

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 226

(Chair, Finance Committee)(By Request - Departmental -
Maryland Insurance Administration)

Finance

Economic Matters

Maryland Insurance Administration - Delivery of Notices and Other
Communications by Electronic Means

This departmental bill authorizes the Maryland Insurance Administration (MIA) to send and receive certain notices or other communications using electronic means.

Fiscal Summary

State Effect: MIA is likely to experience administrative efficiencies under the bill through savings in postage, mailing costs, staff time, and expanded telework; however, any such savings are not likely to materially affect MIA's finances. Revenues are not affected.

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

Small Business Effect: MIA has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary: MIA may send a notice or other communication using electronic means if (1) the notice or other communication is required to be provided in writing; (2) the recipient has provided an email address to MIA to receive notices or other communications; (3) the notice or other communication is sent to that email address; and (4) MIA maintains proof that the notice was sent to the recipient using that e-mail address. Any notice or other communication sent as authorized by the bill is presumed to have been received in the

ordinary course, as specified in the Maryland Uniform Electronic Transactions Act (MUETA).

The Insurance Commissioner *may* require a person who is licensed, certified, or otherwise regulated by MIA to send a notice or other communication by electronic means, but *may not* require a person who is not licensed, certified, or otherwise regulated by MIA to do so (although they are authorized to do so).

The bill's authorization for MIA to send and receive communications using electronic means broadly applies to communications throughout the Insurance Article. The bill also specifies that certain notices may be sent using electronic means, including (1) the certificate of authority expiration notice MIA must send to an insurer and the corresponding renewal application that must be sent to MIA by the insurer; (2) notices that MIA must send to an insurer regarding premium tax payments; and (3) a notice that MIA must send to an insurance advisor if their license is denied, suspended, or revoked.

Current Law: MUETA states that a record or signature may not be denied legal effect or enforceability solely because it is in electronic form. The Act only applies to transactions between parties which have agreed to conduct transactions by electronic means. Whether the parties have consented to conduct transactions electronically is determined from the context and surrounding circumstances, including the parties' conduct. Except for a separate and optional agreement, the primary purpose of which is to authorize a transaction to be conducted by electronic means, a provision to conduct a transaction electronically may not be contained in a standard form unless that provision is conspicuously displayed and separately consented to.

Background: MIA sends and receives thousands of notices, regulatory documents, and other communications each year and advises that the many of these communications must be sent using antiquated mailing practices. Older laws generally require delivery using first-class mail, certified mail, or first-class mail tracking, while newer laws generally allow MIA to send communications using electronic means under MUETA. The bill authorizes required communications to be sent by electronic means if appropriate. In doing so, MIA is likely to experience administrative efficiencies and savings and may be able to enhance its telework program due to fewer staff needed in the office to prepare and mail correspondence.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

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

Fiscal Note History: First Reader - January 9, 2021
rh/jc Third Reader - March 11, 2021
Revised - Amendment(s) - March 11, 2021

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Maryland Insurance Administration – Delivery of Communications by Electronic Means

BILL NUMBER: SB 226

PREPARED BY: Maryland Insurance Administration

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

There is no economic impact on small business associated with this proposal.