENT; AND

(6) THE RECORDS OF HEALTH CARE TREATMENT FOR THE CLAIMANT'S INJURIES CAUSED BY THE VEHICLE ACCIDENT.

(C) IF THE AMOUNT OF THE ~~INCURRED~~ HEALTH CARE BILLS AND LOSS OF INCOME DOCUMENTED BY THE CLAIMANT UNDER THIS SECTION IS AT LEAST \$12,500, THE INSURER SHALL DISCLOSE IN WRITING THE APPLICABLE LIMITS OF COVERAGE IN EACH WRITTEN AGREEMENT UNDER WHICH THE INSURER MAY BE LIABLE.

10-1104.

(A) THIS SECTION APPLIES TO A CLAIM BY THE ESTATE OF AN INDIVIDUAL OR A BENEFICIARY OF THE INDIVIDUAL RESULTING FROM THE DEATH OF THE INDIVIDUAL IN A VEHICLE ACCIDENT.

(B) A CLAIMANT MAY OBTAIN THE DOCUMENTATION DESCRIBED IN § 10-1102 OF THIS SUBTITLE IF THE CLAIMANT PROVIDES IN WRITING TO THE INSURER:

(1) THE DATE OF THE VEHICLE ACCIDENT;

(2) THE NAME AND LAST KNOWN ADDRESS OF THE ALLEGED TORTFEASOR;

- (3) A COPY OF THE VEHICLE ACCIDENT REPORT, IF AVAILABLE;**
- (4) THE INSURER'S CLAIM NUMBER, IF AVAILABLE;**
- (5) A COPY OF THE DECEDENT'S DEATH CERTIFICATE ISSUED IN THE STATE OR ANOTHER JURISDICTION;**
- (6) A COPY OF THE LETTERS OF ADMINISTRATION ISSUED TO APPOINT THE PERSONAL REPRESENTATIVE OF THE DECEDENT'S ESTATE IN THE STATE OR A SUBSTANTIALLY SIMILAR DOCUMENT ISSUED BY ANOTHER JURISDICTION;**
- (7) THE NAME OF EACH BENEFICIARY OF THE DECEDENT, IF KNOWN;**
- (8) THE RELATIONSHIP TO THE DECEDENT OF EACH KNOWN BENEFICIARY OF THE DECEDENT;**
- (9) THE AMOUNT OF ECONOMIC DAMAGES, IF ANY, CLAIMED BY EACH KNOWN BENEFICIARY OF THE DECEDENT, INCLUDING ANY AMOUNT CLAIMED BASED ON FUTURE LOSS OF EARNINGS OF THE DECEDENT;**
- (10) THE HEALTH CARE BILLS FOR HEALTH CARE TREATMENT, IF ANY, OF THE DECEDENT RESULTING FROM THE VEHICLE ACCIDENT;**
- (11) THE RECORDS OF HEALTH CARE TREATMENT FOR INJURIES TO THE DECEDENT CAUSED BY THE VEHICLE ACCIDENT; AND**
- (12) DOCUMENTATION OF THE DECEDENT'S PAST LOSS OF INCOME, IF ANY, RESULTING FROM THE VEHICLE ACCIDENT.**

10-1105.

(A) AN INSURER SHALL PROVIDE IN WRITING THE DOCUMENTATION DESCRIBED UNDER § 10-1102 OF THIS SUBTITLE WITHIN 30 DAYS AFTER THE DATE OF A REQUEST IN ACCORDANCE WITH § 10-1103 OR § 10-1104 OF THIS SUBTITLE, REGARDLESS OF WHETHER THE INSURER CONTESTS THE APPLICABILITY OF COVERAGE TO A CLAIM.

(B) AN INSURER, AND THE EMPLOYEES AND AGENTS OF AN INSURER, MAY NOT BE CIVILLY OR CRIMINALLY LIABLE FOR THE DISCLOSURE OF DOCUMENTATION REQUIRED UNDER THIS SUBTITLE.

(C) DISCLOSURE OF THE DOCUMENTATION UNDER THIS SUBTITLE DOES NOT CONSTITUTE:

(1) AN ADMISSION THAT A CLAIM IS SUBJECT TO THE APPLICABLE AGREEMENT BETWEEN THE INSURER AND THE ALLEGED TORTFEASOR; OR

(2) A WAIVER OF ANY TERM OR CONDITION OF THE APPLICABLE AGREEMENT BETWEEN THE INSURER AND THE ALLEGED TORTFEASOR OR ANY RIGHT OF THE INSURER, INCLUDING ANY POTENTIAL DEFENSE CONCERNING COVERAGE OR LIABILITY.

(D) DOCUMENTATION DISCLOSED UNDER THIS SUBTITLE IS NOT ADMISSIBLE AS EVIDENCE AT TRIAL BY REASON OF ITS DISCLOSURE UNDER THIS SUBTITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any claim filed with an insurer, as defined in Section 1 of this Act, before the effective date of this Act.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, April 12, 2011.