

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

House Bill 71
Economic Matters

(Delegate O'Donnell)

Finance

Homeowner's Insurance - Underwriting Based on Geographic Area

This bill establishes a process for the Maryland Insurance Administration (MIA) to review and approve filings before an insurer may refuse to issue or renew a homeowner's insurance policy solely because the subject of the risk or the applicant's or insured's address is located in a certain geographic area of the State. The bill also establishes additional filing requirements and exceptions.

Fiscal Summary

State Effect: The additional requirements for review and approval of the filings can be handled within existing MIA resources. No effect on revenues.

Local Effect: The bill does not directly affect local finances or operations.

Small Business Effect: Minimal.

Analysis

Bill Summary: The bill permits insurers to exclude certain perils from coverage under a policy based on geographic area if (1) the insurer has adopted a written underwriting standard designating the geographic area; (2) the insurer has filed the underwriting standard for approval by the Insurance Commissioner; and (3) the Commissioner has approved the underwriting standard in writing. The filing has to be made at least 90 days before the insurer proposes to implement the underwriting standard in the State.

In addition, the filing must include (1) a map or other document and a rating rule that identifies the geographic areas in which policies will be restricted; (2) a copy of the proposed underwriting standard; (3) the data relied upon by the insurer in developing the

standard; and (4) the proposed implementation date for the standard. During the initial 90-day waiting period, the Commissioner may extend the waiting period up to an additional 30 days by giving written notice to the insurer that additional time is needed for consideration. If the Commissioner requires additional information, the waiting period is tolled and begins again on the date that the necessary information is received. Under the bill, a filing is deemed approved unless disapproved by the Commissioner during the waiting period.

The bill authorizes the Commissioner to allow an insurer to implement an underwriting standard within a shorter period, 30 days, after filing if the Commissioner finds that compliance with the bill's 90-day waiting period would result in impairment of or a significant financial loss to the insurer. Underwriting standards that restrict writing in specific geographic areas must (1) comply with existing State laws prohibiting discrimination in underwriting; (2) be demonstrated objectively; (3) include consideration of past and prospective loss experience within and outside the State; and (4) include consideration of all relevant historical weather data for any restriction that is based, in whole or in part, on a catastrophe model.

Some of the filing information required by the bill is open to public inspection as soon as filed, specifically the map and implementation date. However, the underwriting standard and the data used to develop it may be considered confidential commercial information. Under the bill, the insurer bears the burden of proof to demonstrate that a proposed underwriting standard and geographic designation meet the bill's requirements. If the requirements are not met, the Commissioner may disapprove the filing and prohibit the insurer from implementing the proposed underwriting standard. Disapproval requires written notice.

At any time after an underwriting standard has been approved, the Commissioner may order the insurer to justify the standard if the Commissioner has reason to believe that the standard is no longer in compliance with the bill's provisions. The Commissioner must hold a hearing before issuing an order to revoke approval of an underwriting standard covered by the bill. Notice specifying the matters to be considered at the hearing has to be provided to the insurer at least 10 days prior to the hearing.

Current Law: Generally, an insurer is prohibited from canceling or refusing to underwrite or renew an insurance risk except by the application of standards that are reasonably related to the insurer's economic and business purposes.

If an insurer uses a catastrophic risk planning model or other model in setting homeowner's insurance rates or refusing to issue or renew homeowner's insurance because of the geographic location of the risk, the insurer must (1) file with the Commissioner a description of the specific model and (2) make arrangements for the vendor of the model to explain to the Commissioner and the People's Insurance Counsel

Division the data used in the model and the manner in which the output is obtained. If the insurer changes the model, the insurer must notify the Commissioner of the change and file the required description.

An insurer may not refuse to issue or renew a property and casualty insurance policy solely because the subject of risk is located in a specified geographic area, unless (1) the insurer has filed, at least 60 days before the refusal, with the Commissioner a written statement designating the geographic area and (2) the designation has an objective basis and is not arbitrary or unreasonable. The information contained in the filings is a public record.

Background: In recent years, a number of large insurance companies have made decisions to stop offering property insurance in coastal areas due to an increased risk of hurricane damage linked to rising ocean temperatures. This trend began in Florida after 1992's Hurricane Andrew, a category-five hurricane that caused an estimated \$26.5 billion in damage. Recently, a number of insurance companies including Allstate, Liberty Mutual, Nationwide Mutual, and State Farm have decided to stop offering property insurance in Mid-Atlantic coastal areas, including many counties in Maryland. In Florida, Mississippi, and Louisiana, this same trend has led to state-run insurance pools becoming overwhelmed by consumers who can no longer obtain property insurance from private companies due to the geographic location of their properties. On February 11, 2008, the Maryland Insurance Commissioner announced a decision accepting Allstate's move to refuse new homeowner's insurance policies in specific coastal areas, holding that the company's decision did not violate existing State law. A recent Court of Special Appeals decision, (*People's Insurance Counsel Division v. Allstate Insurance Company*, No. 60, September Term 2011), upheld the Commissioner's determination.

These events led MIA to hold a hearing in December 2011 on the availability and affordability of property and casualty insurance in coastal regions. MIA released a subsequent *Report on Availability and Affordability of Personal and Commercial Property and Casualty Insurance in Coastal Areas in Maryland* in October 2012. The report concluded that competitive insurance products are available in Maryland coastal areas for affordable rates. The report also advanced policy options aimed at ensuring adequate availability and affordability of property and casualty insurance in coastal areas.

Additional Information

Prior Introductions: HB 1383 of 2012, as amended, passed the House but received no further action in the Senate. HB 860 of 2008, a similar bill, received an unfavorable report from the House Economic Matters Committee.

Cross File: None.

Information Source(s): Maryland Insurance Administration, Department of Legislative Services

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