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HOUSE BILL NO. 1771

Offered January 14, 2015

Prefiled January 12, 2015

A *BILL to amend and reenact § 8.01-66.1 of the Code of Virginia, relating to refusal of motor vehicle insurance claims; payment of uninsured and underinsured benefits.*

Patron—Albo

Referred to Committee for Courts of Justice

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 \$3,500 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, 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 \$3,500 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 \$3,500 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 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, together with reasonable attorney's fees and expenses.

C. Notwithstanding the provisions of subsections A and B 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 \$3,500 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 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 \$3,500 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 § 6.2-301 from the date that the claim was submitted to the insurer or its authorized agent, together with reasonable attorney's fees and expenses.

2. 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 refusal was not made in good faith.

E. *Whenever any insurance company licensed in the Commonwealth to write insurance as defined in*

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HB1771

59 § 38.2-124 denies, refuses, or fails to pay to its insured uninsured or underinsured motorist benefits
60 within a reasonable time after being presented with a claim or demand for such benefits under the
61 provisions of a policy of motor vehicle insurance issued by such company to the insured, regardless of
62 whether or not its insured has secured a judgment against the uninsured or underinsured motorist, and
63 it is subsequently found by the judge of a court of proper jurisdiction that such denial, refusal, or
64 failure to timely pay was not made in good faith, the company shall be liable to the insured in an
65 amount double the amount otherwise due and payable under the provisions of the insured's policy of
66 motor vehicle insurance, up to \$350,000 in excess of the amount otherwise due and payable, plus
67 interest on the amount due at double the rate provided in § 6.2-301 from the date that the claim was
68 submitted to the insurer or its authorized agent, together with reasonable attorney fees and expenses.