

HOUSE BILL 291

C4

7lr1401
CF SB 279

By: **Delegate Davis**

Introduced and read first time: January 25, 2017

Assigned to: Economic Matters

Committee Report: Favorable

House action: Adopted

Read second time: February 8, 2017

CHAPTER _____

1 AN ACT concerning

2 **Homeowner's Insurance – Notices**

3 FOR the purpose of authorizing certain offers, notices, statements, and disclosures relating
4 to homeowner's insurance to be delivered by electronic means if the insurer complies
5 with certain requirements; authorizing insurers to comply with certain renewal
6 notice requirements relating to homeowner's insurance by sending a certain notice;
7 requiring the Maryland Insurance Commissioner to adopt by regulation a certain
8 notice to be provided to insureds or policyholders at each renewal that contains
9 certain information; providing for the form and contents of a certain renewal notice;
10 providing that a certain renewal notice does not create a private right of action;
11 authorizing insurers to comply with certain renewal notice requirements by sending
12 a certain notice; and generally relating to notices under homeowner's insurance.

13 BY repealing and reenacting, with amendments,

14 Article – Insurance

15 Section 19–202, 19–205, 19–206, 19–206.1, 19–207, 19–209.1, 19–210, 19–214,
16 19–215, and 27–501(n)

17 Annotated Code of Maryland

18 (2011 Replacement Volume and 2016 Supplement)

19 BY adding to

20 Article – Insurance

21 Section 19–216

22 Annotated Code of Maryland

23 (2011 Replacement Volume and 2016 Supplement)

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.



BY repealing and reenacting, without amendments,
Article – Insurance
Section 27–601.2
Annotated Code of Maryland
(2011 Replacement Volume and 2016 Supplement)

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

Article – Insurance

19–202.

(a) An insurer that issues, sells, or delivers a homeowner’s insurance policy shall at time of application and renewal offer in writing to provide coverage for loss that:

(1) is caused by or results from water that backs up through sewers or drains; and

(2) is not caused by the negligence of the insured.

(b) If an application or renewal is made by telephone, the insurer is deemed to be in compliance with subsection (a) of this section if, within 7 calendar days after the date of application or renewal, the insurer sends the offer to the applicant or insured by a first-class mail tracking method.

(c) If an application or renewal is made using the Internet, the insurer is deemed to be in compliance with subsection (a) of this section if the insurer provides the offer to the applicant or insured prior to submission of the application or renewal.

(D) AN OFFER REQUIRED BY THIS SECTION MAY BE DELIVERED BY ELECTRONIC MEANS IF THE INSURER COMPLIES WITH THE REQUIREMENTS OF § 27–601.2 OF THIS ARTICLE.

(E) AN INSURER MAY COMPLY WITH THE RENEWAL NOTICE REQUIREMENTS OF THIS SECTION BY SENDING THE NOTICE AUTHORIZED BY § 19–216 OF THIS SUBTITLE.

19–205.

(a) (1) An insurer shall provide a policyholder with an annual statement that summarizes the coverages and exclusions under the policy issued by the insurer.

(2) The insurer’s statement shall be clear and specific.

(3) The insurer's statement shall state whether the coverages under the policy provide for replacement cost, actual cash value, or other method of loss payment for covered structures and contents.

(4) The insurer's statement shall include a disclosure that states:

(i) the policyholder should read the policy for complete information on coverages and exclusions;

(ii) the policyholder should refer to the declarations page for a listing of coverages purchased;

(iii) the policyholder should communicate with the insurance producer or the insurer for any additional information regarding the scope of coverages in the policy;

(iv) the statement does not include additional optional coverage purchased by the policyholder, if any;

(v) the statement is not part of the policy or contract of insurance and does not create a private right of action;

(vi) all rights, duties, and obligations are controlled by the policy and contract of insurance; and

(vii) the standard homeowner's insurance policy does not cover losses from flood.

(b) The statement under subsection (a) of this section:

(1) is not part of the policy or contract of insurance; and

(2) does not create a private right of action.

(C) THE STATEMENT REQUIRED BY SUBSECTION (A) OF THIS SECTION MAY BE DELIVERED BY ELECTRONIC MEANS IF THE INSURER COMPLIES WITH THE REQUIREMENTS OF § 27-601.2 OF THIS ARTICLE.

