

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 736

(Senator Astle)

Finance

Economic Matters

Insurance - Fraudulent Insurance Acts - Compensation for Deductible

This bill prohibits specified contractors from directly or indirectly compensating (or offering or promising to compensate) an insured, with the intent to defraud an insurer, for any part of an insurance deductible under the insured's property or casualty insurance policy if payment for services will be made from the proceeds of the policy. The bill applies to contractors offering home repair or remodeling services for damages to a private residence caused by weather.

Violation of the bill is a fraudulent insurance act, subject to criminal penalties.

Fiscal Summary

State Effect: The bill's changes can likely be handled with existing budgeted resources of the Maryland Insurance Administration (MIA). The bill's imposition of existing penalty provisions may minimally increase State revenues and expenditures.

Local Effect: The bill's imposition of existing penalty provisions may minimally increase local government revenues and expenditures.

Small Business Effect: Minimal.

Analysis

Current Law: While there is no current State law specifically prohibiting a contractor from offering to pay a deductible as inducement to contract for goods or services with the intent to defraud the insurer with which the homeowner will file a claim, there are laws against a specified insurer or insurance producer offering premium rebates. An insurer or

insurance producer, selling insurance other than life insurance, health insurance, or annuities, may not induce an individual to become insured by directly or indirectly paying, or offering to pay (1) a rebate, discount, abatement, credit, or reduction of the premium stated in the policy; (2) a special favor or advantage in the dividends or other benefits to accrue in the policy; or (3) any valuable consideration or other inducement not specified in the policy. Additionally, an insured may not knowingly receive or accept such an inducement.

A person that commits a fraudulent insurance act with a value of \$300 or more is guilty of a felony and on conviction subject to restitution, a fine of up to \$10,000, and/or imprisonment for up to 15 years. If the value of the claim is less than \$300, a person is guilty of a misdemeanor and on conviction subject to restitution, a fine of up to \$10,000, and/or imprisonment for up to 18 months. For certain violations, a person is also subject to an additional fine of the greater of three times the value of the claim or \$500.

The Fraud Division within MIA has the authority to investigate each person suspected of engaging in insurance fraud. The division has numerous duties it must perform, if appropriate, after an investigation, including referring a suspected case of insurance fraud to the Office of the Attorney General or the appropriate local State's Attorney to prosecute a person criminally for insurance fraud.

Background: For legislation in prior years, MIA has advised that its Fraud Division receives approximately 3,600 referrals each year. About 400 to 500 of these referrals are opened for criminal investigation and 160 are referred to criminal prosecution each year; a criminal investigation may take up to six months to complete. A small percentage is referred for criminal prosecution due to both the low threshold for referral to the Fraud Division and the high burden of proof for criminal cases.

Paying, or offering to pay, an insured's deductible is insurance fraud in several states. In Missouri, a residential contractor may not promise to pay any part of an insurance deductible as an inducement to the sale of goods or services. This includes placing an advertisement. Illinois bars home repair and remodeling contractors from the same actions. A Colorado law passed in 2012 prohibits a roofing contractor from paying, waiving, rebating, or offering to pay, waive, or rebate an insurance deductible for a property owner.

Additional Information

Prior Introductions: None.

Cross File: HB 763 (Delegate Feldman) - Economic Matters.

Information Source(s): Better Business Bureau, Colorado Roofing Association,
Department of Legislative Services

Fiscal Note History: First Reader - February 12, 2013
mlm/ljm Revised - Enrolled Bill - April 11, 2013

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