

The Insurance Article Review Committee notes, for consideration by the General Assembly, that there appears to be an inconsistency between subsections (c) and (d)(2) of this section. Subsection (d)(2) of this section provides that, if the Commissioner finds that a complaint about a fraudulent claim has merit, the Commissioner "may" refer the complaint to a law enforcement authority. Subsection (c) of this section, however, provides that if the Commissioner believes that a criminal violation of this article has occurred, the Commissioner "shall" refer the alleged violation to a law enforcement unit. Since submitting a fraudulent claim would be a criminal violation of this article, it appears that the Commissioner would be required to refer a complaint about a fraudulent claim to a law enforcement unit under subsection (c) of this section. The General Assembly may wish to consider resolving the inconsistency between subsections (c) and (d)(2) of this section.

Defined terms: "Certificate of authority" § 1-101

"Commissioner" § 1-101

"County" § 1-101

"Insurer" § 1-101

"Person" § 1-101

2-202. DISCRIMINATION IN UNDERWRITING AND RATE-SETTING PRACTICES.

(A) EXCLUSIVE JURISDICTION OF COMMISSIONER.

(1) NOTWITHSTANDING ANY OTHER LAW AND EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE COMMISSIONER HAS EXCLUSIVE JURISDICTION TO ENFORCE BY ADMINISTRATIVE ACTION THE LAWS OF THE STATE THAT RELATE TO THE UNDERWRITING OR RATE-SETTING PRACTICES OF AN INSURER.

(2) THE HUMAN RELATIONS COMMISSION HAS CONCURRENT JURISDICTION WITH THE COMMISSIONER OVER ALLEGED DISCRIMINATION ON THE BASIS OF RACE, CREED, COLOR, OR NATIONAL ORIGIN.

(B) POWERS OF HUMAN RELATIONS COMMISSION.

WHEN THE COMMISSIONER HAS EXCLUSIVE JURISDICTION UNDER SUBSECTION (A) OF THIS SECTION, THE HUMAN RELATIONS COMMISSION MAY:

(1) REFER COMPLAINTS ABOUT DISCRIMINATORY PRACTICES TO THE COMMISSIONER;

(2) APPEAR BEFORE THE COMMISSIONER AS A PARTY AT A HEARING ABOUT DISCRIMINATORY PRACTICES;

(3) MAKE RECOMMENDATIONS ABOUT DISCRIMINATORY PRACTICES TO THE COMMISSIONER;

(4) REPRESENT A COMPLAINANT IN PROCEEDINGS UNDER § 2-210 OF THIS SUBTITLE; AND