[(c)] (D) The Commissioner may adopt regulations to implement the provisions of this section.

19-206.

(a) (1) An insurer that sells or negotiates homeowner's insurance in the State shall provide an applicant, at the time a policy of homeowner's insurance is initially purchased, with a written notice that states that a standard homeowner's insurance policy does not cover losses from flood.

(2) If an application is made by telephone, the insurer is deemed to be in compliance with this section if, within 7 calendar days after the date of application, the insurer sends the notice to the applicant or insured by a first-class mail tracking method.

(3) If an application is made using the Internet, the insurer is deemed to be in compliance with this section if the insurer provides the notice to the applicant prior to the submission of the application.

(b) The notice shall:

(1) state that flood insurance may be available through the National Flood Insurance Program or other sources;

(2) provide the applicant with the contact information for the National Flood Insurance Program;

(3) advise the applicant to confirm the need for flood insurance with the National Flood Insurance Program or the applicant's mortgage lender;

(4) advise the applicant to contact the National Flood Insurance Program, the applicant's insurer, or the applicant's insurance producer for information about flood insurance;

(5) advise the applicant that flood insurance may be available for covered structures and their contents;

(6) advise the applicant that a claim under a flood insurance policy may be adjusted and paid on a different basis than a claim under a homeowner's insurance policy; and

(7) advise the applicant that a separate application must be completed to purchase flood insurance.

(c) A notice required to be sent by a first-class mail tracking method under this section may be sent with the statement required under § 19–207 of this subtitle.

(d) A notice provided under this section does not create a private right of action.

(E) A NOTICE REQUIRED BY THIS SECTION MAY BE DELIVERED BY ELECTRONIC MEANS IF THE INSURER COMPLIES WITH THE REQUIREMENTS OF § 27–601.2 OF THIS ARTICLE.

19–206.1.

(a) This section applies to an insurer that offers a homeowner's insurance or renter's insurance policy in the State that does not provide coverage for losses caused by specific breeds or specific mixed breeds of dogs.

(b) At the time of application for or issuance of a policy of homeowner's insurance or renter's insurance, and at each renewal of a policy of homeowner's insurance or renter's insurance, an insurer subject to this section shall provide to an applicant or an insured a written notice that:

(1) states that the policy does not provide coverage for losses caused by specific breeds or specific mixed breeds of dogs; and

(2) identifies the specific breeds or specific mixed breeds of dogs for which the policy does not provide coverage.

(c) An insurer subject to this section may provide the notice required under subsection (b) of this section in the annual statement required under § 19–205 of this subtitle.

(D) THE NOTICE REQUIRED BY THIS SECTION MAY BE DELIVERED BY ELECTRONIC MEANS IF THE INSURER COMPLIES WITH THE REQUIREMENTS OF § 27–601.2 OF THIS ARTICLE.

19–207.

(a) (1) An insurer that sells or negotiates homeowner's insurance in the State shall provide an applicant, at the time of application for homeowner's insurance, with a written statement that lists all additional optional coverage available from the insurer to the applicant.

(2) If an application is made by telephone, the insurer is deemed to be in compliance with this section if, within 7 calendar days after the date of application, the insurer sends the statement to the applicant or insured by a first-class mail tracking method.

(3) If an application is made using the Internet, the insurer is deemed to be in compliance with this section if the insurer provides the statement to the applicant prior to submission of the application.

(b) The statement shall:

(1) be on a separate form;

(2) be titled, in at least 12 point type, "Additional Optional Coverage Not Included in the Standard Homeowner's Insurance Policy";

(3) contain the following disclosure in at least 10 point type:

1 “Your standard homeowner’s insurance policy does not cover all risks. You may need
2 to obtain additional insurance to cover loss or damage to your home, property, and the
3 contents of your home or to cover risks related to business or personal activities on your
4 property.

5 This statement provides a list of the types of additional insurance coverage that are
6 available. Contact your insurance company, insurance producer, or insurance agent to
7 discuss these additional coverages.”; and

8 (4) contain a list of additional optional coverage.

