

SENATE BILL 144

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7lr1766

By: **Senator Zirkin**

Introduced and read first time: January 16, 2017

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 8, 2017

CHAPTER _____

1 AN ACT concerning

2 **Civil Actions – Prelitigation Discovery of Insurance Coverage**

3 FOR the purpose of making certain provisions of law authorizing the prelitigation discovery
4 of certain insurance coverage information relating to claims involving vehicle
5 accidents applicable to claims involving any tort involving death or bodily injury;
6 providing that an insurer is only required to provide a claimant with documentation
7 of the applicable limits of coverage in a certain automobile insurance policy,
8 homeowner's insurance policy, or renter's insurance policy; requiring a claimant to
9 provide an insurer with a letter from a certain attorney certifying that the claimant
10 has a bona fide tort claim under certain circumstances; making conforming changes;
11 providing for the application of this Act; and generally relating to the disclosure of
12 certain coverage information in certain insurance agreements.

13 BY repealing and reenacting, with amendments,
14 Article – Courts and Judicial Proceedings
15 Section 10–1101 through 10–1104
16 Annotated Code of Maryland
17 (2013 Replacement Volume and 2016 Supplement)

18 BY repealing and reenacting, without amendments,
19 Article – Courts and Judicial Proceedings
20 Section 10–1105
21 Annotated Code of Maryland
22 (2013 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.



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

Article – Courts and Judicial Proceedings

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] **TORT INVOLVING BODILY INJURY** 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] **AN ALLEGED TORT** 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.

10–1102.

After a claimant files a written tort claim [concerning a vehicle accident] and provides the documentation described in § 10–1103 or § 10–1104 of this subtitle to an insurer, the claimant may obtain from the insurer documentation of the applicable limits of coverage in any ~~insurance agreement~~ **AUTOMOBILE INSURANCE POLICY, HOMEOWNER’S INSURANCE POLICY, OR RENTER’S INSURANCE POLICY** under which 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.

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] **ALLEGED TORT**;

(2) The name and last known address of the alleged tortfeasor;

(3) A copy of [the vehicle accident report] **ANY VEHICLE ACCIDENT REPORT ~~OR~~, POLICE REPORT, OR OTHER OFFICIAL REPORT** CONCERNING THE **ALLEGED TORT**, if available; ~~and~~

(4) The insurer's claim number, if available; **AND**

(5) A LETTER FROM AN ATTORNEY ADMITTED TO PRACTICE LAW IN THE STATE CERTIFYING THAT:

(I) THE ATTORNEY HAS MADE REASONABLE EFFORTS TO INVESTIGATE THE UNDERLYING FACTS OF THE CLAIM; AND

(II) BASED ON THE ATTORNEY'S INVESTIGATION, THE ATTORNEY REASONABLY BELIEVES THAT THE CLAIM IS NOT FRIVOLOUS.

10–1104.

(a) This section applies to a claim by the estate of [an individual] **A DECEDENT** or a beneficiary of [the individual resulting from the death of the individual in a vehicle accident] **THE DECEDENT, WHO DIED AS A RESULT OF AN ALLEGED TORT.**

(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] **ALLEGED TORT**;

(2) The name and last known address of the alleged tortfeasor;

(3) A copy of the [vehicle accident report] **ANY VEHICLE ACCIDENT REPORT ~~OR~~, POLICE REPORT, OR OTHER OFFICIAL REPORT** CONCERNING THE **ALLEGED TORT**, 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; ~~and~~

(8) The relationship to the decedent of each known beneficiary of the decedent; **AND**

(9) A LETTER FROM AN ATTORNEY ADMITTED TO PRACTICE LAW IN THE STATE CERTIFYING THAT:

(I) THE ATTORNEY HAS MADE REASONABLE EFFORTS TO INVESTIGATE THE UNDERLYING FACTS OF THE CLAIM; AND

(II) BASED ON THE ATTORNEY'S INVESTIGATION, THE ATTORNEY REASONABLY BELIEVES THAT THE CLAIM IS NOT FRIVOLOUS.

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.

1 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2017.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.