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HOUSE BILL NO. 1304

Offered January 22, 1996

A BILL to amend and reenact § 8.01-66.1 of the Code of Virginia, relating to the remedy for arbitrary refusal of a motor vehicle insurance claim.

Patrons—Deeds, Armstrong, Jones, J.C., Kilgore, McEachin, Mims and Woodrum

Referred to Committee on Corporations, Insurance and Banking

Be it enacted by the General Assembly of Virginia:

1. That § 8.01-66.1 of the Code of Virginia is amended and reenacted as follows:

§ 8.01-66.1. Remedy for arbitrary refusal of motor vehicle insurance claim.

A. Whenever any insurance company licensed in this Commonwealth to write insurance as defined in § 38.2-124 denies, refuses or fails to pay to its insured a claim of \$1,000 or less in excess of the deductible, if any, under the provisions of a policy of motor vehicle insurance issued by such company to the insured and it is subsequently found by the judge of a court of proper jurisdiction that such denial, refusal or failure to pay was not made in good faith, the company shall be liable to the insured in an amount double the amount otherwise due and payable under the provisions of the insured's policy of motor vehicle insurance, *plus interest on this amount at the rate provided in § 6.1-330.53 from the date that the claim was submitted to the insurer or its authorized agent*, together with reasonable attorney's fees and expenses.

The provisions of this subsection shall be construed to include an insurance company's refusal or failure to pay medical expenses to persons covered under the terms of any medical payments coverage extended under a policy of motor vehicle insurance, when the amount of the claim therefor is \$1,000 or less and the refusal was not made in good faith.

B. Notwithstanding the provisions of subsection A, whenever any insurance company licensed in this Commonwealth to write insurance as defined in § 38.2-124 denies, refuses or fails to pay to a third party claimant, on behalf of an insured to whom such company has issued a policy of motor vehicle liability insurance, a claim of \$1,000 or less made by such third party claimant and if the judge of a court of proper jurisdiction finds that the insured is liable for the claim, the third party claimant shall have a cause of action against the insurance company. If the judge court finds that such denial, refusal or failure to pay was not made in good faith, the company, in addition to the liability assumed by the company under the provisions of the insured's policy of motor vehicle liability insurance, shall be liable to the third party claimant in an amount double the amount of the judgment awarded the third party claimant, *plus interest on this amount at the rate provided in § 6.1-330.53 from the date that the claim was submitted to the insurer or its authorized agent*, together with reasonable attorney's fees and expenses.

C. Notwithstanding the provisions of subsections A and B above, whenever any person who has paid a fee to the Department of Motor Vehicles to register an uninsured motor vehicle pursuant to § 46.2-706 or any person who has furnished proof of financial responsibility in lieu of obtaining a policy or policies of motor vehicle liability insurance pursuant to the provisions of Title 46.2 or any person who is required and has failed either to pay such fee or to furnish such proof pursuant to the provisions of Title 46.2 denies, refuses or fails to pay to a claimant a claim of \$1,000 or less made by such claimant as a result of a motor vehicle accident; and if the trial judge of a court of proper jurisdiction finds that such denial, refusal or failure to pay was not made in good faith, such person shall be liable to the claimant in an amount double the amount otherwise due and payable, *plus interest on this amount at the rate provided in § 6.1-330.53 from the date that the claim was submitted to the insurer or its authorized agent*, together with reasonable attorney's fees and expenses.

For the purposes of this subsection C "person" shall mean and include any natural person, firm, partnership, association or corporation.

D. 1. Whenever a court of proper jurisdiction finds that an insurance company licensed in this Commonwealth to write insurance as defined in § 38.2-124 denies, refuses or fails to pay to its insured a claim of more than \$1,000 in excess of the deductible, if any, under the provisions of a policy of motor vehicle insurance issued by such company to the insured and it is subsequently found by the judge of a court of proper jurisdiction that such denial, refusal or failure to pay was not made in good faith, the company shall be liable to the insured in the amount otherwise due and payable under the provisions of the insured's policy of motor vehicle insurance, plus interest on the amount due at double the rate provided in § 6.1-330.53 from the date that the claim was submitted to the insurer or its authorized agent, together with reasonable attorney's fees and expenses.

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60 2. The provisions of this subsection shall be construed to include an insurance company's refusal or
61 failure to pay medical expenses to persons covered under the terms of any medical payments coverage
62 extended under a policy of motor vehicle insurance when the refusal was not made in good faith.