9 (c) A statement required to be sent by a first-class mail tracking method under
10 this section may be sent with the notice required under § 19–206 of this subtitle.

11 (d) A statement provided under this section does not create a private right of
12 action.

13 **(E) A STATEMENT REQUIRED BY THIS SECTION MAY BE DELIVERED BY**
14 **ELECTRONIC MEANS IF THE INSURER COMPLIES WITH THE REQUIREMENTS OF §**
15 **27–601.2 OF THIS ARTICLE.**

16 19–209.1.

17 (a) An insurer that issues a policy of homeowner’s insurance that includes a
18 deductible that is equal to a percentage of the “Coverage A – Dwelling Limit” of the policy,
19 or has adopted an underwriting standard that requires a mandatory hurricane deductible
20 equal to a percentage of the “Coverage A – Dwelling Limit” of the policy, shall provide an
21 insured with a statement about the deductible at the time the policy of homeowner’s
22 insurance is first issued and at each renewal.

23 (b) (1) The statement required under subsection (a) of this section shall:

24 (i) be titled, in at least 12 point type, “Percentage Deductible
25 Notice”;

26 (ii) state the actual percentage of the percentage deductible;

27 (iii) state the circumstances under which the deductible applies;

28 (iv) include an example of how the deductible applies to a loss; and

29 (v) include the following statement, or a substantially similar
30 statement, in at least 10 point type:

31 “Your homeowner’s insurance policy contains a percentage deductible, which means
32 that your deductible for a covered loss will be determined by multiplying the dollar amount

of your Coverage A – Dwelling Limit of Liability by this percentage under the following circumstances: (insert explanation of circumstances under which a percentage deductible would be applied)”.

(2) The example required under paragraph (1)(iv) of this subsection may be provided in the following manner:

“If, at the time of a covered loss, a homeowner’s insurance policy’s Coverage A – Dwelling Limit of Liability is \$300,000 and the policy includes a 2% deductible, the policyholder will be responsible for paying a deductible of \$6,000 on a claim for a covered loss (\$300,000 x 2%). This means that, for example:

If the covered loss to the dwelling is \$25,000 and the covered loss to personal property is \$10,000 for a total covered loss of \$35,000, the policyholder is responsible for paying a \$6,000 deductible and the insurer is responsible for the balance of the covered loss, or \$29,000.

If the covered loss to the dwelling is \$5,000, the policyholder is responsible for paying the entire covered loss because the total amount of the covered loss is less than the percentage deductible, which is \$6,000.”.

(c) (1) An insurer may satisfy the requirements of subsection (b) of this section if, on the declarations page of the policy of homeowner’s insurance or in a separate statement, the insurer states:

(i) the actual percentage of the percentage deductible;

(ii) the dollar amount of the percentage deductible as it relates to the policy of homeowner’s insurance; and

(iii) the circumstances under which the deductible applies.

(2) The statement shall be titled, in at least 12 point type, “Percentage Deductible Notice”.

(D) THE STATEMENT REQUIRED BY THIS SECTION MAY BE DELIVERED BY ELECTRONIC MEANS IF THE INSURER COMPLIES WITH THE REQUIREMENTS OF § 27-601.2 OF THIS ARTICLE.

19-210.

(a) An insurer shall offer at least one actuarially justified premium discount on a policy of homeowner’s insurance to a policyholder who submits proof of improvements made to the insured premises as a means of mitigating loss from a hurricane or other storm.

(b) Means of mitigating loss include:

(1) the installation of one or more of the following:

- (i) hurricane shutters;
- (ii) secondary water barrier;
- (iii) reinforced roof coverings;
- (iv) braced gable ends;
- (v) reinforced roof to wall connections;
- (vi) tie downs; and
- (vii) reinforced opening protections;

(2) repair or replacement of:

- (i) exterior doors, including garage doors;
- (ii) hurricane resistant trusses, studs, and other structural components; and
- (iii) repair or replacement of manufactured home piers, anchors, and tie down straps; and

(3) any mitigation effort that materially mitigates loss from a hurricane or other storm otherwise covered under the policy.

(c) Improvements made to the insured premises under this section shall be inspected by a contractor licensed by the Department of Labor, Licensing, and Regulation.

