

Department of Legislative Services  
Maryland General Assembly  
2015 Session

FISCAL AND POLICY NOTE

Senate Bill 146

(Senator Zirkin)

Judicial Proceedings

Judiciary

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**Prelitigation Discovery - Insurance Coverage - Prerequisites for Disclosure**

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This bill reduces the information a claimant who alleges damages as a result of a vehicle accident must provide to an insurer before the insurer is required to disclose the applicable limits of insurance coverage to the claimant.

With respect to a claimant who is a person who alleges damage as a result of a vehicle accident or an attorney who represents the person, the bill removes the requirement that the claimant provide written documentation of (1) the claimant's health care bills and any loss of income resulting from the accident and (2) records of health care treatment for injuries sustained by the claimant because of the accident.

The bill also removes the provision requiring that the amount of health care bills and loss of income documented by a personal injury claimant total at least \$12,500 in order for the insurer to be required to disclose in writing the applicable limits in each written agreement.

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**Fiscal Summary**

**State Effect:** The bill is procedural in nature and does not materially affect State finances.

**Local Effect:** The bill is procedural in nature and does not materially affect local finances.

**Small Business Effect:** None. Assuming that claimants in these cases are more likely to contact corporate headquarters or legal departments of insurers rather than small business insurance agencies, the bill is unlikely to materially affect small businesses.

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**Analysis**

**Bill Summary:** For a claim by the estate of an individual or beneficiary of an individual who was killed in a vehicle accident, the bill removes the requirement that the claimant provide written documentation to the insurer of (1) the amount of economic damages, if any, claimed by each known beneficiary of the decedent, including any amount claimed based on future loss of earnings; (2) the bills for health care treatment of the decedent, if any, resulting from the vehicle accident; (3) the records of health care treatment for injuries to the decedent caused by the vehicle accident; and (4) the decedent's past loss of income, if any, resulting from the vehicle accident.

**Current Law:** The statutes amended by the bill were enacted pursuant to Chapter 76 of 2011 and apply to cases filed with an insurer on or after October 1, 2011.

A "claimant" is (1) a person who alleges damages as a result of a vehicle accident or an attorney who represents the person or (2) a personal representative of the estate of a person who died as a result of a vehicle accident or an attorney who represents the personal representative of the decedent's estate.

An "insurer" includes a property and casualty insurer, a self-insurance plan, or any person required to provide indemnification for a claim for wrongful death, personal injury, or property damage.

An insurer must provide a claimant, who files a written tort claim concerning a vehicle accident and provides specified documentation to the insurer, with documentation of the applicable limits of liability coverage in any insurance agreement under which the insurer may be liable to (1) satisfy all or part of the claim or (2) indemnify or reimburse for payments made to satisfy the claim. The insurer must provide the claimant with this documentation within 30 days after receipt of the claimant's written request, regardless of whether the insurer contests the applicability of coverage to a claim.

A claimant may obtain documentation of the limits of liability coverage if the claimant provides the following information in writing to the insurer: (1) the date of the vehicle accident; (2) the name and last known address of the alleged tortfeasor; (3) a copy of the accident report; (4) the insurer's claim number, if available; (5) the claimant's health care bills and documentation of the claimant's loss of income, if any, resulting from the accident; and (6) the records of health care treatment for the claimant's injuries caused by the vehicle accident. If the claimant provides documentation of health care bills and loss of income of at least \$12,500, the insurer must disclose in writing to the claimant the applicable limits of coverage in each written agreement under which the insurer may be liable.

However, if the claimant is the estate of an individual or beneficiary of an individual killed in a vehicle accident, the claimant must provide the following information in writing to the

insurer to obtain the applicable limits of liability coverage: (1) the date of the vehicle accident; (2) the name and last known address of the alleged tortfeasor; (3) a copy of the accident report, if available; (4) the insurer's claim number, if available; (5) a copy of the decedent's death certificate; (6) a copy of the letters of administration issued to appoint the personal representative of the decedent's estate in the State or a substantially similar document issued by another jurisdiction; (7) the name of each beneficiary of the decedent, if known; (8) the relationship to the decedent of each known beneficiary; (9) the amount of economic damages, if any, claimed by each known beneficiary of the decedent, including any amount claimed based on future loss of earnings of the decedent; (10) the health care bills for health care treatment, if any, of the decedent resulting from the vehicle accident; (11) the records of health care treatment for the decedent's injuries caused by the vehicle accident; and (12) documentation of the decedent's past loss of income, if any, resulting from the vehicle accident.

An insurer, and the employees and agents of an insurer, may not be civilly or criminally liable for the disclosure of this documentation, and disclosure of the documentation in accordance with statute does not constitute (1) an admission that a claim is subject to the applicable agreement between the insurer and the person charged with an alleged wrongful act giving rise to a damage claim (tortfeasor) or (2) a waiver of any term or conditions of the applicable agreement between the insurer and the alleged tortfeasor or any right of the insurer, including any potential defense concerning coverage or liability. Documentation of the applicable limits of liability coverage provided by an insurer in accordance with the statutory requirements is not admissible as evidence at trial by reason of its mandatory disclosure under statute.

**State Expenditures:** The Maryland Insurance Administration (MIA) advises that it may experience a small increase in the number of complaints received if insurers continue to require the information no longer required under the bill's provisions. MIA can handle any such increase in complaints with existing budgeted resources.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Maryland Insurance Administration, Judiciary (Administrative Office of the Courts), Department of Legislative Services

**Fiscal Note History:** First Reader - February 10, 2015  
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