

**TITLE 4: ECONOMIC RESOURCES**  
**DIVISION 5: BUSINESS REGULATION**

**§ 5112. Private and Class Actions.**

(a) Any person aggrieved as a result of a violation of this article may bring an action in the Commonwealth Superior Court for such legal or equitable relief as the court may order. In addition to actual damages, the court shall award liquidated damages in an amount equal to the actual damages in cases of willful violations, and shall award costs and reasonable attorney's fees if the plaintiff prevails.

(b) If the court finds that there are numerous other persons similarly situated, it may permit any person bringing an action under this section to constitute a class together with other persons, and, where individual notice is impractical, the court may permit notice to be given to the other persons by publication in lieu of personal notification.

(c) Any permanent injunction judgment or order of the court made under 4 CMC § 5107 shall be prima facie evidence in an action brought under this section that the respondent used a method, act, or practice declared unlawful by 4 CMC § 5105.

(d) In the context of third party liability claims, the term "third party" or "third party claimant" ordinarily refers to a claimant who is making a claim for damages against an insured who is, or claims to be, covered by a policy of insurance issued by an insurer. A third party claimant is not a "consumer" for purposes of this article. This article does not confer upon any such third party claimant any right, cause of action or remedy against any such insurer. A third party claimant who has asserted a claim against an insured does not have any right, cause of action or remedy against the insured's insurer in relation to such claim based upon this article and does not have standing to assert any such right, cause of action or remedy against the insured's insurer. No right, cause of action or remedy against an insurer pursuant to this Article shall be assignable to any such third party claimant.

**Source:** PL 6-46, § 10, modified; (d) added by PL 14-70, § 2.

**Commission Comment:** PL 14-70 was enacted on June 10, 2005 and contained the following findings, in addition to severability and savings provisions and other enactments:

Section 1. Findings. The Legislature generally retains broad control and regulatory power over the insurance industry in the CNMI and has within its control and power the ability to determine the extent to which causes of action may be asserted against insurers by third party claimants, as long as its action is rationally related to a legitimate Commonwealth interest. It is recognized that there is presently in the CNMI no case or statute setting forth whether a third party claimant may assert a cause of action for "bad faith" against an insurer, or whether a third party claimant has any right to assert a claim pursuant to 4 CMC § 7505(h) or 4 CMC § 5112. This has resulted in uncertainty within the area of civil liability, a lack of predictability amongst insurers, a lack of protection against un-

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founded claims against insurers, allegations, threats and claims of bad faith by third party claimants, unwarranted claims under the Insurance Act and the Consumer Protection Act, and costly litigation.

It is in the best interest of the CNMI economy to encourage private investment in the CNMI. This amendment is in part designed to dissuade insurers from discontinuing the provision of liability insurance in the Commonwealth, to reduce the significant rise in premiums, and to increase the types and amounts of coverage available for CNMI risks. The absence of a legal provision precluding third party claimants from asserting causes of action against insurers for bad faith has a chilling impact on the operation of private insurance companies in the CNMI. There has been a decrease in the types of coverage being made available in relation to certain CNMI risks and premiums for some types of coverage have risen so high that there are some types of coverage that are no longer available or affordable by individuals and businesses in the CNMI. Several insurers have commenced the process of completely ceasing to provide liability insurance and others have expressed an intention to do the same. The legislature finds that, without passage of this amendment, Commonwealth commerce would be in jeopardy of significant decline and there would be a significant risk of substantial negative impact on the people and infrastructure of the CNMI. The Legislature, therefore, finds that it is in the best interest of the people of the CNMI to preclude such claims.

The Legislature further finds that it is in the best interest of the CNMI to maintain the availability of liability insurance, to foster competition in the insurance market, to prevent drastic increases in premiums and reduce premiums for liability coverage, to encourage the widespread acquisition of liability insurance by individuals and businesses, to increase sources of compensation for victims of personal injuries, to preserve commercial and economic stability in the Commonwealth, and to preserve a legal environment of fairness to plaintiffs, defendants, and insurers.

It is, therefore, the intent of this bill to make appropriate amendments to the Commonwealth Insurance Act and Commonwealth Consumer Protection Act to implement the findings of this bill.