(d) (1) An insurer shall be allowed to inspect the improvements that are the basis of a premium discount under this section.

(2) (i) Verification of improvements that are the basis of a premium discount under this section rests with the insurer.

(ii) An insurer may accept an inspection certificate issued by a governmental agency as verification of improvements that are the basis of a premium discount under this section.

(e) A premium discount offered under this section shall:

(1) comply with the provisions of Title 11 of this article; and

(2) only be offered for improvements identified by the Commissioner as qualified mitigation actions made to the insured premises that may materially mitigate loss from a hurricane or other storm otherwise covered under the policy.

(f) (1) An insurer that offers a premium discount under this section shall provide a policyholder with an annual statement regarding the availability of the discount and the method of applying for the discount.

(2) The notice required under paragraph (1) of this subsection may be sent with the statement required under § 19–205 of this subtitle.

(3) AN INSURER MAY COMPLY WITH THE RENEWAL NOTICE REQUIREMENTS OF THIS SUBSECTION BY SENDING THE NOTICE AUTHORIZED BY § 19–216 OF THIS SUBTITLE.

(G) THE NOTICE REQUIRED BY THIS SECTION MAY BE DELIVERED BY ELECTRONIC MEANS IF THE INSURER COMPLIES WITH THE REQUIREMENTS OF § 27–601.2 OF THIS ARTICLE.

[(g)] (H) The Commissioner may adopt regulations to implement the provisions of this section.

19–214.

(a) An insurer that offers homeowner’s insurance in the State shall provide a written notice to the insured at the time of application or issuance and at each renewal of the policy that states, in substantially similar language, that, in addition to the other allowable reasons for cancellation or refusal to renew under Maryland law:

(1) the insurer may cancel or refuse to renew coverage on the basis of the number of claims made by the policyholder within the preceding 3–year period; and

(2) the insurer may cancel or refuse to renew coverage on the basis of:

(i) three or more weather–related claims made within the preceding 3–year period;

(ii) one or more weather–related claims made within the preceding 3–year period if the insurer has provided written notice to the insured for reasonable or customary repairs or replacement specific to the insured’s premises or dwelling that:

1. the insured failed to make; and

2. if made, would have prevented the loss for which a claim was made; and

(iii) a change in the physical condition or contents of the premises that:

1. increases the hazard insured against; and

2. if present and known to the insurer before the issuance of the policy, would have caused the insurer to refuse to issue the policy.

(b) In order to support cancellation or refusal to renew under subsection (a)(2)(ii) of this section, the written notice:

(1) must refer to specific conditions known to the insurer concerning the insured's specific premises or dwelling; and

(2) may not be a general notification of repairs or replacements common to that type of premises or dwelling.

(C) A NOTICE REQUIRED BY THIS SECTION MAY BE DELIVERED BY ELECTRONIC MEANS IF THE INSURER COMPLIES WITH THE REQUIREMENTS OF § 27–601.2 OF THIS ARTICLE.

(D) AN INSURER MAY COMPLY WITH THE RENEWAL NOTICE REQUIREMENTS OF THIS SECTION BY SENDING THE NOTICE AUTHORIZED BY § 19–216 OF THIS SUBTITLE.

19–215.

(a) An insurer that issues a policy of homeowner's insurance in the State that contains an anti-concurrent causation (ACC) clause shall provide a policyholder each year with a notice that:

(1) is clear and specific;

(2) describes the ACC clause;

(3) informs the insured to read the policy for complete information on the exclusions; and

(4) states that the insured should communicate with the insurance producer or the insurer for additional information regarding the scope of the exclusions.

(b) The notice under subsection (a) of this section:

(1) is not part of the policy or contract of insurance; and

(2) does not create a private right of action.

(C) A NOTICE REQUIRED BY THIS SECTION MAY BE DELIVERED BY ELECTRONIC MEANS IF THE INSURER COMPLIES WITH THE REQUIREMENTS OF § 27-601.2 OF THIS ARTICLE.

~~[(c)]~~ (D) The Commissioner may adopt regulations to implement this section. 19-216.

