



**FUNK & BOLTON**  
ATTORNEYS AT LAW

DAVID M. FUNK (MD)  
BRYAN D. BOLTON (MD, PA)  
REN L. TUNDERMANN (MD)  
CHARLES D. MACLEOD (MD)  
TIFFANY HANNA ANDERSON (MD)  
LINDSEY A. RADER (MD)  
DEREK B. YARMIS (MD, DC)  
JEFFERSON L. BLOMQUIST (MD)  
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JAMES F. TAYLOR (MD)  
ERNEST A. CROFOOT (MD)  
MARK A. BARONDESS (MD, DC, VA, CA)

ASSOCIATES  
AMY L. STRACHAN (PA, NJ)  
TAMAL A. BANTON (MD)  
SHANI DINOVIITZ (MD)  
PATRICK W. THOMAS (MD)  
MARIBEL ROIG (MD)  
JUSTIN S. LANDRETH (NY)

OF COUNSEL  
STEPHEN P. CARNEY (MD)  
GARY C. HARRIGER (MD)  
ROBERT H. LEVAN (MD, DC, NY)  
CHRISTOPHER W. POVERMAN (MD, DC, NJ)  
DEBORAH R. RIVKIN (MD)  
KAREN P. RUFF (MD)  
RONALD L. SOUDERS (PA, DC)  
VICTOR K. TERVALA (MD)

A PROFESSIONAL ASSOCIATION  
9701 APOLLO DRIVE  
SUITE 301  
LARGO, MARYLAND  
20774-4783  
PHONE: 301.386.1400  
FAX: 301.386.1452  
www.fblaw.com

## INSURANCE LAW BULLETIN

### **Re: Insurance Commissioner Holds Compliance With Industry Practice Is Safe Harbor Under Insurance Article**

The Maryland Insurance Commissioner recently dismissed a complaint alleging an insurer refused to accept surety business for an arbitrary, capricious, unfair or discriminatory reason in violation of Section 27-503(d) of the Maryland Insurance Article.

An insurance producer filed a complaint with the Maryland Insurance Administration alleging an insurer refused to accept a submission for contract surety business, but two weeks later underwrote a submission by a competing producer for the same principal. According to the producer, the insurer's conduct was contrary to industry practice -- the so-called "first-in rule." After the Maryland Insurance Administration denied the complaint, the producer requested a hearing.

An administrative law judge, on behalf of the Commissioner, found the producer's submission incomplete and, therefore, insufficient to trigger the "first-in rule." Indeed, the judge recognized that application of the "first-in rule" to incomplete submissions would allow insurance producers to block market access and reduce market efficiency. The judge held that, because the insurer complied with industry practice, there was no violation of Section 27-503(d).

For further information, please contact **Derek B. Yarmis**, who represented the insurer, at 410.659.7762 or [dyarmis@fblaw.com](mailto:dyarmis@fblaw.com). To learn more about our firm or review other law bulletins, please visit our website at [www.fblaw.com](http://www.fblaw.com).

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