(A) THE COMMISSIONER SHALL ADOPT BY REGULATION A NOTICE TO BE PROVIDED TO INSURED OR POLICYHOLDERS AT EACH RENEWAL REGARDING AREAS OF CONCERNS, INCLUDING:

(1) FLOOD;

(2) COVERAGE FOR LOSS FROM WATER THAT BACKS UP THROUGH SEWERS AND DRAINS;

(3) DEDUCTIBLES;

(4) STORM LOSS PROTECTIVE DEVICE DISCOUNT;

(5) CLAIMS HISTORY; AND

(6) INCREASED HAZARD.

(B) THE NOTICE PROVIDED UNDER SUBSECTION (A) OF THIS SECTION SHALL:

(1) BE WRITTEN IN CLEAR AND SPECIFIC LANGUAGE; AND

(2) CONTAIN THE FOLLOWING LANGUAGE IN AT LEAST 10 POINT TYPE:

“THIS NOTICE IS NOT YOUR POLICY, DOES NOT GIVE YOU ANY NEW OR ADDITIONAL RIGHTS BEYOND THOSE EXPRESSLY STATED IN YOUR POLICY, AND DOES NOT ALTER YOUR POLICY IN ANY WAY.”.

(C) THE NOTICE PROVIDED UNDER SUBSECTION (A) OF THIS SECTION DOES NOT CREATE A PRIVATE RIGHT OF ACTION.

(D) AN INSURER MAY PROVIDE THE RENEWAL NOTICES REQUIRED BY §§ 19-202, 19-205(A)(4)(VII), 19-210(F), AND 19-214(A) OF THIS SUBTITLE AND §

1 **27-501(N)(2) OF THIS ARTICLE BY SENDING THE NOTICE AUTHORIZED BY**
2 **SUBSECTION (A) OF THIS SECTION.**

3 **(E) THE NOTICE AUTHORIZED BY THIS SECTION MAY BE DELIVERED BY**
4 **ELECTRONIC MEANS IF THE INSURER COMPLIES WITH THE REQUIREMENTS OF §**
5 **27-601.2 OF THIS ARTICLE.**

6 27-501.

7 (n) (1) Subject to the requirements of this article, if an insurer considers claims
8 history for the purposes of canceling or refusing to renew coverage, the insurer may
9 consider the following factors in mitigation of the proposed decision without producing
10 statistical validation:

- 11 (i) the severity of the losses;
- 12 (ii) the length of time that an insured has been a policyholder with
13 the insurer;
- 14 (iii) loss mitigation of previous losses; and
- 15 (iv) the availability of a higher deductible for the particular policy
16 and types of losses.

17 (2) If an insurer considers claims history for purposes of canceling or
18 refusing to renew coverage, the insurer shall disclose the practice to an insured at the
19 inception of the policy and at each renewal.

20 **(3) AN INSURER MAY COMPLY WITH THE DISCLOSURE REQUIRED AT**
21 **RENEWAL BY PARAGRAPH (2) OF THIS SUBSECTION BY SENDING THE NOTICE**
22 **AUTHORIZED BY § 19-216 OF THIS ARTICLE.**

23 27-601.2.

24 (a) (1) In this section the following words have the meanings indicated.

25 (2) “Delivered by electronic means” includes:

- 26 (i) delivery to an electronic mail address at which a party has
27 consented to receive notice; and
- 28 (ii) posting on an electronic network, together with separate notice
29 to a party directed to the electronic mail address at which the party has consented to receive
30 notice of the posting.

31 (3) “Party” means an applicant, an insured, or a policyholder.

1 (b) Subject to subsection (d) of this section, any notice to a party required under
2 this subtitle may be delivered by electronic means provided the process used to obtain
3 consent of the party to have notice delivered by electronic means meets the requirements
4 of Title 21, Subtitle 1 of the Commercial Law Article.

5 (c) Delivery of a notice in accordance with subsection (b) of this section shall be
6 considered equivalent to any delivery method required under this subtitle, including
7 delivery by first-class mail, certified mail, or a first-class mail tracking method.

8 (d) A notice may be delivered by electronic means by an insurer to a party under
9 this section if:

10 (1) the party has affirmatively consented to that method of delivery and
11 has not withdrawn the consent;

12 (2) the party, before giving consent, is provided with a clear and
13 conspicuous statement:

14 (i) informing the party of:

15 1. any right or option of the party to have the notice provided
16 or made available in paper or another nonelectronic form;

17 2. the right of the party to withdraw consent to have notice
18 delivered by electronic means and any fees, conditions, or consequences imposed in the
19 event consent is withdrawn;

20 3. whether the party's consent applies:

21 A. only to the particular transaction as to which the notice
22 must be given; or

23 B. to identified categories of notices that may be delivered by
24 electronic means during the course of the parties' relationship;

25 4. A. how, after consent is given, the party may obtain a
26 paper copy of a notice delivered by electronic means; and

27 B. the fee, if any, for the paper copy; and

28 5. the procedures the party must use to withdraw consent to
29 have notice delivered by electronic means and to update information needed to contact the
30 party electronically;

31 (3) the party:

1 (i) before giving consent, is provided with a statement of the
2 hardware and software requirements for access to and retention of a notice delivered by
3 electronic means; and

4 (ii) consents electronically, or confirms consent electronically, in a
5 manner that reasonably demonstrates that the party can access information in the
6 electronic form that will be used for notices delivered by electronic means as to which the
7 party has given consent; and

8 (4) after consent of the party is given, the insurer, in the event a change in
9 the hardware or software requirements needed to access or retain a notice delivered by
10 electronic means creates a material risk that the party will not be able to access or retain
11 a subsequent notice to which the consent applies:

12 (i) provides the party with a statement of:

13 1. the revised hardware and software requirements for
14 access to and retention of a notice delivered by electronic means; and

15 2. the right of the party to withdraw consent without the
16 imposition of any fee, condition, or consequence that was not disclosed under item (2)(i)2 of
17 this subsection; and

18 (ii) complies with item (2) of this subsection.

19 (e) This section does not affect the content or timing of any notice required under
20 this subtitle.

21 (f) If a provision of this subtitle requiring notice to be provided to a party
22 expressly requires verification or acknowledgment of receipt of the notice, the notice may
23 be delivered by electronic means only if the method used provides for verification or
24 acknowledgment of receipt.

25 (g) The legal effectiveness, validity, or enforceability of any contract or policy of
26 insurance executed by a party may not be denied solely because of the failure to obtain
27 electronic consent or confirmation of consent of the party in accordance with subsection
28 (d)(3)(ii) of this section.

29 (h) (1) A withdrawal of consent by a party does not affect the legal
30 effectiveness, validity, or enforceability of a notice delivered by electronic means to the
31 party before the withdrawal of consent is effective.

32 (2) A withdrawal of consent by a party is effective within a reasonable
33 period of time after receipt of the withdrawal by the insurer.

34 (3) Failure to comply with subsection (d)(4) of this section may be treated,
35 at the election of the party, as a withdrawal of consent for purposes of this section.

1 (i) This section does not apply to a notice delivered by an insurer in an electronic
2 form before October 1, 2011, to a party who, before October 1, 2011, has consented to receive
3 notice in an electronic form otherwise allowed by law.

4 (j) If the consent of a party to receive notice in an electronic form is on file with
5 an insurer before October 1, 2011, the insurer shall notify the party of:

6 (1) the notices that may be delivered by electronic means under this
7 section; and

8 (2) the party's right to withdraw consent to have notices delivered by
9 electronic means.

10 (k) (1) Except as otherwise provided by law, if an oral communication or a
11 recording of an oral communication can be reliably stored and reproduced by an insurer,
12 the oral communication or recording may qualify as a notice delivered by electronic means
13 for purposes of this section.

14 (2) If a provision of this subtitle requires a signature or record to be
15 notarized, acknowledged, verified, or made under oath, the requirement is satisfied if the
16 electronic signature of the person authorized to perform those acts, together with all other
17 information required to be included by the provision, is attached to or logically associated
18 with the signature or record.

19 (l) This section may not be construed to modify, limit, or supersede the provisions
20 of the federal Electronic Signatures in Global and National Commerce Act relating to the
21 use of an electronic record to provide or make available information that is required to be
22 provided or made available in writing to a party.

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 October 1, 2017.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.